Failed Corporate Entities In Nigeria: An Indictment On The Shareholders, Corporate Managers And The Regulatory Agencies?

Authors:
Kingsley Adeyi Omengala*
*Lecturer at the Nigerian Law School, Yenagoa Campus, P.M.B 60, Yenagoa, Bayelsa State, Nigeria
E-mail: omengalakingsley@gmail.com

Abstract:
Over the years several corporate entities have gone down the drain in Nigeria and the shareholders and other stakeholders exposed to humongous loss of their investments and means of livelihood. The impact of these failures, no doubt, distracts from the overall economic growth of the country and significantly impugn on the confidence of investors in the capacity of the economy to sustain their investments and guaranty the expected return on such investments, thereby discouraging them from engaging in the huge investment opportunities available in the country. This paper seeks to examine the roles of shareholders, corporate managers, and the regulatory agencies, in the light of extant statutory framework, and the lapses in the performance of these roles resulting in these unfortunate developments in the corporate world and offers suggestions on how these negative narratives can be checkmated.

1. Introduction:
Corporate Entities Are Globally Recognized As Vehicles For Wealth Creation And Economic Prosperity. In Nigeria Corporate Entities Afford Shareholders Opportunities To Optimize Return On Their Investments, It Also Offer Employment Opportunities To A Significant Proportion Of The Populace, A Sizeable Revenue Accruing To The Government Is Generated From The Profit Derived From The Undertakings And Operations Of These Corporate Entities And The Securities Of Some Of These Entities Constitutes The Hub Of The Economic Activities On The Platform Of The Capital Market In Nigeria Where Investors, Retail And Institutional, Engage In Trade Which Has The Potential To Drive The Economy Of The Country And Its Teeming Investment Public To Economic Prosperity.

Corporate Entities Can Only Realize The Above Objectives When They Operate In A Manner That Enables Them To Make Profit And Keep A Healthy Balance Sheet. Therefore Any Form Of Distress Or Negative Pressure Which Inhibits The Company From Profiting From Its Undertakings Should Be Of Utmost Concern To The Shareholders, Employees And Regulatory Agencies As Well As Any Sensitive Government. It Is For The Above Reasons That The Recent Distress Of Skye Bank Plc And Its Eventual Assumption By Polaris Bank Limited Following Similar Fate That Befell Afri Bank Plc And Etisalat Telecommunications Ltd Whose
Undertakings Were Salvaged By The Timely Rescue Intervention Of 9mobile Telecommunications Ltd, Sets The Tone For This Paper.

The Paper Seeks To Examine The Legal And Statutory Framework Which Allows For The Setting Up Of Corporate Entities In Nigeria, Provides For The Regulation Of Its Formation, Management And Winding Up And The Role Of The Shareholders, Corporate Managers And Regulatory Agencies With A View To Ascertaining Their Culpability Or Their Failure In Preventing Corporate Entities From Failing With The Attendant Loss Of Investments By Shareholders, Means Of Livelihood By Employees And Loss Of Potential Revenue Source To The Government. The Paper Will Also Offer Some Recommendation As To How The Existing Legal Framework Can Afford Opportunities To The Stakeholders To Save Their Investments In Corporate Entities From Failing Or To Minimize Their Loss In The Event Of Any Failure That May Necessitate The Extinction Of A Corporate Entity.

2. Legal Framework for the Formation of Companies in Nigeria:

The Constitution Of The Federal Republic Of Nigeria guarantees to the citizens the freedom to associate for any legitimate purpose. This constitutional freedom of association is amplified by the Companies and Allied Matters Act which provides that any two or more persons, who are not subject to the prohibition or restriction under CAMA, can come together for purposes of forming or incorporating a company in Nigeria. The company that may be formed upon the collaboration of any two or more qualified persons can either be private or public. It is important to point out the fact that a foreigner is entitled to explore investment opportunities in Nigeria. But this right of participation in any economic venture, by a Nigerian and foreigner alike, is to the extent that the investment is not in any product or industry designated as and mentioned in the negative list.

