 

# Evolution of Policy in Nigerian Banking System: Lessons from Experience

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**Abstract**

Crisis have pervaded the Nigerian banking system till date, despite government response. This implies that the banks are still wobbling in carrying out their statutory mandates like efficient financial intermediation, which in turn takes its tolls on economic growth and development in Nigeria. This paper attempts to provide information on banking crisis and policy response over the years and on whether the purposes of the policies had been achieved. The paper succeeded in examining banking crises and attendant policy responses in five phases: 1892 - 1959, 1960 -1985, 1986-2003, 2004-2007, and 2008 till Date. The policy responses to banking crisis over the years came with challenges. A good example is the legal and litigation challenges which acted as a clog in the speed of dealing with bank failure. Despite the usefulness of the policy, banking crises still exist. The inability of policies to address what they had been designed to tackle, has been due to a number of reasons which include the unawareness of the link between banking system and real sector. There is therefore the need to have corresponding measures to address real sectors' infrastructural problems as well as the measures to combat banking crisis.

**Keywords**: Evolution, Government Policy, Government Regulation, Banking Crisis, Nigeria.

## 1 Introduction

The establishment of African Banking Corporation in 1892 signalled the commencement of modern banking in Nigeria. The purpose of modern banking in Nigeria at inception was not only to distribute currency notes on behalf of the bank of England but to also lubricate the British commercial interest and the wheel of the British economy. The concern, therefore, was not to transform the Nigerian economy. This was perhaps made possible because of the banking system that was controlled by foreign banks, and their bias against indigenous businessmen especially in the area of credit facilities. To arrest the situation, indigenous banks which started with National Bank of Nigeria in 1933 were set up. Next, was the Industrial and Commercial Bank which was followed by the Nigerian Merchantile Bank. From May 1945 to January 1947 four banks were set up while eighteen were established from 1950 to 1951. These banks had issues and challenges that forced most of them out of business.

The first government response to the banking crisis was along the line of legislation, that was, the 1952 Banking Ordinance. However, the banking system crisis continued unabated to the extent that from 1952 to 1954, 17 banks failed. This made government to come up with the first institutional-based response that was the establishment of Central Bank of Nigeria (CBN) that started operation in 1959. To transform the Nigerian economy, CBN in alliance with the government aligned the objectives of modern banking in Nigeria with international best practices which ranged from financial intermediation to developmental roles. Robust realization of these objectives has been difficult because of the crisis that bedecked the banking system over the years. The implication had been that of increased inflation, unemployment and undermining of economic growth and development. These underscored the need for CBN and other government agencies to come up with measures to steer the operations of the banks from time to time to ensure a safe, sound and stable banking system. The measures included: institutional framework, ownership structure, interest rate and credit control, guidelines for setting up banks and paid-up capital for existing and new entrants, prudential supervision, risk management, corporate governance, record keeping, reporting and accounting procedures and crisis resolution measures. These measures that were meant to prevent, manage and contain crisis over the years have ushered transformations into the Nigerian banking system, and yet crisis still occurs.

Studies like that of Inanga and Soyibo (1989) only succeeded in showing the changes that have taken place in the Nigeria banking system since the commencement of modern banking and did so in four phases. Soyibo and Adekanye (1992) reviewed regulatory practices and grouped the various banking regulation eras in Nigeria. Other studies such as those of Iyade(2006) as well as Egwakhe and Osabuohien (2009), that looked at how government policy has influenced performance of banks in Nigeria. The study by Obioma and Adam (2002) reviewed preventive measures applied to the Nigeria banking system and appraised them with regard to policy adequacy and impact. As relevant as these studies are, it is observable that they have not been able to focus on government response to banking crisis in promoting efficient financial intermediation, guaranteeing safe, sound and stable banking system. It is this gap in literature that this study tries to bridge. The study, therefore, attempts to review government response to banking crisis in Nigeria and to ascertain whether the purposes of the policies have been achieved. The study covers the period 1892 till date.

This introductory section is followed by section 2 which presents banking crises and policy responses, from 1892 to 1959**.** Section 3 discusses banking crises and policy responses, from 1960 to 1985 while section 4 deals with banking crises and policy responses, from 1986 to 2003. Section 5 handles banking crises and policy responses, from 2004 to 2007 whereas banking crises and policy responses, from 2008 till date is the preoccupation of section 6. Finally, section 7 concludes the paper.

## 2 Banking Crises and Policy Response, 1892 – 1959

Rudimentary banking services rendered since 1861 by Elder Dempster and company were brought to an end with the establishment of African Banking Corporation that commenced operation in Lagos in 1892. The African Banking Corporation was faced with crisis within two months of its operation because of trade recession and depression as well as government policy that delayed granting to the bank the right to import silver coins for distribution in Nigeria. The protracted crisis made the owners decide to close shop and on March 31, 1893, it was acquired by Mr. Alfred Jones. A reason, for Ndekwu's (1994) assertion that African Banking Corporation was the first bank to face failure in Nigeria.

The acquisition of African Banking Corporation led to the formation of the Bank of British West Africa (BBWA) in 1893 which was registered in London in 1894 and started operation in Lagos in March 1894. It maintained the banking monopoly until 1899 when the Anglo-Africa Bank that later changed name to Bank of Nigeria entered the banking scene. The Bank of Nigeria opened branches in Calabar, Burutu, Lokoja and Jebba in quick succession. It had the support of influential British traders and merchants like John Holt. It was a keen competitor of BBWA (later called Standard Bank and now known as First Bank) and both were constantly having currency face-off. However, it was acquired by BBWA in 1912.

