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TOPIC:

THE WEST AFRICAN INSURANCE INDUSTRY: REGULATING ITSELF TO TAKE ON THE CHALLENGES AND OPPORTUNITIES EXPERIENCED AND ENVISAGED

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HISTORY OF INSURANCE REGULATIONS

1601 - First insurance legislation enacted in Britain

1837 - Massachusetts enacts the first state law requiring adequate reserves

1849- New York passes the first general insurance law in the United States

1851- New Hampshire appoints the first state Insurance Commissioner

1945- MaCarran – Ferguson Act reiterates the pre-eminence of state-based insurance regulation.

2010- Dodd-Frank Act i.e. The Wall Street Reform and Consumer Protection Act of 2010, had an impact on state insurance regulation.

WHY REGULATION

Various reasons were given in various jurisdictions of the need for regulation including:

- To maintain insurer solvency
- To protect consumers who have inadequate knowledge of insurers and insurers practices
- To ensure reasonable rates
- To make insurance available

WHY REGULATIONS CONT.

The principal areas regulated to achieve the above objectives include:

- Formation and licensing of insurers
- Solvency regulation
- Rate regulation
- Policy forms
- Sales practices
- Consumer protection

WHY REGULATIONS CONT.

Globally, the regulated areas are grouped under the following:

- **Company Licensing**

  National Laws require insurers and insurance-related businesses to be licensed before selling their products and services.

- **Product Regulation**

  Regulators protect consumers by ensuring that insurance policy provisions comply with laws and are reasonable and fair.

WHY REGULATIONS CONT.

- **Market Regulation**

  Ensure fair and reasonable insurance prices, products and trade practices in order to protect consumers.

- **Financial Regulation**

  Ensure good financial standing of insurers through the examination of accounting methods, procedure and financial statement presentation

- **Consumer Services**

  Toll-free lines, web sites and special consumer services units to receive and handle complaints against insurers and agents.

WHY REGULATIONS CONT.

The above areas are targeted at ensuring:

- Licensing and regulating insurance companies and others involved in the insurance industry
- Monitoring and preserving the financial solvency of insurance companies.
- Regulating and standardising insurance polices and products
- Controlling market conduct and preventing unfair trade practices
- Regulating other aspects of the insurance industry

REGULATORY FRAMEWORK

Regulation is carried out through legislation in the form of:

- Laws
- Regulations
- Guidelines
- Directives
- Circulars

INSURANCE REGULATION: EUROPEAN UNION

Insurance Regulation in the European Union (EU) has two important goals:

- Facilitating a common integrated market, a primary objective of the EU.
- The creation of a single European insurance market. Harmonisation efforts have continued for 30 years and are not yet completed. The difficulties of establishing a Union-Level insurance regulation arises from the contradictions between two substantial regulatory schemes:

- Germany and France had a tradition of intensive state supervision while
- United Kingdom and The Netherlands had a well-founded tradition of a self-regulated insurance market, almost completely free of state intervention.

Union-Level Insurance Regulation

This included three stages:

- First generation was the adoption of **directives** that were aimed at facilitating the freedom of establishement for Non-Life insurance in 1973 and for Life insurance in 1979.
- Second Generation was the **legislation** of two directives in 1988 for Non-Life and 1990 for Life whose core was the abolishment of prior approval of terms and premiums.
- Third Generation was the installation of a **single market regulatory** system in the 'Europe 1992' directives.

U.S.A.

- The US insurance regulation is based explicitly upon state regulation. An insurer in the US is subject to the regulation of each and every state it operates in.

  The NAIC harmonises the country’s different laws and regulations.

ISRAEL

Restrictive Trade Practices Act, 1988 (RTPA) enforced by the Israeli Antitrust Authority (IAA) with the powers of supervising, investigating, initiating civil and criminal proceedings, ordering monopolies and approving/disapproving mergers.

Israeli insurance regulation is considered as consumer protection oriented, although this goal is evenly divided into two.

- Direct protection through supervising insurers' policies and practices.
- Indirect protection through preserving the stability of the insurance companies.

HONG KONG

Currently adopted self-regulation administered by the Office of the Commissioner of Insurance and the Insurance Authority .

The Authority is responsible for:

- Prudential regulation of insurers
- Ensuring compliance with Insurance Companies Ordinance
- Issuing codes of conduct

Insurance brokers are regulated by Professional Insurance Brokers Association

In 2011, proposed the establishment of a statutory Independent Insurance Authority to replace the current self-regulation which will retain all the powers of the Insurance Authority in addition to the following:

- Express powers to initiate investigations
- Search and seize materials upon warrant
- Prosecute offences summarily
- Impose a range of regulatory sanctions including fines and revocation of licence

The industry is allowed in

- Setting premium rates
- Setting policy terms and conditions

An Insurance Claims Complaints Bureau established to handle customer complaints

MALAYSIA

Established four (4) self-regulatory measures

- Industry associations
- Guidelines to help regulate proper conduct of insurers
- Formulates Codes of Ethics and Conducts for insurers
- Establishes Insurance Mediation Bureau to handle customer complaints

