UNIFORM REGIONAL COMPLIANCE IN THE INSURANCE INDUSTRY: TO WHAT END?

THE PROS AND CONS OF CURRENT INSURANCE REGULATORY FRAMEWORK IN WEST AFRICA.

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OUTLINE

- Introduction
- Regulating Insurance
- Overview of Insurance Regulations in West Africa
- Key Legislations
- Features of Legislations
- Harmonizing Regulation – Pros
- Harmonizing Regulation – Cons
- Conclusion

INTRODUCTION

- **Regulation refers to Laws, Rules, Directives and Guidelines prescribed by authority to control the conduct of those to whom it applies.**
- **Business regulation is an activity as well as process. It involves the promulgation, monitoring and enforcement of rules that define how that business should be conducted, reported and the expected outcomes.**

- **When regarded as an activity, regulation covers one or all of the following:**
  (a) a right to operate (licensing)
  (b) a duty (deliverables)
  (c) a responsibility (accountability
- **As a process, regulation involves a set of rules that are implemented and reviewed at set intervals to reflect environmental dynamics vis-à-vis the problems/issues the rules were created to solve/address.**

- **Regulation is one of the major headwinds shaping the global insurance industry. As international rules and guidelines continue to evolve, insurers face higher levels of uncertainty and exposure to more complex risks. In some countries, governments are proposing innovative solutions to the myriad of developing regulations, while others are opting for incremental changes.**

As a result of the need to entrench a healthier insurance market and environment that can grow and prosper, governments through its

regulatory institutions have introduced streams of regulations and guidelines to further open up the insurance frontier especially as it concerns management of risks vis-à-vis the capacity of individual companies as stakeholders in the industry.

- **It is against this backdrop that insurance regulatory frameworks in the West African sub-region are effectively geared towards improved penetration to boost the Gross Domestic Products (GDP) of the countries in the region.**

- **The regulatory framework is a system of regulations and the means to enforce them, which are established by government to regulate a specific activity or sector of the economy and for which a government agency has mandate to implement.**
- **Such agency is responsible for setting the rules as well as to enforce compliance with the policies set within the framework.**
- **Ideally, regulation should facilitate economic activities, especially commerce and trade, ensuring that growth opportunities are fostered and there is protection of the interests of the vulnerable.**

This sets the context for the greatest challenge of regulation which is how to strike a veritable balance between private and social interests.

The private interest recognizes that insurance is business, while the social dimension demands that the business be carried out responsibly.

REGULATING INSURANCE

- The key objectives of insurance regulation include the following, among others:
- Orderly growth and development of the insurance industry.
- Efficient and stable insurance markets
- Adequate protection for policyholders.
- Profitable insurance business.

Ultimately, the essence of regulation is to ensure that the interests of all stakeholders are assured and protected.

The insurance sector plays a pivotal role that speaks to the following core issues in regulation by:

- **Facilitating trade and commerce**
- **Fostering opportunities**
- **Protecting the vulnerable**
- **Ensuring balance of interests.**

These, together motivate economic growth and development. Regulation will then be treated by operators as a limiting factor but

they will ensure that they play within those rules whilst engaging every legal means to achieve their profit and growth objectives.

The thinking that operators care only about their private interests, with little or no concern for social responsibility makes regulators to introduce many rules and disparate standards that supposedly aim to restrict and prevent unbridled exploitation of societal resources.

- **The evolving contemporary approach brings regulators and operators to work towards a common goal which is optimal utilization of societal resources for common good.**

OVERVIEW OF INSURANCE REGULATIONS IN WEST AFRICA

- **Because the world is a global village, regulatory frameworks for insurance companies in the West African sub-region have largely been influenced over the years with global insurance business practices.**

Insurance regulators across the West African sub-region seem to have adopted a uniform/identical regulatory framework to stimulate economic growth and development across the region.

- **Global standards in insurance practice have set out minimum requirements for ensuring optimum capacity of the insurance companies to carry on business, vis-à-vis the protection of policyholders' funds, shareholders interest and insurance penetration in the West African countries.**

For ease of business, technical collaboration and regulatory uniformity, West African Insurance regulators have effected a paradigm shift from the traditional regulations and supervisory responsibilities (rules based supervision) to canvass for and

- **implement a Risk-based supervision regime aimed at ensuring that respective insurance companies in the region are examined or supervised based on the volume of risks they are exposed to considering their capacities. Other uniform regulation adopted is the need for recapitalization for a solid capital base. It is believed that increased capital requirements will theoretically lead to better capitalized companies and enhanced policyholders' protection.**

- **Another issue which has formed the fulcrum of most regulatory frameworks in West African sub-region is the need for integrated corporate governance regime coupled with risk management regulations depicting a simplified form of Solvency II.**

In this direction, some West African countries namely Ghana, Liberia, Nigeria, Sierra-Leone and The Gambia have signed memoranda of understanding to strengthen cross-border insurance supervision and insurance penetration in the region.