The Nigerian banking arena again witnessed the entrance of Colonial Bank and Barclays Bank in 1916 and 1917, respectively. In 1925, Barclays Bank formed a consortium of banks that was made up of itself, Anglo-Egyptian Bank and the National Bank of South Africa. The consortium was known as Barclays Bank (Dominion, Colonial and overseas). The bank is currently called Union Bank. On the other hand, BBWA aligned with five big clearing banks in London which included National West Minister Bank and National Provincial.

Mergers and acquisitions of business entities are either to tap economies of scale or are last resort to obviate difficult times. Powerful forces with trading, merchant and political leverage were behind some of these foreign banks involved in mergers and acquisitions. But, the fact that the acquired banks were constantly protesting against unfair treatment in the policy of control and distribution of currency on behalf of the government, tempts one to state that all might not be because the banks wanted to tap on economies of scale, rather the policy in place undermined the existence of the banks and put them in precarious positions. The stance of this study gives a meaning to the banking problem that may not be far from crisis when the following statement of Ndekwu (1999) is examined in connection with the interwar years, "Bank of British West Africa managed to survive the economic downturn of the period …" (p.62). It would suffice to point out that it was in the interwar and lax regulatory period that most indigenous banks emerged in Nigeria and were driven underground by crisis as could be seen in what follows.

The first of the indigenous banks was the Industrial and Commercial Bank established in 1929 but went into liquidation in 1930. The next was the Mercantile Bank set up in 1931 and failed in 1936. It was National Bank of Nigeria Limited that came into existence in 1933 that had a success story. Only two banks (African Continental Bank and Agbonmagbe Bank) out of the four that came into being from May 1945 to January 1947 that survived. Agbonmagbe Bank was acquired by the then Western Region in 1969 and changed its name to Wema Bank. Between 1947 and 1952, 185 banks were registered in Nigeria as attested to by the Financial Secretary to the Colonial Government (Nwankwo, 1986), 145 of the banks were registered in 1947 and another 40 in 1952. A large proportion of these banks never operated.

The government did not respond to the issues that led to mergers and acquisitions among foreign banks. It was the catastrophic failures of the indigenous banks and the need to protect depositors and repose people's confidence in the banking system that perhaps attracted response of government by way of introducing regulations that were non-existent. The first in the series was the Banking Ordinance enacted in 1952. Below are some of its basic features.

1. It is only companies with valid license that could practice banking. The minimum capital requirement was put at £25,000 and £200,000 for indigenous banks and expatriate banks, respectively and 50% of the amount must be paid up.
2. Banks should keep a statutory reserve fund to which they should transfer a minimum of 20% of annual profits into before dividend payment could be paid and this should be exercised up to the point where the reserve account balance would be the same with the sum of the paid-up capital.
3. Existing commercial banks were given a grace period of three years to adhere to the ordinance provisions.
4. Government bank examiners were empowered and mandated to scrutinise the books of licensed banks and ensure compliance with prescribed regulations.
5. Other areas touched included legal lending limit and minimum specified liquid assets.
6. In the course of carrying out their activities, the banks were barred from
   (a) Granting advances or credit facilities using their own shares as security.
   (b) Granting unsecured credit facilities in excess of N1000 to any of the directors or companies in which any director has interest.
   (c) Granting unsecure advances to employees of banks above year emolument of the employee.
   (d) Trading, acquiring or holding shares in other companies or purchasing, acquiring or leasing real estate except for the goal of discharging their business or housing of staff or as security.

It was clear that the 1952 Banking Ordinance was enacted to strengthen the banks in existence, so that bank failure would be avoided as well as to stop bank proliferation. Yet, by 1954, all banks established between 1947 and 1952 failed except the African Continental Bank and the Agbonmagbe Bank. The failures of these banks suggest that the policy response of government, that is, the 1952 Banking Ordinance was only able to ensure that banks with prescribed capital base were registered to operate in Nigeria but could not check banking malpractice and bank failure. Some reasons that could be offered are: for example, there was no provision for bailing out any ailing bank as there was no central bank. It would be worthy to point out that the survival of the African Continental Bank and the Agbonmagbe Bank was because of sufficient fund pumped into them by the Eastern and Western regional governments, respectively. For example, Ajibola (1986) contended that the liquid assets of the African Continental Bank were less than 6% as at December 1954. Another reason was that, the ordinance did not make provision for surplus funds investment. As such, the banks had no choice other than to leave the liquid resources idle. Finally, provisions were not made for handling those who wittingly or unwittingly were ineffective in supervisions of banks. Hence, it could be imputed that the minimum capital requirements only assisted to curtail the number of banks. In addition, abuse of supervisory process rendered the supervision process ineffective as evident in failure amid existence of the ordinance. This perhaps occurred because of poor bank management by the Financial Secretary to the Federal Government. Nevertheless, according to Soyibo and Adekanye (1992), the minimum regulation of the banking industry by the 1952 Ordinance gave further impetus to the setting up of more indigenous banks, all of which failed during the period, 1952 - 1959.