SWITZERLAND

Swiss Financial Market Supervisory Authority (FINMA) established to be responsible for self-regulation. FINMA identified two types of self-regulation

- Voluntary Self-Regulation which has no government involvement and based on recognised minimum standards and the issuing of Codes of Conducts by professional bodies
- Compulsory Self-Regulation which is based on a mandate from legislation

FINMA noted that effective self regulation should meet some basic standards in drawing new rules:

- Should be transparent
- Easily accessible
- Those affected to have a say in its development
- Proactive information exchange
- Coordination with all relevant authorities

K E N Y A

The Insurance Industry is regulated by the Insurance Regulatory

Authority of Kenya (IRA). The regulatory framework is based on the Insurance Act, 2006, Cap 487, as well as the issuance of guidelines and circulars.

In 2011, IRA issued four (4) guidelines and fifteen circulars. The guidelines issued were:

- Claims Management Guideline
- Insurance Products Guideline
- Market Conduct for Insurance Investigators and Motor Assessors Guideline
- Group Life (Listed Risks) Guideline

In 2011, IRA also

1. Established a Policy Review Task Force to standardise the wording of insurance policies. They finalised standard wording for Motor Insurance polices.
2. Review of the Insurance Act. This was started in 2008. It was aimed at transforming the regulatory framework from Compliance based Supervisory Model to Risk based Model.

INTERNATIONAL LEVEL (IAIS)

Although differences do exist, insurance regulators face similar problems that exist on a worldwide level, led to the establishment of an international organisation. The International Association of Insurance Supervisors (IAIS) was established in 1994, in order to enable information-sharing between insurance supervisors and regulators. Soon after, broader needs were found, and the organisation objectives expanded accordingly. Today, the IAIS goals are as follows:

a) Cooperate to ensure effective supervision in order to maintain efficient, safe, stable insurance markets for the benefit and protection of policyholders;
b) To unite efforts to develop practical standards for supervision;
c) To cooperate with other relevant entities, especially with Basle Committee on Banking Supervision and the International Organisation of Securities Commissions;

d) To provide mutual assistance to safeguard integrity.

IAIS developed several principles that ought to serve as a common base and guide for its 180 member jurisdictions. The Insurance Core Principles (ICP) were updated in 2011 and today include 26 principles that the members are supposed to apply in their supervision.

WHY SELF-REGULATION

Self-regulation measures have the following objectives:

- Instilling discipline and promoting healthy competition among companies in the industry
- Dispute resolution between insurers and insureds
- Financial soundness and integrity of the insurance market

REGULATION IN WAICA COUNTRIES

- Laws and Regulations
- Issue of Guidelines, Directives and Circulars
- Complaints Bureaux
- Industry Associations

Challenges Faced by Regulators

- Absence of Regulations to support The Law
- Inadequate disclosure/information by insurers
- Untimely provision of information
- Problem/Troubled companies
- Low quality financial statements/reports
- Inadequate funding/resources
- Foreign companies/subsidiaries
- Slow Judicial Process

REGULATORY FRAMEWORK OF WAICA MEMBERS

Laws and Regulations

Ghana	-	Insurance Act, 2006, Act 724
	-	New Draft Insurance Bill, 2013
Nigeria	-	Insurance Act, 2003
	-	Insurance Regulations, 2003
Sierra Leone		Insurance Act 2000
		Insurance Regulations 2011
Gambia	-	Insurance Act, 2003
		Insurance Amendment Act, 2006
		Insurance Regulations, 2005 (Being finalised)
Liberia	-	Financial Institutions Act, 1999
	-	Draft New Insurance Bill, 2013

BUREAUS

Ghana	-	Complaints and Settlement Bureau
Nigeria	-	Customer Complaints Bureau
Sierra Leone	-	Public Compliants Bureau
Gambia	-	Office of the Ombudsman
Liberia	-	

INDUSTRY ASSOCIATIONS

Ghana	-	GIA	Ghana Insurers Association
	-	GIBA	Ghana Insurance Brokers Association
	-	NAGIA	National Association of Ghana Insurance Agents
Nigeria	-	NIA	Nigeria Insurers Association
		NCRIB	Nigeria Council of Registered Insurance Brokers
		INSCAN	Insurance Consumers Association of Nigeria
		PILA	Professional Insurance Ladies Association
		NAICO	National Association of Insurance Correspondents
S. Leone	-	SLIA	Sierra Leone Insurers Association
		SLIBA	Sierra Leone Insurance Brokers Association
		SLIAA	Sierra Leone Agents Association

Gambia -	IAG	Insurance Association of The Gambia
Liberia -	AIL	Association of Insurers in Liberia

GUIDELINES

Ghana	-	Premium Credit Guidelines
	-	Management Fees
	-	AML
	-	Life Products
	-	Board composition
	-	Business Plan
	-	Bancassurance
Nigeria	-	Operational guidelines for Insurers
	-	Operational guidelines for Intermediaries
	-	KYC
	-	Oil and Gas
	-	Premium Collection