Furthermore, the right of participation by a foreigner, either in the form of foreign direct investment (FDI) or foreign portfolio investment (FPI) is made subject to the foreigners’ compliance with any other relevant and applicable laws. Some of these relevant laws includes, the Immigration Act, which regulates right of entry, residence and departure from Nigeria. The Foreign Exchange Monitoring (and other miscellaneous provisions) Act which make provisions for how foreign currency convertible into the Nigerian currency can be imported into Nigeria through an authorized dealer who is required to issue a certificate of capital importation (CCI) which will enable repatriation of such capital and the returns thereon, net of taxes, from Nigeria without inhibition. The Investments and Securities Act (ISA) which requires, *inter alia*, that the share held by any foreigner in any corporate body in Nigeria must be registered in a register kept by the Securities and Exchange Commission (SEC). The National Office for Technology Acquisition and Promotion Act, which requires that any agreement involving the transfer of

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1 Herein after referred to as the ‘’1999 constitution as amended’’
2 S.40 of the 1999 constitution.
3 Cap C20 LFN 2004. Hereinafter referred to as “CAMA”
4 S.18 CAMA
5 S.21 CAMA
6 S.17 Nigerian Investment Promotion Commission Act. Hereinafter referred to as the NIPC Act
7 S.32 NIPC Act mentioned some ventures constituting the negative list. They are: production of arms and ammunitions, manufacture and dealing in hard drugs and narcotic substances, production and dealing in military and paramilitary accoutrement and production of service uniforms for the military and paramilitary services.
8 S.20 CAMA
9 S. 9 Immigration Act
11 S.13 ISA
Any Form Of Technology Into Nigeria Must First Be, Registered Pursuant To The Act Otherwise Any Consideration Paid For It Shall Not Be Repatriated Out Of The Country. A Company Not In Liquidation Is Equally Recognized By Cama As Having Capacity To Take Part In Collaboration With Another Company Or Individual In Forming A Company In Nigeria. The Company Seeking To Join In The Formation Of Another Corporate Body Is Required To Furnish A Resolution Of The Members Approving Or Authorizing The Company To Get Involved In The Formation Of Such Other Company. Again A Resolution Of The Board Is Required Nominating A Natural Person To Attend The Meetings Of The Company Formed As Well As Represent It On The Board If The Company Is Proposed To Be On The Board Of That Other Company. A Company Upon Formation And Incorporation Assumes A Different Legal Personality From The Members With The Powers, Likened To That Of A Natural Person Of Full Capacity, In Relation To Its Objects. This Common Law Position As Restated In The Old Case Of, Salomon V Salomon &Co. Has Been Codified In Nigeria. This Does Not, However Discount From The Fact That The Legal Personality Bestowed On A Company Is Artificial Or Notional, Thus The Intervention Of Human Elements In The Scheme Of Affairs Of A Company Is Mandatory And The Company Does Not Possess The Physical Capacity To Take Decisions And Implement Them.

It Is For The Above Reasons That We Shall Now Examine How The Actions Or Inactions Of These Human Elements Involved In The Formation, Registration And Management Of The Affairs Of A Company Can Either Make Or Mar Its Operations And Even Its Existence.

3. The Role of the Shareholders:
The Qualification For Membership Of A Company In Nigeria Is The Possession Of At Least One Unit Of Shares In The Share Capital Of The Company. The Interest Such A Person Has In The Shares Is Proprietary. The Shares May Be Acquired In A Number Of Ways Prescribed By The Cama. It May Be By Subscription And Having The Name Of The Person Entered In The Register Of Members Kept By The Company, Or By Subsequent Agreement In Writing By Such A Person To Become A Member And Having His Name Entered In The Register Of Members. It May Also Be Acquired By Transfer Or By Transmission On The Death Of A Deceased Shareholder.