The banking malpractices and abuses continued unabated and the Federal Government backed with the report of the 1995 World Bank Mission and the attendant Loyne's Commission Report of 1957 responded by promulgating another Banking Ordinance in 1958. The following are some of the main features of the Ordinance.

i. Establishment of Central Bank to promote and integrate the Nigerian Financial System.

ii. The paid-up capital of expatriate banking was increased from £200,000 to £400,000 and that of the indigenous banks was left at £25,000 provided the capital available to any of the banks in this category did not fall below £12,500 for a period of five years from the date the law came into effect.
iii. Profits to be transferred to the reserve fund were increased from 20% to 25%.
iv. Single obligor limit was pegged at 25% of paid-up capital.
v. Reserve requirement was put in place with the responsibility of varying its amount and composition given to the Central Bank of Nigeria.

Based on the 1958 Banking Ordinance, the CBN Ordinance of 1958 was passed. The major functions of the Central Bank as stipulated in Section

4 of the Ordinance were to

1. Issue legal tender currency in Nigeria.
2. Maintain external reserves in order to safe-guard the international value of the currency.
3. Promote monetary stability and sound financial structure in Nigeria.
4. Act as a banker and financial adviser to the Federal Government.

The 1958 Banking Ordinance gave the Central Bank the power to control and supervise operations of all banks in Nigeria. By this, the Central Bank was empowered to spell out standards of practice for banks. It was also given the power to grant and withhold banking licence as well as opening of new branches. Banks were under obligation to submit returns and audited annual statements of accounts and reports to the Central Bank. The returns could be monthly or half yearly touching on assets and liabilities. Inspectors from the Central Bank were authorised to visit any bank's head office or branch without prior notice to inspect the banks books of accounts and verification of the banks information.

The 1958 Banking Ordinance meant to strengthen the 1952 Banking Ordinance could not address the issue of crisis. The supervisory role of the CBN could not help matters either. This led to the formulation and implementation of other policies as would be seen in the next sections.

## 3 Banking Crises and Policy Response, 1960 – 1985

From 1960 to 1962, six banks were set up, and no new bank was established between 1963 and 1970. One glaring thing is that, it was a period of consolidation considering the fact that some banks failed, some lost their licenses and some were acquired by other banks. It was obvious that the prevailing legislation repressed the indigenous banks. The government came up with a series of amendments to the 1958 banking act, which came up with stringent conditions for setting up banks and bridging deficiencies in the banking system.

One of such amendments was in 1961.The amendment mainly focused on banks liquidation and made provision for receiver and liquidator. Another amendment was made in 1962 which eliminated the difference in the amount of minimum paid up capital that existed between indigenous and expatriate banks. However, the 1962 amendment prescribed minimum paid up capital of £250,000 before a license could be granted for the purpose of banking business. However, existing banks were given seven years to adhere to this new capital guideline. The expatriate banks with head offices outside Nigeria were not bound to comply with the capital requirement in cash. This group of banks were given the option of providing a satisfactory undertaking to the Minister of Finance that at any point in time, it would keep in Nigeria, assets that were not less than the value of £250,000. The 1962 amendment still retained the 25% transfer of profits to the reserve fund but this could only be implemented after the banks had written off losses. However, if the reserve fund amount was equal to or greater than the paid up capital, the banks would be expected to transfer only 12½ % to the reserve fund. It also had a redefinition of liquid assets and the CBN was given the mandate to use it to compute liquidity ratio. The banks were now permitted to go into real estate business for the purposes of growth. However, limits were given as to the level of shareholding in other business entities as well as unsecure facilities granted to employees of the banks.

In a bid to further strengthen the banking system and enlarge the power of the Central Bank with respect to the economy, the government came up with the CBN Act (Amendment) Decree 1967 and the CBN Act (Amendment) Decree of 1968. When the Banking Decree of 1969 which repealed previous banking legislations came into force, it did not fail to also address central bank activities. Teriba (1986) held that the 1967 to1969 banking amendments were better than other legislations because of the “range of additions to the Central Bank’s armoury of control techniques and in broadening the sphere of monetary control to embrace most banking institutions other than the commercial banks” (p.93). Like previous legislations, the essence of the 1969 Banking Decree was to ensure a sound banking system and the mandates given to the CBN included the following.

1. It gave more power to the CBN in the control of bank liquidity in terms of minimum holding of cash reserves, specified liquid assets, special deposits and stabilization securities by banks.
2. The CBN was authorised to approve, control and monitor the nature of advertisements by banks.
3. It was empowered to open or close bank branch offices within and outside Nigeria.

One striking feature of the 1969 banking decree is that it re-introduced capital requirement dichotomy into the Nigeria banking system. An indigenous bank paid up share capital was increased to £350,000 before a license could be granted while £750,000 was required for expatriate banking company. Existing banks were given six months within which to comply or have their license revoked. Another was that, all banks must be incorporated in Nigeria and were required to publish the balance sheets result from their operations in Nigeria. The single obligor limit put at $33^1/_3$ % of the sum of the lending banks paid up capital and reserves was also another feature. The 1967 to 1969 amendments apart from attempting to remedy the possibilities of bank failures due to under-capitalisation, were borne out of not only public criticisms but also attempt to close loopholes and ambiguities of the prevailing institutional framework as well as the need to face the realities of a war situation (Teriba, 1986).

After the 1969 Banking Decree that consolidated and improved on previous legislations in Nigeria, the CBN had recourse to the use of monetary circulars to control the banking system. When government took controlling shares of the Standard Bank, Union Bank and United Bank for Africa and set up Boards for these banks, the boards had the responsibility of making broad policy guidelines to facilitate these banks’ operations.