It is noteworthy to state that in view of the on-going collaborations amongst the regulators as well as the insurance practitioners in West Africa, insurance capacity in the region is building and as economic transformation takes place, improved regulation will support necessary business environment for a healthy and sustainable insurance sector.

KEY EGISLATIONS

- **Ghana**
  - **Insurance Act 2006**
- **Nigeria**
  - **Insurance Act 2003**
  - **NAICOM Registrations/Guidelines**
- **Sierra Leone**
  - **Insurance Act 2016 (Replacing Insurance Act 2000)**

FEATURES OF LEGISLATIONS

- **Minimum Capital requirements**
  - **As stated in the various legislations.**

- **Retention of Local capacity**
  - **The local markets must be fully involved and saturated before ceding to a foreign reinsurer.**

- **Compulsory Insurances**
  - **Motor, Fire Workmen's Compensation and Group Life.**

- **Solvency requirements**
- **Nigeria (S.s 2.14 Prudential Guidelines)**
  - **Total admissible Assets less total liabilities, subject to 15% of net premium or the total minimum capital requirement, whichever is higher.**
- **Ghana (S.s 71.1(a) & (b)**
  - **Maintenance of solvency margin calculated in accordance with regulations.**
- **Sierra Leone (S.s 35.1(a) & (b)**
  - **Life: Liabilities shall not exceed the amount of the life insurance fund of the insurer.**

- **Non Life: The assets shall exceed its liabilities by a minimum of one tenth of the premium income**

- # No Premium, No Cover
  - **The receipt of an insurance premium is a condition precedent to a valid insurance contract of insurance, particularly in Nigeria.**

- # Claims Settlement.
  - **Settlement within 90 days after the issuance of receipt of a discharge voucher, upon admittance of liability.**
  - **In case of non-admittance of liability, response within 90 days from the date the insured delivered his claim to the insurer.**

- **Improved corporate governance and risk management**

- **Moving from rules-based supervision to risk-based supervision.**

- **Adoption of IFRS & Solvency II for greater transparency**

HARMONIZING REGULATION – PROS

- There is a global and regional tendency towards harmonization of regulation whereby standards and rules are becoming more and more unified in risk definition, measurement and pricing as well as reporting standards.
- Although Africa and in particular West Africa has an insignificant share in the global insurance and reinsurance market, it promises a quantum growth over the next decade in view of the following:

- **Large growing and youthful population (median age was 19.7 years in 2012 against 30.4 worldwide).**
- **Rapid urbanization and growing middle class.**
- **Massive investment in new infrastructure and renewal.**
- **Transforming economies and growing Diaspora population making significant home remittances.**

As regulators collaborate, operators as well should begin to explore collaboration across the region. This should be championed by the market leaders in the five jurisdictions, the G5- Ghana, Liberia, Nigeria, Sierra Leone and the Gambia.

The target for a common platform for regulation and practice is to ensure that firms that have cross-border operations do not engage in arbitraging.

From the perspective of reinsurers in the West African Sub-region, the challenges facing the African insurance market particularly in the West African sub-region notwithstanding the potential widespread benefits inherent in the seemingly unified insurance regulatory framework as a result of global best practice and the need to broaden insurance

penetration for sustainable growth are quite immense in the long term.

Some of the benefits of unified regulation include the following:

- **Adoption of common standards;**
- **Shared knowledge and resources;**
- **More efficient insurance companies;**
- **Improved liquidity profile of emerging companies;**
- **More transparent and improved corporate governance;**
- **Uniform regulations will aid cross-border transactions and supervision;**

- **Incentivize consolidation and emergence of big regional players;**

- **Provision and strengthening of technical capabilities to insurance companies through reinsurance;**
- **Ensures improvement in the financial reporting and disclosure system across the region;**
- **Entrenchment of a single and virile insurance market for the region;**

- **Ensures market stability and regional economic development;**

- **Unified regulatory reform of insurance regulations in the West African sub-region will ensure healthy collaboration to strengthen the African insurance market;**

CONS OF UNIFIED REGULATION

- **Loss of identity of individual regulators**
- **Standards of practice in some jurisdictions might be watered down**
- **Possibility of unhealthy internal (inter-nation) competition**
- **Dominance by advanced systems and jurisdiction with the G5.**

CONCLUSION

In conclusion, a full liberalization of African insurance markets can only take place through the implementation of the current regulatory reforms and establishment of a unified framework once African markets are sufficiently robust and mature to withstand the pressure from Global insurance markets.

My message to this conference is for the G5 countries (Ghana, Liberia, Nigeria, Sierra Leone and the Gambia) to respond to their individual low insurance penetration in and limited role of the industry as driver of development.

The preconditions for insurance to boom exist in these countries, but their ability to realize these potentials largely depend on their choice or otherwise to collaborate in both regulation and practice of insurance.

THANK YOU