The Fact Of Membership Entitles The Member To Some Rights Such As The Right To Attend Meetings Of The Company. The Members Are Also Entitled To Receive Accounting Records Of The Company From The Directors Of The Company. The Directors And Auditors Are Also Required To Send Their Reports To The Members. These Reports Are Supposed To Contain An Accurate State Of Affairs Of The Company. The Careful Examination Of These Reports Will Also Bear Out Challenges Confronting The Company As An Early Warning Signal As To Any Form Of Exposure To Failure Or Vulnerability To Corporate Demise.

12 S.6 of the NOTAP Act
13 S.20 CAMA
14 See Regulation 6 Companies Regulation 2014.
15 S.231 CAMA
16 S. 38(1) CAMA
17 (1897) A.C.22.
18 S.37 CAMA
19 S.79 CAMA
20 S.119 CAMA
21 S.79 CAMA
22 S. 115 and 148CAMA
23 S.114 CAMA
24 S.145 CAMA
The Company Is Expected To Hold An Annual General Meeting (Agm) Annually, Where These Reports Are To Be Considered By The Members. Many Members Do Not Bother Attending This Meeting And Do Not Also Nominate Proxies To Attend On Their Behalf. This Lethargy On The Part Of Members Make Them Unaware Of Happenings In The Company And Are Therefore Not In A Position To Appreciate The Challenges Confronting The Company. Furthermore Those Who Even Find Time To Attend These Meetings May Not Be Conversant With Issues Relating To The Reports Presented By The Directors And Auditors With A View To Making Any Meaningful Contributions To Discussions Centering On These Reports. The Corporate Managers In Such Instances Are Not Closely Monitored And Their Actions Or Conduct Examined In The Light Of Their Duties To The Company.

The Shareholders Constitute An Integral Part In The Management Of The Affairs Of A Company. The Powers Of The Company Are, Subject To The Articles Of Association, Exercisable By The Directors And The Members In A General Meeting. This Underscores The Importance Of Company Meetings In The Affairs Of A Company, As Decisions Are Mostly Taken At Such Meetings In The Form Of Resolutions. It Is However Possible For A Private Company To Pass A Valid Written Resolution Without Holding A Meeting Provided Such Resolution Is Signed By The Members Entitled To Attend Such Meeting. The Company Meetings Also Afford Members The Opportunity Take Part In The Election And Removal From Office Of Directors And Auditors Of The Company. The Point Must Also Be Made That Other Than The Agm, The Members Are Also Permitted To Requisition An Extra-Ordinary General Meetings (Egm) When The Directors Are Not Willing To Call Such A Meeting In Order To Resolve Any Issue That Is Of Urgent Concern To Such Members As It Relates To The Affairs Of The Company.

The Shareholders Are Entitled To Nominate Their Members To Serve On The Audit Committee In The Case Of A Public Company. The Members Are Equally Vested With Powers To Request An Investigation Into The Affairs Of The Company. Thus Where The Members Are Concerned And Agitated By Any Action Or Omission On The Part Of The Corporate Managers In Their Running The Affairs Of The Company, They Can, Upon An Application In Writing, Request The Corporate Affairs Commission (CAC) To Appoint One Or More Competent Inspectors To Undertake An Investigation Into The Affairs Of The Company And Make A Report Of Their Findings To The Commission. The Directors And Officers Of The Company Or Any Other Person, Who In The Opinion Of The Inspector, Has Any Document Or Information Relevant To The Subject Matter Of The Investigation To Volunteer Such Information On Oath Or To Produce Such Documents. Any Failure To Answer Upon The Request Of The Inspector, Following A Report Of It Been Made To A Court, Is Viewed And Punished As Contempt Of Court. The Report Of The Inspectors, Following An Investigation Into The Affairs Of A Company, May Be The Basis For The CAC To Institute And Pursue A Civil Action Against Anybody Indicted By The Inspector In The Report, Where The Commission Of A Crime Is Disclosed Against Anybody In The