The legislations within this period that ushered in successive increase in paid-up capital made it difficult for private indigenous participation in banking in Nigeria. This made what became obtainable to be expatriate banks or state sponsored banks.

It could be argued that the CBN did not shirk its responsibilities in putting up regulatory measures that could be seen to be relatively effective in handling banking crisis in the 1970s. To a large extent, the banking system could be adjudged to be relatively not laden with crisis in the 1970s.

## 4 Banking Crises and Policy Response, 1986 – 2003

The liberal economic policies that were introduced by government into

the country as part of structural adjustment programme (SAP) in the second half of the 1980s, led to the establishment of more banks. The period witnessed emergence of banking crisis on a large-scale that government reacted to through policies such as strengthening of banking legislation and supervision.

Structural Adjustment Programme (SAP) was set up in 1986 to free the economy and its institutions from the shackles of regulations and controls that were counterproductive. SAP ensured that liberalisation, deregulation and an economy driven by a market mechanism with increased responsibility to allocate resources was put in place. Specifically, foreign exchange and interest rate were deregulated and entry into banking business was liberalised. These led to phenomenal increase in the number of banking institutions from 42 in 1986 to 120 at the end of 1992 (Ebhodaghe, 1993) with a concomitant development of a blown crisis in the banking system in 1989. By 1989, 7 banks were adjudged technically insolvent, the number increased to 9 in 1990, 8 in 1991 and by 1992, 15 were in various forms of distress, 38 in 1993, 55 in 1994 and 60 at the end of 1995 (Ebhodaghe, 1993, 1996). Since 1989 till 2003, the Nigerian banking landscape had been festooned with crisis and policies were equally raised to address the situation.

The World Bank report of 1988, the experience of 1940s and early 1950s bank failure, the increased banking competition and government change of its bank support policy of unwillingness to allow any bank to fail and the 1986 economic reforms, led to the establishment of Nigeria Deposit Insurance Corporation (NDIC) in 1988 through Decree 22 of 15 June 1988. However, it only started operation in March 1989. The Corporation was generally meant to ensure a safe and sound banking practice through effective supervision to promote a stable and virile banking system on which is reposed public confidence by laying emphasis on protection of depositors as against bail out of shareholders and management of banks. In addition, NDIC was created to complement the supervisory activities of CBN. Hereunder are some of the functions it was set out to perform.

a. Insuring all deposit liabilities of all licensed banks, and such other deposit taking financial institutions, operating in Nigeria, so as to engender confidence in the Nigerian banking system;
b. Giving assistance to insured institutions in the interest of depositors, in the case of imminent or actual financial difficulties of banks particularly where suspension of payments is threatened, and avoiding damage to public confidence in the banking system;
c. Guaranteeing payment to depositors, in case of imminent or actual suspension of payments by insured banks or financial institutions up to the maximum amount specified in the Act;
d. Assisting monetary authorities in the formulation and implementation of banking policy so as to ensure sound banking practice and fair competition among banks in the country; and
e. Pursuing any other measure necessary to achieve the objects of the corporation provided that such measures and actions were not repugnant to the objects of the corporation.

The legal framework which guided its operations was imbued with in-built deficiencies which affected optimal delivery of its mandate. For example, the 1988 law did not spell out the role of NDIC as it concerned banks that were failing and failed. Deposit insurance was not solely domiciled with NDIC and its appointment as a liquidator of failed insured banks was at the whims and caprices of the Companies and Allied Matters Decree and the Courts. It had no enforcement power, the provisions of its law were in such a form that NDIC would not exercise discretionary power to address stakeholders' wants as well as embark on prompt action. The duty of bank supervision was taken from the Federal Ministry of Finance and given to the CBN but this was not indicated in the Act. It was also clear that the NDIC staff were not indemnified against actions taken in the course of carrying out their normal duties. Therefore, there was likely palpable fear to take certain actions. This therefore favoured inability to address matters that were crisis based.
In the light of the preceding paragraph among other things, in 1997 and 1998 the NDIC legal framework was revised, respectively (NDIC, 2009). The NDIC (amendment) Decree No 5 of 1997 gave NDIC the authority to embark on proactive measures once it discovered a bank was chronically undercapitalised. While, the 1998 amendment separated the responsibilities of CBN and NDIC as it relates to management of distress banks. In addition, it spelt out threshold and various compelling supervisory actions that could be used to address the varying degrees of crisis.

Amidst the crisis and to adequately address it as well as promote monetary stability and sound financial system, the CBN powers were broadened by strengthening banking legislation in 1991. First was the review of the CBN laws through Decree 24 of 1991 which empowered it to secure adherence to banking laws and to expedite intervention in banks that were bedeviled with crisis. It also gave credence to the application of market-based instruments in monetary control. Second was the Banks and Other Financial Institutions Decree (BOFID) 1991 (as amended in 1997, 1998, 1999 and 2002), that conferred a number of powers on the CBN which include:

a. Granting, revoking or varying condition of banking business license, supervision and regulation of licensed banks.

b. Control and management of problem or failing banks.

c. Changing minimum paid up capital of banks as it deemed appropriate. It could also require a significantly under-capitalised bank to submit re-capitalisation plan or direct such bank to recapitalise within a specified period.

