UNIFORM REGIONAL COMPLIANCE IN THE INSURANCE INDUSTRY. TO WHAT END? THE PROS AND CONS OF CURRENT INSURANCE REGULATORY FRAMEWORK IN WEST AFRICA

(The Brokers' Perspective)

The essence of uniformed regional compliance in the Insurance Industry is basically to help regulate an industry that over time has seen the establishment of cross border companies with most of them coming from Nigeria into the other countries in the sub region. With such a complex situation, it is only prudent that the Regulators in the sub Region would fashion out a way of effectively and efficiently regulating such entities to the benefit of the final consumer of insurance.

Among other things, the following constitute some of the key challenges to regulating companies with subsidiaries across borders:

- **Human Capital Adequacy**
  With the increase in the cost of recruiting and maintaining qualified key staff, the tendency for Group Head Offices to move them around to meet Human Capital requirements from the Regulator is always a possibility. In other words, a staff would sit in the Head Office and would be presented as a Principal Officer or an Approved Person in a subsidiary office in another country. This trend is borne from two premises. One, to cut staff costs and the second the belief that the subsidiary country has not got qualified people or trustworthy people. Regulators must therefore find a way of curbing this and doing it all alone would be a herculean task for any one Regulator.

- **Control or influence from the Head Office of subsidiary companies**
  Having invested so much into these subsidiaries the possibility is always there for the Head Offices to seek to remote control the subsidiaries much against the Regulator's requirements. It would always be problematic that an individual known to the regulators as the Principal Officer is subjected to regulation and supervision by the regulator while decisions are actually taken by the Head Office in another country. When things go wrong and the Regulator has to sanction the Subsidiary company, the Head Office would not feel the impact of this regulation. Cross border collaboration would therefore be the way out of this situation.

- **Financial Capital Adequacy**
  In most of the member states of the ECOWAS sub region, Insurance companies do not have to lodge capital funds with the Regulator as was done in Nigeria following the recapitalization, all they need to do is show evidence of the funds existing in an account. Even though the regulator has the opportunity to check from the periodic returns from the insurers about the adequacy of these funds, Insurers can always engage in all sorts

of Financial Engineering with the funds. This financial engineering could involve moving funds between territories to help meet capital requirements at different times. This tendency can be curbed through cross border collaboration and regulation.

With the above issues and a host of others, it is a practically impossible for anyone Regulator to efficiently supervise and regulate their respective markets independently. Regional compliance and co-operation has therefore become a necessity and seem to give credence to saying "cooperate or perish".

Regulators in the Sub Region have come out with some Directives and Guidelines that have had great success stories and these include the following:

- No Premium No Cover
- Exhaustion of Local Capacity

To a large extent, Insurance Brokers have also benefited from these Directives which have been a result of Cross Border Collaboration among various Regulators. The Regulators share notes regularly and learn from the mistakes of their peers and so do not need to reinvent the wheel. This has saved them time of having to sit and plan solutions for problems that they face in their countries.

The focus of my paper would now shift to how this Cross Border Regulatory framework has benefited Brokers.

- **No Premium No Cover**
  Prior to the introduction of this guideline, Brokers had huge debtor ratios. In some instances, the debtor ratios could go up to 60% meaning that of all the businesses that they placed, they got paid for only 40% with 60% remaining unpaid for. Following the Directive however, Debtor ratios have fallen to zero meaning that brokers are being paid 100% of all businesses they place. If there is a Broker who still has outstanding debt with clients then it means that broker is not following the directive and thus not meeting its Market Conduct standards. Brokers have thus become liquid and are now very well placed to effectively take good care of their staff in terms of salaries and benefits as well training them adequately to take care of the business.

  There has been some cost saving for Broking Firms as well as they have closed down their Credit Control departments because there are no more outstanding premiums to chase and reconcile. Such employees have therefore been redeployed to do other things.

  Another benefit for brokers is the peace of mind they now have to do their business. Hitherto before the introduction of the directive, brokers were always to blame for outstanding premiums by both Insurers and Regulators. Some Insurers actually believed that some brokers collect and keep them. While others also believed that Brokers were

not putting in enough effort to get their clients to clear such balances. While these claims could be of some merit based on specific situations, the one fact we cannot lose sight of is that Insurance which is a service is an intangible product and so paying for it after consuming the service is very difficult. The directive has solved this issue and the broker can no longer be held responsible for debtor issues of insurers.

It would be necessary to mention here that cross border collaboration has not been effective on the subject matter of premium payment via brokers. While in Nigeria, Gambia and Sierra Leone brokers have a grace period of about 30 days to hold onto premiums before remitting to insurers, in Ghana, the broker cannot hold onto the premium at all. In fact, the cheque has to be written in the name of the insurer. What pertains in Liberia is not very clear. It is evident from the above that Nigeria, Sierra Leone and The Gambia are on the same page of allowing brokers to keep premiums up to one month however, what we cannot confidently say is if all three countries are effectively implementing it. This is because time and again we have been confronted as a people with having excellent laws and directives on our law books which are seldom implemented.

- **Exhaustion of Local Capacity**

  This is yet another directive or guideline which has to a large extent benefited brokers. Especially, Reinsurance Brokers because there has been a significant reduction on transfer charges meaning we get to keep a lot more money that we would have given to our bankers as charges for transferring premiums on our behalf to other countries. This has improved on the liquidity of Brokers.

  For Brokers who do Global business, this Directive aids them to earn more brokerage because more of the business is placed locally.