25 S.214 CAMA
26 S 63 CAMA
27 S. 234 CAMA
28 S.215 CAMA
29 S.359(5) CAMA
30 S.314 CAMA
31 S.320 CAMA
32S.317 CAMA
33 S.319 CAMA
34 S.321 CAMA
Report Of The Inspector, Cac Has A Statutory Duty To Forward Such A Report To The Office Of The Attorney-General Of The Federation For Possible Criminal Prosecution.\(^{35}\)

All Of These Enormous Statutory Measures Are Put In Place To Enable The Members Remain Abreast With The Happenings In The Company. But Pragmatism And Active Engagement Is Required For Members To Take Full Advantage Of These Measures To Ensure That Their Investments Are Properly Over Sighted And Not Frittered Away By Unscrupulous Corporate Managers. Furthermore It Is Only Shareholders With Basic Understanding Of The Responsibilities Of The Corporate Managers That Can Hold Them To Account In The Event Of Any Breach. Ability To Read And Understand Financial Report Is Also Very Key To Fully Appreciating The Financial Position Of The Company On The Strength Of Those Reports. The Independent Shareholders Association (Isan) And Other Such Associations Must Rise Up To This Challenge By Periodically Organizing Sensitization Workshops And Other Educative Talk Shops Where Experts Can Be Invited To Educate Their Members On Their Rights And Duties As Shareholders In Companies Under The Law In Nigeria, And Also Expose Them To Basic Knowledge And Understanding Of Financial Reports.

4. The Role Of Corporate Managers:

Corporate Managers Play Strategic Roles In The Life Of A Corporation. The Administration And Daily Management Of Companies Has Become Crucial In The Face Of The Many Challenges That Have Undermined The Performances Of Many Corporate Bodies In The Economy.\(^{36}\) The Cama Recognizes The Directors, Company Secretary And Auditors As Some Of These Corporate Managers Who Are Actively Involved In The Management Of The Affairs Of A Company.

The Directors Are The Alter Egos Of The Company; They Are The Directing Minds Of The Company. They Are Persons Duly Appointed By The Company To Direct And Manage The Business Of The Company.\(^{37}\) For A Company To Operate In Nigeria It Must Have A Minimum Of Two Directors.\(^{38}\) For Public Companies They Are Required To Have A Minimum Of 5 Directors.\(^{39}\) The Cama Does Not Prescribe Any Minimum Educational Requirement For A Person To Be Qualified For Appointment As A Company Director In Nigeria, The Only Qualification Prescribed Is That The Person Is Not An Infant, A Person Of Unsound Mind, An Undischarged Bankrupt Or A Person Who Has Been Convicted Of Any Offence Relating To Fraud Or Dishonesty.\(^{40}\) The Implication Of This Absence Of Any Prescribed Educational Qualification For A Person To Be Appointed A Director Is That Persons Of Low Educational Background And Experience Can Find Their Ways Into The Boards Of Companies In Nigeria.

The Duties And Responsibilities Of Company Directors Are Double Fold In Nigeria. Namely, The Fiduciary Duties Of The Directors, Which Includes, Duty Not To Make Secret Profits, The Duty To Account And Duty Not To Take Personal Advantage Of Corporate Information Which Becomes Available To Him In The Course Of The Performance Of His Responsibilities.\(^{41}\) The Second Is The Duty Of Care And Skill.\(^{42}\) The Import Of This Duty Of Care And Skill Is That An Objective Standard Is Set On The Template Of What A Reasonably Competent Director Would Do In Any Given Circumstance.