Nevertheless, there were certain prescriptions that banks must comply with and these included:
1. Every bank shall keep proper books of account with respect to all transactions.
2. Every bank shall submit to the CBN not later than 28 days after the last day of each month or such other interval as the CBN may specify, a statement showing (i) the assets and liabilities of the bank and (ii) an analysis of advances and other assets, at its head office and branches outside Nigeria.
3. A director of a bank is guilty of an offence liable on conviction to a fine of N100,000 or imprisonment for a term of three years or to both such fine and imprisonment, if the director contravenes the following:
   (i) It shall be the duty of a director of a bank who is in any way, whether directly or indirectly, interested in the grant of an advance loan or credit facility with the bank to declare the nature of his interest at a meeting of the Board of the bank.

 

(ii) Every director of a bank, who holds any office or possesses any property whereby whether directly or indirectly, duties or interests might be created in conflict with his duties or interests as a director of a bank, shall declare at a meeting of the Board of directors of the bank, the fact and the nature, character and extent of the interests.

As good as the decree was, especially in the areas of issuing banking license and resolution of problem banks or failing banks, it came with challenges that affected effective collaboration between NDIC and CBN. This is because, the 1991 BOFID gave autonomy to the CBN on banking issues. Therefore, certain powers imposed on the Federal Ministry of Finance, particularly the Honourable Minister in the 1988 NDIC Decree, became ineffective. This was only addressed when the 1998 BOFID came into force. It made the CBN lose the power of appointing NDIC as liquidator rather it required NDIC to formally put up an application to the Federal High Court to be appointed as a liquidator. This gave room to legal and litigation challenges that constituted hindrances to speedy addressing of banking failure.

It could be added that the 1998 BOFID addressed certain weaknesses in the 1991 BOFID, for instance, it corrected one of such lapses by substituting Federal Ministry of Finance with CBN in areas that concern banking supervision. Also, the punishments prescribed by the BOFID for erring banks, their directors and staff were not commensurate with the offences committed. Therefore, it is the claim of this study that the banks, their directors or staff would prefer to commit the crime and pay the meagre sum for the punishment. A good example is a Director paying the sum of N100,000 as fine for the breach of section 18(3). In essence, the BOFID has not offered a proper environment to prosecute fraudulent bank officials and banks and mete out appropriate punishment. This could account for the insider abuse and persistence of banking crisis in Nigeria.

It is also noticeable that the legal framework given above has no adequate provision for recovery of debts and prosecution of banking malpractices. Therefore, borrowers have exploited the loophole and refused to honour debt obligations. On the other hand, core shareholders, directors and employees of banks have been continuously and actively involved in frauds of escalating magnitude. To address this, the Failed Banks (Recovery of Debts) and Financial Malpractices Act was promulgated in 1994. Its implementation has led to recovery of loans. However, the abrogation of the failed banks tribunals in 1999 and the transfer of its cases to federal high courts have seen a slow down with regards to trial and judgement of cases. The fact is that, the prosecution procedure has not been able to change the attitude of Nigerian borrowers and bank employees whose banking activities and conduct have created and perpetuated the crisis some of the banks and the banking system have witnessed.

The Chartered Institute of Bankers of Nigeria (CIBN) Decree 12 of 1990 imposed some powers on the CIBN to regulate banking practice in Nigeria. But this has not yielded any meaningful dividend in addressing crisis in the banking system. For example, section 13 of the Decree allows setting up of a panel of investigation and disciplinary tribunal to hear cases of professional misconduct that are brought against members. Yet, with the volumes of fraud in the banks as reported, this study is yet to hear of any case tried by the Chartered Institute of Bankers panel of investigation and disciplinary tribunal. Again, based on the Decree, CIBN came out with code of banking practice, and its elements include that bankers should operate within the legal framework and that banks should follow the best professional practice in the global industry and compliance to applicable laws. This study is of the opinion that most staff are not aware of this code and those who are aware pay lip service to it. Also, that the code is not even displayed in the banking halls of bank branches is evidence that banking authorities do not have regard for it. This may be one of the reasons why the banks and bankers are involved in banking malpractices that accentuates crisis. Put differently, the failure of the banks and the regulatory institutions and all concerned to collaborate by at least reporting defaulters has not helped issues. The banks instead of reporting erring staff, encourage them to resign. These categories of staff pick up jobs in other banks. This approach could be said to boost banking malpractices in Nigeria.

Within the ambit of the regulatory framework provided, the CBN and the NDIC have taken some policy measures as response to the crisis situation which include the following:

i. Financial Services Regulation Coordinating Committee (FSRCC) was set up in May 1994 to ensure effective coordination and harmonisation of supervisory standards and efforts of regulatory institutions. Its objectives include articulation of strategies to promote safe, sound and efficient practices by financial intermediaries, reduce arbitrage opportunities usually created by differing regulatory and supervisory standards among supervisory agencies and coordinate the supervision of financial institutions.
ii. CBN/NDIC have also put in place bank system software which is now an electronic financial analysis surveillance system (e-FASS) for financial system surveillance.