  Administering claims too has become less cumbersome as a broker would not have to incur additional cost to travel abroad to follow up on claim recoveries. The only issue here is that accumulation has to be monitored and controlled so it does not get out hand.

  Under this directive, it is evident that there is no standardization of procedures on how to implement the directive. Each Regulator has their appreciation and standard of what Local Capacity is. Even within a country, there is no objective definition of Local Capacity and so a risk must always be submitted to the Regulator for them to determine whether adequate Local capacity has been exhausted or not. To enable clients, Brokers and Insurers know local capacity is, there must be a clear definition that can be objectively interpreted by anyone.

From the above, it can be said that these interventions by our Regulators have been good and for the benefit of the market.

The essence of this paper however is to look at the broker's perspective on uniformed Regional Compliance in the Sub Region but this far, it can be said that the Regulators in the Sub Region are currently concentrating on Prudential Standards Supervision that has to with issues like Capital Requirements, Solvency 1 and 11 Directives etc. All these pertain to Insurance Companies and have very little to do with Brokers who come under Market Conduct Supervision. This aspect of supervision is only now being given attention by Regulators in the Sub Region. The discourse would therefore attempt to look at the benefits of the Market Conduct Supervision to the Sub Region.

It can be said that, supervision of Brokers on Sub Regional level is low because there is little activity in that area. In fact few Broking Firms have set up subsidiaries within the Sub Region

The table below gives a snap shot of Broking firms that have offices in other countries

Table 1

Company	Parent Country	Subsidiary in Ghana	Subsidiary in Nigeria	Subsidiary in Sierra Leone	Subsidiary in the Gambia	Subsidiary in Liberia
KEK	Ghana			✓		✓
Gras Savoye/Willis	France/US	✓	✓	✓		✓
Ark	Nigeria	✓				

The table shows that there are just three Broking firms who have set up in other member countries. While KEK which is head quartered in Accra has two subsidiaries in Sierra Leone and Liberia, Gras Savoye now Willis Watson Towers headquartered in US has subsidiaries in Ghana, Nigeria, Sierra Leone and Liberia. ARK Insurance Brokers on the other hand head quartered in Nigeria has a subsidiary in Ghana.

Market Conduct Supervision when it gets off the ground would play a vital role and bring about some benefits to the industry. Some of the benefits include the following

Professional Indemnity Cover for Brokers

Since Brokers do not bear risk, we have historically been left off the hook with regards to meeting financial capital requirements, however, under the Prudential Standards Supervision; Brokers now have to meet some minimal capital requirement which is a good move as it might help put the number of companies under check. In addition to

that, is the requirement to have a Professional Indemnity Cover with states limits of cover. Some of the limits from the sub region are outlined below

Table 2

country	PI limit in local Currency	Limit in US Dollar
Ghana	Ghc 50,000.00	US$ 11,600.00
Nigeria	N 10,000,000.00	Us $ 32,706.00
The Gambia	D 500,000.00	Us $ 10,309.00
Sierra Leone	L 100,000,000.00	Us $ 13,698.63
Liberia		

These limits are really low considering they are meant to protect brokers from their Errors and Omissions that could run into millions of Dollars. This I believe is one area that Regulators in the Sub Region need to collaborate on and not only fix reasonable and realistic limits but also to ensure that the PI policy is very well administered. For example, any of the Broking Firms with subsidiaries in the Sub Region could take out a "Global Policy" with one limit serving all countries. Though it is technically correct it might just be denying other insurers premium income.

Even though all four countries sampled above have given limits for the PI cover, none makes mention of the deductibles applicable, which is not good enough. In return for a lower premium, a crooked Broker could request for a very high deductible which considerably reduces the exposure of insurers thereby defeating the purpose of the cover. So Regulators must insist on a set deductible.

The policy wordings must also be agreed upon by the Regulators and as much as possible, there should be some uniformity.

Treating Customers Fairly

Consumer protection is one of the key objectives of any regulator because of the importance attached to it. It is therefore necessary that Regulators in the Sub Region ensure that irrespective of their country of operation, customers and or consumers are treated fairly. It is always a difficult task talking about Treating Customers Fairly because even the Prudential Regulatory Authority of the UK which has replace the Financial Services Authority does not prescribe what to do to achieve this directive. It however lists expected outcomes the first of which is key to our discussion and that is "consumers can be confident that they are dealing with firms where the fair treatment of customers is central to the corporate culture".

We have a Sub Region where movement across borders is not only limited to Insurers and Brokers but even the clients have set up subsidiaries in other countries and it is necessary that irrespective of where they find themselves, they must have the perception that Insurers and Brokers are treating them fairly. One way this could be

achieved is by the exchange of information by regulators about complaints against Insurers and Brokers.

Training and Competence

This area seeks to ensure that the right personnel are recruited to work in Broking Firms. In order words, Qualification and Competence Regimes should be set by the Regulators across the Sub Region so that level of Service Delivery and Duty of Care to customers is on the same level irrespective of the country you find yourself in. Otherwise, there would be a disparity between the service that is delivered to clients across the sub region and this would not inure to the benefit of clients..

Uniformed Regional Compliance in the insurance industry, to what end?
To the end that the broking firms in the industry are better placed to serve their clients to the maximum, to the end that the insurance companies in the industry are better placed to serve their client to the maximum and to the end that the consumers or customers are satisfied with the way they are treated at the point of sale of insurance, during the period of the cover and most importantly during claims administration.

Thank You