Once The Required Standard Is Met By The Directors In The Performance Of Their Duties And Their Actions Fall Within Their Powers As Defined In The Articles Of Association Of The Company, The Directors Are Not

\(^{35}\) S.322 CAMA
\(^{36}\) 9jalegal.com.ng/news/company-management-and-administration-in-nigeria/. Last visited on 31\(^{st}\) October, 2018
\(^{38}\) S.245 CAMA
\(^{39}\) Article 4.2 Cod of Corporate Governance for public companies.
\(^{40}\) S.257 CAMA
\(^{41}\) S.279 CAMA
\(^{42}\) S.282 CAMA
Bound To Obey Any Contrary Instructions Coming From The Shareholders. This Does Not Preclude The Rights Of The Shareholders To Remove Directors For Whatever Reason, Notwithstanding Any Provision Of The Articles Of Association Or In Any Service Contract Between The Directors And The Company. The Directors Have The Responsibility To Manage And Foster The Business Of The Company And To Direct Its Affairs, Taking Into Account The Interest Of The Members And The Employees Especially. The Directors, In The Performance Of Their Duties, May Appoint One Of Them As The Managing Director And Delegate Some Of Their Powers To Him Or Her Or Constitute Committee Or Committees To Which Some Other Powers May Be Delegated, Subject To The Provisions Of Cama Or The Articles Of Association Of The Company. The Concerns Arising From The Absence Of Minimum Educational And Technical Requirements For The Appointment Of Directors In Nigeria Can Be Effectively Addressed By The Recent Efforts Of The Institute Of Directors Nigeria (Iod) Which Is Committed To Building Professional Capacity In Directors Of Both Public And Private Enterprises In Nigeria As Well As Raising The Consciousness Of Their Members To The Need To Imbibe The Code Of Corporate Governance As The Global Bench Mark For Assessment Of Corporate Managers. The Institute, As A Prime Leadership Organization, Helps Directors To Fulfill Their Legal And Professional Responsibilities For The Benefit Of Their Business Outfits And The Larger Society. It Is A Not-For-Profit; Membership Based Organization That Collaborates With And Enjoys The Support Of All The Regulatory Institutions In The Country As Well As International Multilateral Organizations. The Company Secretary Is Another Officer Who Plays Cardinal Roles In The Affairs Of A Company. Every Company Registered In Nigeria Is Mandate By Statute To Have A Company Secretary. Unlike The Position Of Directors, The Qualification Required For Appointment As A Company Secretary Is Provided In Cama. For A Private Company No Formal Qualification Is Required, Provided The Person To Be Appointed Appears To The Directors To Have The Requisite Knowledge And Experience To Discharge The Functions Of The Office Of Company Secretary. For Public Companies, A Person Can Only Be Appointed If He Or She Is Qualified As Legal Practitioner, Chartered Accountant, Chartered Secretary And Administrator Or The Person Has Had Experience By Virtue Of Haven Been Company Secretary Of A Public Company For At Least 3 Years Within The Preceding 5 Years To The Time Of Appointment.

5. The Auditors:

Every Company Is Required To Have One Or More Persons Appointed For The Purposes Of Undertaking Independent Examination Of The Financial Statements Prepared By The Directors And Make A Report On Their Impression Of Such Financial Statement To The Members Of The Company. The Qualification for the Appointment As Auditor Is Provided In S.358 Of Cama As Follows:

(1) The Provisions Of The Institute Of Chartered Accountants Of Nigeria Act Shall Have Effect In Relation To Any Investigation Or Audit For The Purpose Of This Act So However That Non Of The Following Persons Shall Be Qualified For Appointment As Auditor Of A Company, That Is-

(a) An Officer Or Servant Of The Company;
(b) A Person Who Is A Partner Of Or In The Employment Of An Officer Or Servant Of The Company; Or
(c) A Body Corporate.