 

iii. CBN/NDIC joint committees on problem banks meet at the technical and executive levels. At the technical level, recommendations are worked out to enforce measures to resolve bank insolvency. At the management level, decisions are taken on the recommendations made at the technical level.

iv. Issuance of capital adequacy and prudential guidelines in 1990 was meant to facilitate early detection of problem banks and to see that banks in their accounts present the true and actual picture of the value of their assets. The guidelines require the bank to classify their loans in accordance with their quality. In addition, adequate provision are made for detecting non-performing loans and stopping capitalisation of interest. By this the banks would no longer declare paper profits. The guidelines still prescribed uniform audited financial statements for all the banks. This is to facilitate easy comparison of the status of banks. The collaboration of CBN with the Nigerian Accounting Standards Board (NASB) to come up with statement of accounting standards for the banking system could be said to have given desired legal banking to the prudential guideline as it is the duty of NASB to issue accounting standards.

v. To provide an efficient payment system, the Nigerian inter-bank settlement system was set up to improve the interbank market transactions.

vi. Stabilisation securities were re-introduced to control excess bank liquidity.

vii. Open market operations (OMO) as an instrument of monetary policy were introduced principally to check the liquidity level of the economy. To ensure success of the OMO, licensing of discount houses was introduced.

The measures cannot be said to be inappropriate nor could one say that they have not contributed their quota towards checking banking crisis. However, it could be noted that the regulatory framework and supervisory measures did not successfully address the issue of banking crisis for a number of reasons. These include lapses in the legislations, weak legal framework, prescribed punishments that are not commensurate with offences committed and attitude of Nigerians. The attitude as referred to here is one in which any organisation's fund that is acquired through malpractice or illegality is seen as one's share of the national cake.

In addition to the supervisory measures, a number of resolution measures have equally been embarked upon and some are:

(i) CBN bail out of banks using guarantees as a resolution measure was applied in late 1990s. By this, CBN made open commitment that it backed all cheques that were drawn on the ailing bank it was bailing out and it would honour cheques emanating from the bank.

(ii) CBN/NDIC also used the controlled restructuring also known as open bank assistance in the late 1990s. The thrust of this is that CBN/NDIC takes over the board and management of the ailing bank and sets up Interim Management Board that was expected to turn around the bank. This was envisaged to be within a short period of time and once it was successfully done, the bank would be handed over to its owners. However, for lack of financial support and inability of the interim banks to meet the turnaround plan, it became clear that the boards were unable to fulfill their mandate. This means they are unable to revive the distressed banks. As such, CBN sets up all necessary machineries to acquire the banks and replace the Interim Management Board with Transitionary Supervisory Board (TSB). The preceding was what was done to six banks in 1993.

(iii) In a measure to reduce liquidity in the economy in 1989, the CBN directed that all public sector deposits in banks be transferred to it. This resulted in liquidity crisis and hidden distress in the system were thrown open. CBN/NDIC in response introduced a rescue package of the sum of N2.3billion known as CBN/NDIC accommodation facility. The spirit behind the rescue package was restoration of confidence and liquidity to the system. The troubled banks by virtue of the rescue package were given the opportunity to raise bills of exchange to the sum of their overdrawn positions. It did restore confidence in the banking system, eliminated banks illiquidity but bank insolvency was unshaken.

(iv) Holding actions are imposed on distressed banks whose boards and management failed to carry out recommendations of self-restructuring which stems from special examination of their banks by CBN/NDIC.

(v) In January 2001, CBN deployed resident examiners to banks head office as a means of improving its regulatory and supervisory functions.

According to Ebhodaghe (1993), a holding action may demand some or all of the following from the management of the bank.

1. To stop further advertisement for deposits without prior consent of the CBN;
2. Not to grant further loans and advances until the regulatory authorities are satisfied with the bank's liquidity position;
3. To take necessary steps to ensure adequate internal control measures to safeguard its books, records and assets;
4. To inject further capital funds;
5. To engage in aggressive debt recovery drive;
6. To take steps to perfect all collateral securities pledged for loans and advances ( and kept in protective custody);
7. To segregate all dormant account within a specified time limit;
8. Not to embark on new capital projects without clearance from the CBN;
9. To reconcile all long outstanding items within a given deadline;
10. Not to dispose of any fixed assets of the bank without prior consent of the CBN; and
11. To embark upon possible rationalisation of staff if considered necessary to enhance efficiency and restore viability.

In addition, it is mandatory that the distressed banks render return based on approved format on the following items:

a. Debt recovery;
b. New lendings;
c. Statement of non-performing and re-negotiated loans and advances;
d. Maturity profiles of assets and liabilities;
e. Cash flow variance analysis;
f. Profit and loss accounts;
g. Interest income; and
h. Non-interest income.

It is an open secret that the holding actions carried out by the CBN and NDIC could not achieve their desired goals. In other words, the restructuring response could not address the insolvency of the banks.

From the review, it is evident that banking legislation has evolved over the years and various amendments have been introduced since the Banking Ordinance of 1952. Yet, there are still lapses which have made it difficult for regulatory framework to achieve its desired goals, particularly, of addressing crises in the banking system. The supervisory measures are also fraught with weaknesses. So also are the resolution measures. For example, the liquidity assistance given to insolvent banks was not able to address the situation. The interpretation could be that the liquidity provision is not enough to reverse the crisis situation of the banks. The resolution measures only succeeded in calming the nerves of fear of confidence on the banking system but have not been able to address bank crisis.

## 5 Banking Crises and Policy Response, 2004 -2007

Before April 2004, settlement of financial transactions of insolvent banks was the responsibility of the CBN; this bred inefficiency and puts a good number of the banks in a perpetual overdrawn position with the CBN. However, in April 2004, CBN came up with a new clearing and settlement system that was targeted at improving the payment system. The system was able to expunge the overdrawn position of bank's account as well as the exposure of CBN to the banks and pumping of high powered money. In addition, it prepared a veritable ground for bank consolidation and the attendant mergers and acquisition.

