NIGERIAN INSTITUTE OF ADVANCED LEGAL STUDIES
LAGOS, NIGERIA

ROUNDTABLE ON ENHANCING CORPORATE VALUE THROUGH THE IMPLEMENTATION OF A TRANSPARENT GOVERNANCE STRUCTURE

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COMMUNIQUE

Introduction

Corporate governance has become a very topical issue globally and within our nation in light of the recent global economic recession and its impact on businesses and financial institutions. In Nigeria, the discourse on corporate governance has also been heightened by the attitude of Boards of Directors of Corporate entities in undermining hitherto long held basic business ethics and culture of truth, honesty and integrity of Corporate entities by placing personal interest and bad business practices over these time honoured ethics. This development was most exemplified in the banking sector a state of affairs brought to the public domain with the recent revelations of gross mismanagement and unethical practices. These revelations by the Central Bank of Nigeria led to the removal of heads of some of the affected banks. In view of the foregoing, it has therefore become necessary and apt that policy makers and those in position of trust continuously re-evaluate and re-structure corporate governance practices and its application to corporate entities to avoid any further catastrophe.

In furtherance of its determination to bring contemporary issues to public discourse and arrive at practical recommendations that will move the nation forward, the Nigerian Institute of Advanced Legal Studies under the auspices of the George Etomi Centre for Strategic Investment and Corporate Governance held a one day roundtable on Enhancing Corporate Value through the Implementation of a Transparent Governance Structure.

Perspectives at the Roundtable included: Imperatives for Enhancing Corporate Value; Core Values and Sustainable Business; Re-Evaluating the Functions and Duties of Board of Directors to Companies and Shareholders; Emerging Global Best Practices in Corporate Governance; Ethical and Moral Issues in Corporate Governance and Transparency and Accountability in Management.

Participants were drawn from a cross section of the polity. In attendance were representatives from the ECOWAS Commission, Corporate Affairs Commission, the Academia, Legal Practitioners, the Private Sector and the Mass Media.

Observations

At the end of deliberations, the following observations were made:

1. Corporate governance is a set of rules, policies, customs and laws which revolves around many themes including accountability of key officers, economic efficiency or risk management, relationship between various stakeholders in the corporate venture and compatibility with best practices. Corporate governance as a company's code of governance requires:

a. Abiding by the rules and establishing implementation mechanisms
b. Knowledge of the content of the rules, policies, customs and laws by everyone
c. Personal governance and integrity which transcends to the younger and future generations
d. Social governance or corporate value which gives value and benefit to the society and also acts as a shock absorber in the face of economic crisis on the economy
e. Effective and professional Board of Directors who will execute their responsibilities by putting organisational interests before selfish concerns
f. Division of labour between providers of capital and the managers of capital
g. Separation of personal interests from the overall interest of corporate entities
h. Eradication of weak internal controls and insider dealing
i. Effective capacity of regulatory bodies to oversee the enforcement of the Code of Best Practices which is however presently doubtful in Nigeria
j. An administration which allows and protects whistle blowers and shareholders rights. This includes the venue for Annual General Meetings
k. Codes of Corporate Governance backed by sanctions
l. Protecting the profits of minority shareholders, enhancing transparency in management and accounting information and the role of outside non-executive directors.

2. In Nigeria, with respect to the type and structure of Board of Directors, there is a preference for the Unitary Board whose effectiveness is in doubt. This limitation nonetheless, it was noted that for a Unitary Board to be effective its must exercise its functions in line with best practices encompassing all stakeholders and reflected in regulatory guidelines.

3. Corporate governance is linked to Rule of Law whose principles and ideals are not strictly adhered to in Nigeria's Democratic System.

4. The Rules and Codes on Board Practices such as independence are undermined in the process of

appointment and in the use of direct and indirect proxies.

5. Shareholders including institutional shareholders have been less proactive in corporate governance issues.

6. Global accountability and transparency which are prerequisites for building trust in investors and the public as well as attracting investments is very critical in corporate governance. This also requires voluntary disclosure of credible information, access to information and effective monitoring of feedbacks..
7. Corporate governance is also essential to the realization and materialization of the ECOWAS objective of establishing a common market because it creates trust and encourages investment across borders.

8. Corporate governance does not truly exist in the internal affairs of the companies. Corporations in Nigeria do not follow the rules and guidelines stipulated for the running of and management of the corporation.

9. The present laws for corporate governance are antiquated for the new corporate order.

10. Best practices and good laws are necessary to move the government and the society Forward.

11. The Code of Best Practices in Corporate Governance in Nigeria is contained in several instruments which impose minimum standards of corporate behavior and values without stipulating consequences. Compliance with these minimum standards is voluntary. This is at variance with the practice in other jurisdictions.

12. Despite the existence of different provisions outlining Code of Best Practices in corporate governance in Nigeria, recent revelations especially as exemplified in the Banking Sector indicate that Nigerian Corporations have failed to imbibe the standards set by the Code of Best Practices.

13. Effective corporate governance structure requires effective capacity of regulatory bodies to oversee the enforcement of the Code of Best Practices. However, in Nigeria, the capacity of regulatory bodies in this regard is presently doubtful.
14. There is absence of right regulatory mechanisms to guide against corporate mismanagement. These include the absence of a reliable judicial system to encourage class actions or actions by aggrieved persons against acts of corporate mismanagement, shareholders action and protection of the whistle blowers.

15. The following weaknesses have been identified in Corporate Governance Practices in Nigeria- Disagreement within Board management resulting in Board squabbles, ineffective Board oversight functions, fraudulent and self-serving practices among members of Board, management and staff, over bearing influence of Chairman or MD / CEO and family control, weak internal controls, non-compliance with laid down internal and operational procedures etc.

16. Multiple Board membership which is incompatible with corporate governance best practices exists in Nigeria.

Recommendations
At the end of deliberations, the Roundtable made the following recommendations:

1. Companies must improve in corporate governance through increased transparency and establishment of effective accountability mechanisms which will increase orderliness and help in greater achievement of company objectives. This will in turn, promote investor confidence in the company.

2. There is need to institutionalise the practice of good behaviour. In Enhancing corporate governance, corporate entities must move beyond rhetoric by imbibing corporate values that are demonstrated daily through transparent business management practices. These practices would include effective reporting, institutionalised codes of conduct, active and informed shareholders, proper appointments, the use of independent directors, good corporate behaviour and payment of taxes, periodic reviews and stakeholders' regulation.

3. A Corporate Governance Ratings Structure should be established to monitor, measure, evaluate and publish compliance of corporate entities to corporate governance ideals and codes in place.

4. Checks and balances within the regulatory bodies should be ensured / guaranteed. As such, there is need to

Signed:

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