43 S.279 (4) CAMA
44 S.262 CAMA
45 S.64 CAMA
46 The Punch Newspaper, vol 42. No 21799, of Wednesday October 31st, 2018 p30
47 S.293 CAMA
48 S.295 CAMA
49 S.295 CAMA
50 S.357 CAMA.
The Above Provision Places Premium On The Provisions Of The Institute Of Chartered Accountants Of Nigerian Act In Relation To Audit Or Investigation Of A Company In Nigeria. The Ican Act Defines An Accountant To Include An Auditor And A Chartered Accountant To Be A Professional Accountant Certified By The Institute, And For A Person To Be Certified By The Institute As A Chartered Accountant Such A Person Must Have Passed The Prescribed Examinations Conducted By The Institute And Completed The Practical Training Prescribed. The Provision, By Implication Makes Been A Chartered Accountant As The Pre-Requisite For Appointment.

The Financial Statement Prepared By The Directors That The Auditors Are Required To Examine Are To Be In Compliance With The Requirements, With Respect To Form And Content, With The Accounting Standards Laid Down By The Nigerian Accounting Standards Board. The Ican Act And The Nigerian Accounting Standards Board Act, Hitherto, Essentially Formed The Statutory Framework For Audit Of Companies In Nigeria.


6. The Role of Regulatory Bodies:
Investment In Any Economy, World Over, Is Subject To Regulatory Interventions By Several Bodies. Nigeria Is No Exception To This Global Phenomenon Of Regulatory Interventions By Bodies And Institutions Charged With The Duty To Prescribe Regulations Governing Investments. The Activities Of These Regulatory Bodies May Sometimes Jeopardize The Smooth Operations Of Corporate Bodies And May Ultimately Result In Their Failure. Some Of These Bodies Include the Corporate Affairs Commission (Cac), the Securities and Exchange Commission (Sec), and National Insurance Commission (Naicom).

7. The Corporate Affairs Commission (Cac):
The Cac Is A Regulatory Body Established Pursuant To The Provisions Of Cama. Its Functions Include The Regulation And Supervision Of The Formation, Incorporation, Registration, Management, And Winding Up Of Companies Under Or Pursuant To The Provisions Of Cama. It Also Has The Responsibility To Arrange Or

51 S.19 ICAN Act.
52 S.8 (a) ICAN Act.
53 S.335 CAMA
54 Ss.74 and 75 Financial Reporting Council of Nigeria Act. (FRCN Act)
55 S.77 FRCN Act.
56 Officially Chartered by a decree promulgated in 1993.
57 S.74 FRCN Act
58 S.75 FRCN Act
59 S.1(3) CAMA
60 S. 7(1) (a) CAMA
Conduct An Investigation Into The Affairs Of Any Company Where The Interest Of The Shareholders And The Public So Demand. The Power Of The Cac To *Suo Motu* Cause The Investigation Of A Company In Nigeria Was Judicially Emphasized In The Case Of *Corporate Affairs Commission V. United Bank For Africa & Ors.*

The Court Of Appeal Held That The Power Of The Cac To Cause An Investigation To Be Conducted On The Affairs Of The Companies Under Section 315(2) Of Cama Is Not Dependent On Or Subject To Any Leave Or Order Of Court.

Furthermore, Every Company In Nigeria Is Under A Statutory Obligation, Once At Least In Every Year, To Make And Deliver To The Commission An Annual Return In The Form And Containing The Matters Specified In Sections 371,372 Or 373 Of Cama As May Be Applicable; Except For The First Year Of Its Incorporation. The Failure Of A Company To Comply With The Above Requirement Makes The Company And Every Director Or Officer Of The Company Who Is In Default Guilty Of An Offence And Liable To A Fine Of One Thousand Naira In The Case Of A Public Company And One Hundred Naira In The Case Of A Private Company. The Companies Regulations 2012 Has Modified The Above Penalties Thus, Late Filing Of Annual Return For Small Company Attracts A Penalty Of Three Thousand Naira Per Year, And The Late Filing Of Annual Return For A Private Company Other Than A Small Company Attracts A Fine Of Five Thousand Naira Per Year, Late Filing In The Case Of A Public Company Attracts A Liability Of Ten Thousand Naira Per Year, While The Late Filing Of The Annual Return For A Company Limited By Guarantee Is To Attract A Fine Of Five Thousand Per Year.