The 2004-2007 era witnessed the introduction of bank consolidation in 2004, borne out of the precarious condition of the banking system. According to the NDIC (2009), it was designed to "promote banking system stability and make the industry to operate more efficiently so as to enable the banks perform their catalytic role of financial intermediation to enhance the growth of the Nigerian economy" (p. 185). The specific reasons for the reform included the following:

a. To halt the incessant bouts of distress;

 

b. To promote competitiveness and transparency in the sector;
c. To enable the sector effectively play its developmental role in the economy;
d. To strengthen the sector to become an active participant in the regional and global financial system; and
e. To enhance public confidence in the banking system (NDIC 2009, p.180).

The key elements of the reform are as follows:

a. The minimum capitalisation for banks should be N25billion with full compliance before the end of December, 2005.
b. Phased withdrawal of public sector funds from banks, starting in July, 2004.
c. Consolidation of banking institutions through mergers and acquisitions.
d. Adoption of a risk-focused and a rule-based regulatory framework.
e. Adoption of zero tolerance in the regulatory framework, especially in the area of data/information rendition/reporting.
f. Rendition of returns by banks and other financial institutions through the electronic Financial Analysis and Surveilance System (e-FASS) will be completed expeditiously.
g. Establishment of a hotline, confidential internet address for all Nigerians wishing to share any confidential information with the Governor of the Central Bank on the operations of any bank or the financial system.
h. Strict enforcement of the contingency planning framework for systemic banking distress.
i. Work towards the establishment of an assets management company as an important element of distress resolution.
j. Promotion of the enforcement of dormant laws, especially those relating to the issuance of dud cheques and the law relating to the vicarious liabilities of the board members of banks in cases of failings by the bank.
k. Revision and updating of relevant laws and drafting of new ones relating to the effective operations of the banking system.
l. Closer collaboration with the Economic and Financial Crimes Commission in the establishment of the Financial Intelligence Unit (FIU) and the enforcement of the anti-money laundering and other economic crime measures. Greater transparency and accountability would be the hallmark of the system. Rehabilitation and effective management of the mint to meet the security printing needs of Nigeria (Soludo,2004).

To facilitate the accomplishment of the reform agenda, it was accompanied by a set of incentives. One of the incentives is authorisation to deal in foreign exchange. Yet, another was that any bank with $1 billion (₦130 billion) as capital base would be given the opportunity to manage at least $500 million reserves of the country. Despite these, the first impact was felt in the interbank market in the form of liquidity shortage because, the big banks that were the big players withdrew their placements from the market. This together with flight to safety and government plan of phased withdrawal of public sector deposits put certain banks in liquidity problem. Some banks eventually had no access to the interbank market and some could not oblige depositors their funds. It was also evident, that banks granted credit facilities for the purpose of acquisition of their own shares to meet the ₦25 billion minimum capital requirements. This led to asset-liquidity misalignment as the fund of depositors were trapped in the stock market.

By the end of the consolidation exercise in December 31, 2005, as stated earlier, the number of banks declined from 89 to 25. There is no doubt that the reform programme brought a number of benefits which Mordi, Englama and Adebusuyi (2010) listed as follows:

i. The liquidity engendered by the inflow of new funds into the banks induced substantial decline in interest rate, thereby stimulating an unprecedented increase in lending to the real sector by 40% as at end December 2005.
ii. With higher single obligor limit, our banks have greater potential to finance big ticket transactions.
iii. More banks now have access to credit lines from foreign banks.
iv. Ownership of the banks has been diluted and this has in no small way tamed the monster of insider abuse and poor corporate governance.
v. With virtually all the banks publicly quoted, there is wide regulatory oversight. With Securities and Exchange Commission (SEC) and Nigerian Stock Exchange (NSE) joining, focus is now on fewer and more stable banks.

vi. Depositors' confidence in the system has increased, although interest rates on deposits have fallen due to "safety in bigness" perception by depositors.

viii. The banks enjoy economies of scale and consequently pass on the benefit in the form of reduced bank charges to their customers.

ix. The capital market has been deepened and consciousness about it increases significantly among the population. The market has become more liquid and the total capitalisation has significantly increased.

It was expected that the consolidation will pose challenge to CBN, NDIC and the banking system. The consolidation made the banks to be actively engaged in securities, insurance and mortgage business which put the banks at risk of failure. The inadequate risk management status of some of the banks would also make it difficult for them to manage associated risks of product which they offer. On a general note, some of the main challenges that the supervisory bodies had to contend with were:

(1) The issue of liquidation of the 14 banks that failed to meet the ₦25 billion naira prescribed minimum capitalisation requirement and the associated legal issues to the resolution of the 14 banks, as some of the banks challenged the revocation of their operating licenses in the court.

(2) There were also the issues of information technology and processes that the merged banks had to grapple with. In addition, there were governance and transparency challenges.

In this light, the CBN came up with some measures which Mordi, et al (2010) itemised as follows:

1. A new code of corporate governance for banks was issued in March 2006, in the spirit of transparency and constructive consultation.
2. The CBN closely monitors the banks to ensure the provisions of the merger schemes documents are complied with.
3. The CBN maintains a black book of discredited practitioners in the system. The black book has been automated for easy identification of persons on the list.
4. List of debtors were screened to ensure that no non-performing debtor was left on the boards of the 25 banks.
5. Strict application of zero tolerance regarding infractions, misreporting, non-transparency,etc.
6. Reforms of the supervisory process including:
   (a)The migration of the supervision arm of the CBN to a risk- based approach supervision.
   (b) The enhancement of the capacity of supervisors through training especially in risk management.
   (c) The deployment and upgrading of the supervision software in the CBN.