WEST AFRICAN INSURANCE INDUSTRY EXCLUDING CIMA REGION

COUNTRY	REGULATORY BODY	INSURANCE COMPANIES	REINSURANCE COMPANIES	BROKING COMPANIES	LOSS ADJUSTORS	AGENTS
GHANA	NIC	42	2	53	1	1,785
NIGERIA	NAICOM	58	2	565	54	1,900
SIERRA LEONE	SLICOM	8	1	6	-	23
GAMBIA	CBG	11	-	7	-	13
LIBERIA	CBL	**24***	-	3	-	-

*** Application of 24 companies to be legally recognised after meeting the criteria set by First Initiative (World Bank partner) – adequate capitalisation, strong corporate governance structure, adequate risk management policies, and adequate reinsurance cover.**

CHALLENGES IN WAICA MEMBER COUNTRIES

- Premium Collection
- Professional Ethics and Conduct
- Claims Payments
- Complaints Handling
- Professional Capacity
- Capitalisation
- Low Penetration
- Lack of Public Confidence

THREATS TO WAICA MEMBERS

- Influx of big international companies
- Increasing premium and claims due to climate change

OPPORTUNITIES

- Life business
- Oil and Gas industry
- Untapped informal sector
- Possibility of compulsory insurance
- Information Technology

SELF-REGULATION: WHEN?

Ten factors to consider in order to answer this question in the WAICA region.

1. Legal and Regulatory Framework
    - Our existing laws
    - IAIS ICPs of 2011
        a. International Standards and best practice are not static. The IAIS continues to issue new standards and guidance, some of which will need to be reflected through changes to the legal and regulatory framework.
        b. Changes in the legal and regulatory framework will be required as the insurance market continues to develop.
        c. Increases in regulatory capacity will permit more sophisticated methods for the regulation and supervision of the insurance sector.

2. Information Disclosure (ICP 3)
    - Financial Reporting
    - Prudential Reporting (Returns)
3. Supervisory Framework
    - Compliance-based
    - Risk-based
4. Capital Adequacy and Solvency (ICP 17)
    - Adequate capitalisation for efficient operations
    - Liquidity and solvency level determination

5. Corporate Governance (ICP 7) and Risk Management (ICP 8)

   Framework

   - Level of Corporate Governance in insurance companies
   - Key control functions in our companies

6. Public Confidence and Awareness

   - Claims Settlements/Payment records
   - Complaints handling

7. Cooperation and Collaboration

   - Signing of MOUs
   - Application of the MOUs
   - Timeliness and relevance of information provided

8. Effective Industry Associations

- Healthy Competition
- Naming and Shaming

9. Investments in HR and Systems Devpt/ICT

- Technical Skills and Training
- Product Development and Pricing

10. AML/CFT Requirement (ICP 22)

- KYC requirements
- STR filing

SELF-REGULATING THE WEST AFRICAN INSURANCE INDUSTRY

Even though the ultimate responsibility for the maintenance of a fair, safe and stable insurance sector rests with regulators and supervisors, national and regional industry associations and bodies have a greater role in helping to make it a reality for the achievements of the objectives stated above, viz

- Instilling discipline and promoting healthy competition among companies in the industry
- Providing an element of protection to policyholders
- Resolving disputes between insurers and insureds
- Ensuring financial soundness and integrity of the insurance market

Self-regulatory measures should be directed towards achieving these objectives. Self-regulatory measures which are really bottom-up approach to managing can respond to changing circumstances faster than legislations. Effective self-regulation can help to avoid the need for overly prescriptive regulation and allow the industry the flexibility to respond to changing consumer expectations and market conditions.

For effective self-regulation:

- Regulated entities should endeavour to take measures to control their activities for the benefit of all players to ensure the growth of the industry.
- Regulated entities should be willing and be able to play by the rules of the game, including those established by their associations to enhance the credibility of the industry.

- Regulated entities should be proactive and transparent in the exchange of information among themselves and between the regulators.
- Regulated entities should be involved in the development of rules and guidelines that affect their operations.
- Member countries should adopt the same regulatory scheme.
- Strong, well organised and well coordinated industry associations in member countries
- Member countries should have legal and regulatory frameworks that meet new standards issued by the IAIS.

The maturity and readiness of the West African Insurance Industry will be determined largely by the extent to which it adopts self-regulatory measures. This can happen when there is a high level of professional development, experience and expertise in the industry, and how well the ten factors above are addressed.

WAICA should consider coming out with a three year project to ensure that member countries have:

- Regulatory frameworks that meet new standards issued by IAIS
- Supervisory schemes that meet global standards
- Operational guidelines beneficial to all stakeholders
- Legal frameworks that meet AML/CFT requirements
- Adequate capitalisation to stand international competition

The question to ask is:

ARE WE READY?

Thank you.