The Failure To File Annual Return By A Company May Be Sufficient Justification For The Cac To Reasonably Believe That The Company Is Defunct And No Longer Carrying On Business For Purposes Of Invoking The Procedure Towards Striking Off The Name Of The Company From The Register Companies.

The Above Measures Are, No Doubt, Intended To Give The Cac, As A Regulatory Body Sufficient Biting Force To Guard Against Corporate Failures Necessitated By Poor Corporate Governance Mechanism.

8. The Securities and Exchange Commission (Sec):

Sec Is A Statutory Body Established Pursuant To The Investments And Securities Act. It Is Designated As The Apex Regulatory Organization For The Nigerian Capital Market And Shall Carry Out The Functions And Exercise All The Powers Prescribed In The Isa. It Has The Sole Responsibility Of Registering Securities Of Public Companies And Regulates All Offers Of Securities By Public Companies And Entities. Additionally It Has The Statutory Responsibility To Prescribe The Conditions For Registration Including The Level Of Knowledge And Skill Required To Operate In The Capital Market And To Register All Capital Market Operators, Professionals And Experts.

The Following Service Providers Are Required To Register With Sec As Capital Market Operators: Issuing Houses/ Merchant Bankers; Underwriters; Broker/Dealers; Sub-Brokers; Receiving Bankers; Registrars;

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61 S.7(1)(c) CAMA
63 S.370 CAMA
64 S.378(1) CAMA
65 See schedule 3 to the Companies regulations, 2012.
66 S.525 CAMA
67 S.1 (1) of the ISA, 2007.
68 S.13 ISA
69 S.13 (d) and(c)ISA
70 See generally section 38 ISA.
Trustees; Investment Advisers (Corporate And Individuals); Fund/Portfolio Managers; Rating Agencies; Market Makers; Custodian And Any Other Function The Commission May Determine From Time To Time71. Experts And Professionals Whose Opinion Impact Directly On Capital Market Transactions And Are Subject To Registration By Sec Are Listed As Follows: Legal Practitioner; Accountants; Auditors; Engineers; Estate Valuers; Property Managers; And Any Other Expert/Professional That May Be Determined By Sec Form Time To Time72. The Above List Of Professionals Is An Amplification Of The Definition Offered By The Isa Of Experts Under The Act. Experts Are Defined By The Isa To Include Every Engineer, Legal Practitioner, Accountant And Any Other Person Whose Profession Gives Authority To A Statement Made By Him73.

A Public Company Whose Securities Are Required To Be Registered Pursuant To The Isa Shall File With Sec On A Periodic Or Annual Basis; Its Audited Financial Statements And Such Other Returns As May Be Prescribed By The Commission From Time To Time74. Public Companies Are Mandated By The Isa To Establish A System Of Internal Controls Over Its Financial Reporting And Security Of Its Assets And It Shall Be The Responsibility Of The Board Of Directors To Ensure The Integrity Of The Company’s Financial Controls And Reporting. And The Board Of Directors Shall Report On The Effectiveness Of The Company’s Internal Control System In Its Annual Report75. The Internal Control Referred To Above, Means Policies, Procedures And Practices Put In Place By Management To Ensure Safety Of Assets, Accuracy Of Financial Records And Reports, Achievement Of Corporate Objectives And Compliance With The Laws And Regulations76.


National Insurance Commission (Naicom):

71 Rule 45(1) SEC RULES 2013. Any further reference to SEC Rules in this work, except where the contrary is expressly stated, is the SEC Rules 2013.
72 .Rule 178(1) SEC Rules
73 S.315 ISA
74 S.60(1) ISA
75 S.61(1) and(2) ISA
76 S.61(3) ISA
77 Salako, T. ‘’EFCC probes 45 persons, 13 firms for capital market fraud’’ The Nation Newspaper, vol.13, No. 4648 0f 22 April, 2019 p.22.
78 Ibid.
Addressing The Risk Concerns Of Business Undertakings In Nigeria. According To The Managing Director Of Anchor Insurance Limited, Augustine Osegha Ebose ‘The Industry In General Has Not Been Up And Doing Like The Banking And Other Sectors Of The Economy…The Umbrella Body Of The Companies, Nigeria Insurers Association (Nia) Needs To Do More’.