The licenses of banks that could not scale the consolidation hurdle particularly the 14 technically insolvent banks, were revoked. The CBN and NDIC purchase and assumption (P&A) failure resolution alternative as against the pay-out option that had been regularly used was applied. This measure ensured that it was only public sector deposits that were lost. In addition, efforts were made to ensure that all legal issues and litigations were addressed as quickly as possible. The merged banks were requested to integrate all information technology and processes.

Soludo (2006) noted that despite the consolidation, there were still weak banks as a result of huge non-performing loans. It therefore stands to reason that consolidation must not be undertaken in isolation, if the goal is to have a crisis free banking system. Perhaps, it is along this line of thought, that the government decided to strengthen the regulatory framework. For instance, a new NDIC Act No 16 was brought into existence in 2006. One major feature of this Act is that it provided legal protection to staff of NDIC. By this, they would not be held liable for any action taken in good faith in the process of discharging their responsibilities. Further, the CBN embarked on risk focused regulatory framework for supervision which stresses assessment and evaluation of risk management systems. It was also observable that the CBN in conjunction with NDIC came up with the New Capital Accord for the banking system. Its content was drawn from the various requirements of Basel ii.

There is no doubt that certain gains were recorded but the issue of banking crisis was still there. This was compounded as the 2007 global financial crisis found its way into the Nigeria banking system.

## 6 Banking Crises and Policy Response, 2008 till Date

With the advent of the 2007 global financial crisis, government and the regulatory institutions took a number of measures to arrest its negative impact. Below are some of the measures.

(i) In August 2008, a presidential advisory team was established to look intomeasures that could be used to reverse the declining trend of the Nigerian capital market.

(ii) In 2008, the CBN articulated a blue print known as 'The Project Alpha Initiative' to reform the Nigerian financial system in general and the banking sector in particular.

(iii) On January 16, 2009, a presidential steering committee was set up to appraise the effect of recession on the economy, bearing in mind the 2009 budget.

(iv) On February 2, 2009, the government set up National Economic Management Team to formulate and implement government economic policies. The team was also expected to give support to what the presidential steering committee was doing with respect to the global economic crisis

(v) A special Agricultural Fund to the tune of ₦200billion was approved for large scale agriculture.

(vi) CBN, because of the global financial crisis relaxed the conditions of monetary policy, adjusted exchange rate and strengthened banks supervision.

(vii) Banks were given the latitude of restructuring margin loans to 2009.

(viii) Lending facilities to banks were extended to one year.

(ix) The communiqué of monetary policy committee meeting of April 8, 2009, in the light of the global financial crises and to improve the liquidity position reduced monetary policy rate from 9.75% to 8%, cash reserve requirement from 2.06% to 1.0% and liquidity ratio from 30% to 25.0%.

The CBN/NDIC conducted a 2009 audit examination of banks. The result of the audit as released by CBN indicated that 10 out of the 24 banks were enmeshed in grave liquidity problem. The report indicated that the capital base of the 10 banks had been eroded due to huge non-performing loans, poor corporate governing practices, credit administration process and non-adherence to the banks' credit risk management practices (Sanusi, 2009). In August 2009, CBN sacked 5 Chief Executives while 3 were sacked in September, 2009, a bailout package of N620billion was given to these problem banks to forestall failure. Further, the CBN introduced tenure limitation for Chief Executive Officer of banks and also ensured that the Asset Management Corporation of Nigeria (AMCON) took off. As part of sanitising the banking system, universal banking was abrogated and categorisation of banks was brought in. The categorisation ensured that some banks can only operate within a region in Nigeria and the paid up capital of such banks was put at ₦15billion. The second category is the national bank that would operate throughout the length and breadth of Nigeria and the paid up capital of banks in this group is ₦25billion. Third category is the international banks whose paid up capital is ₦100billion. These categories are expected to operate within and outside Nigeria.

It would not be out of place to say that in the presence of these policies, crisis still adorn the Nigerian banking system. This is evident in Ogunleye(2010), Cook(2011),Obinagwan(2014) and Nnodim(2014).

## 7 Conclusion

This paper establishes that occurrence of banking crisis in Nigerian banking system led to evolution of policy. As good as the measures were and the fact that the banking system in particular and Nigeria in general derived benefits from the measures, it could be stated that the banking system, is still bedevilled with crisis. The multiplicity of regulations and institutions aimed at combating banking crisis has left no one in doubt that Nigeria is not lacking in legal framework as well as institutions but in proper implementation. If the measures that are already in place are fully implemented, banking crisis would be likely reduced to the barest minimum. The failure of the measures could be largely placed on the regulatory, monitoring and supervision activities of the monetary authorities that are weak, thus making the implementation of the policies relatively ineffective. This therefore underscores the need for all appropriate statutory bodies such as the CBN and NDIC to brace up and make sure that relevant policies are fully implemented. Nevertheless, the failure of the measures could also be situated in the fact that they had been rolled out as if the banks have no link with the real sector which in turn contributes to the occurrence of banking crisis. There is therefore the need to have corresponding measures to address the real sectors' infrastructural problems.

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