According To Mr. Augustine Osegha Ebose’ We Are Underinsured And These Are Some Of The Things That We Are Going Through. When Risk Is Not Properly Managed It Can Result In Fatal Consequences To The Existence Of A Corporate Entity, Thus A Weak Insurance Industry Cannot Drive Or Galvanize A Strong And Virile Corporate Sector. The State Of The Insurance Industry In Nigeria Is, Largely, A Fall Out Of The State Of The Nigerian Economy; ‘If The Economy Does Not Move Insurance Policies Will Not Move As Well’. To Strengthen The Insurance Sector, ‘Insurance Operators Need To Do More Campaign And Awareness On The Importance Of Insurance’. Efforts Must Also Be Made To Streamline The Structure Of The Operations Of The Nigerian Insurance Sector To Align With The Global Template Which Is That ‘In Other Parts Of The World, Insurance Takes Care Of Banks, But Here The Reverse Is The Case’.

Furthermore The National Insurance Commission (Naicom) Has Identified Insurance Gaps As A Major Set Back In The Industry And Has Advocated Strong Collaboration Toward Reducing These Insurance Gaps In Developing Nations, Especially Nigeria In The Areas Of Natural Catastrophes; Cybercrimes/Risks; Health Care; Pensions And Emerging Risks.

Mr. Pius Agboola, Director Inspectorate Of Naicom, Gave Insight Into The Determination Of Niacom To Reposition The Industry For Better Performance When He Stated Thus: ‘The Regulator Is Also Encouraging Specialization; Strengthening Insurer’s Capacity; Improving Insurance Penetration; Attracting Foreign Investment And Encouraging Healthy Competitions.’

9. Conclusion/Recommendations:
Efforts Has Been Made In This Paper To Show That There Are Sufficient Statutory Provisions That Can Be Deployed To Prevent Or Reduce The Incidences Of Failed Corporate Entities In Nigeria And Avoid The Attendant Unpleasant Consequences Of Loss Of Investment And Means Of Livelihood.
Shareholders, Corporate Managers And Regulatory Agencies Are, To Varying Degrees, Responsible For The Undesirable But Preventable Incidences Of Failed Corporate Entities In Nigeria.
Active Shareholder Engagements And Enlightenment Championed By The Independent Shareholders Association Of Nigeria (Isan), Corporate Managers Who Are Guided By The Code Of Corporate Governance, And Highly Sensitive Regulatory Agencies Are Highly Recommended As Antidote To Failure Of Corporate Entities In Nigeria.
The Capacity Of The Insurance Industry Must Be Deliberately Expanded To Afford Corporate Entities Spread Their Investment Wings In Pursuit Of Their Undertakings, Especially In High Risk Exposure Business Terrains, Under The Coverage Of Appropriate Insurance Policies.
The Challenge Of Job Creation Currently Facing The Government At All Levels In Nigeria Can Only Be Significantly Resolved And Sustained When Corporate Entities Are Prevented From Failing And Are Administered To Ensure Their Prosperity.

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79 Interview granted to Omobola Tolu-Kusimo, the Nation Newspaper vol.13, No.4641 of 15th April, 2019, pp 26-27.
80 Ibid.
81 Ibid.
82 Ibid.
83 Ibid.
84 Ibid.
85 Ibid.
86 ‘NAICOM Seeks Collaboration To Reduce Natural Catastrophes, Cybercrimes’ The Independent newspaper, vol.16, No.982 of Thursday, November 1, 2018 p.27
87 Ibid.