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Code of Ethics and Professionalism: Implication for Bank Failure in Nigeria

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Abstract
The objective of this study is to undertake empirical investigation into the various causes of Bank failure with particular emphasis on the need to enforce compliance by Banks with the Banking Code of Ethics and Professionalism (BCEP), in order to achieve standardized and efficient banking environment. This stems from the fact that banking failure in Nigeria had become increasingly worrisome to all stakeholders. This study employed a well-structured questionnaire administered to staffers of selected banks located in Ogun and Lagos states environs, to obtain first hand data. One hundred [100] questionnaires were administered, out of which 79 were retrieved and analyzed. The analysis of data and the test of hypotheses was based on the use of the Pearson's Moment Correlation Co-efficient, which showed a significant evidence that majority of banks in Nigeria, however, did not fail due to lack of adherence to ethical practices but mostly due to other factors, such as insider's abuse on lending; lending to high risk borrowers; micro-economic instability; deficiency in bank regulation and supervision. The paper recommended legal enforcement and strict sanctions to ensure mandatory adherence to ethical and professional practices in the banks.
Keywords: Code of Ethics; Professionalism; Banking Distress; Mismanagement

1.0 Introduction

Financial institutions especially banks are more regulated than any other institution worldwide because of their role as financial intermediaries. As financial intermediaries, banks mobilize funds from the surplus spending units at a cost for on-lending to the deficit spending units at a price. Banks also provide an efficient payment mechanism in the economy; to settle the business, personal transactions, and international obligation of their customers. However, banks must operate within certain guidelines, either as defined by law, public policy, practice, or convention.

In today's banking industry, the code of ethics and professionalism serves as the foundation upon which banks must make decisions based on honesty, integrity, confidence and trust (Sanusi, 2010). A formalized code of ethics provides banks with an understanding and knowledge of what is expected from them in terms of responsibilities and behavior. A code of ethics reflects the standards and establishes a realistic mode of behaviour that applies to everyone in the bank, from the board of directors to the lowest level of workers in the bank. The reputation of a bank and its actions reflect the ethical conduct and professionalism that affects its potential for profit and growth. All levels of bank employees need to be aware of company policies regarding ethics in order to make the right decisions in challenging business situations, to know how and when to seek help when faced with ethical dilemmas, and to know where to report possible unethical conduct. Sufficient legislation has been enacted to regulate banking operations and to ensure a fair competitive environment. But regulations and penalties alone are not sufficient to ensure discipline in operations. Therefore, high ethical standards are expected to guide operations in the banking industry (Ali Yidawi, 2005).

While being mindful of the principles of profitability and productivity, banks are obliged to obey certain ethical principles of banking profession and organizational ethics, which include honesty, integrity, social responsibility, accountability and fairness. Most banks fail to practice this discipline; more so that banking business has become more complex and the borderline between what is legitimate and illegitimate become more blurred thus encouraging unethical behaviours (Carse, 1999). This increases the need for banks to follow a strong set of values to steer them through the mine-field of ethical choices with which they are faced as they make business decisions.

Incidentally, ethical values, argued by Hortacsu and Ozkan-Gunay (2004), are still not firmly entrenched and followed in the banking system. According to Hortacsu and Ozkan-Gunay (2004), and statement made by supervisory authorities [Central Bank of Nigeria, CBN] in different fora, many banks are associated with accepting bribes in return for loans, lending to connected parties, cheating customers and committing fraud. Frauds and mismanagement compound the ethical problems in Nigerian banks and are contributory to the insidious systemic distress in the banking industry. More so, an ordinary bank customer does not have the opportunity and adequate information to understand banking transactions, as dictated by the ethics of disclosure in banking business (Frenkel and Lurie, 2003).

The aim of this study is therefore, to show to what extent the code of ethics and professionalism has helped to sanitize the banking industry and ensured stability of the banking system; to achieve and establish the level of awareness and appreciation of the code of ethics and professionalism in the banking industry; and also to identify the pertinent unethical conduct of banks in order to determine whether such unethical practices may be responsible for the distress in the banking industry. Thus, it is right to say that the objective of this study will dwell on the unanswered question of "legalized" corruption in the polity.

1.1 Theoretical and Conceptual Framework

In spite of various legislations and regulations occasioned by CBN, many problems became manifest right from the early days of banking regulations. According to Nwankwo (1980), some of these problems include poor services delivery, lack of efficient infrastructure for money transfer, staff irregularities [complicated frauds, understaffing, inexperienced staff, and poor bank management] and blatant contradiction of rules and regulations of banking practice. These problems created the very hostile environment of banking and consequently aggravated bank failures in the 1950's.

The first era of consolidation ever recorded in Nigeria banking industry was between the years 1959 to 1969, which was to solve the problem of inadequate capital and illiquidity. By January 2001, banking sector was fully deregulated, with the number of banks increased to fifty-four (54) between 1979 and 1987; and to one hundred and twelve (112) between 1988 and 1996 with substantial varying increase in the minimum capital. However, the number of banks dropped to twenty-five (25) in 2006 with a big increase in minimum paid-up capital from N2 billion in January 2004, to N25billion in July 2004. It was further reduced to 22 following the mergers of Access with Intercontinental Bank; Oceanic with ECOBANK Plc and a take-over of Equitorial Trust Bank by Spring Bank Plc.

According to Subair and Omankhanlen (2011), only fifteen (15) out of the twenty four (24) Deposit Money banks operating in Nigeria are adjudged to be safe and sound, while other share a status of marginally sound, unsound and unsafe [NDIC Annual Report, 2010]. Currently, we have twenty two (22) banks [including the three so called "Bridge" or "Nationalized" banks] and they are adjudged sound, eleven of them are reported to be among the top fifty banks in Africa.

Thus, the role of ethical codes of conduct is to provide bankers with the avenue to make clear their thoughts on what constitutes immoral or unprincipled conduct, to help experts or specialists think about moral issues before they are challenged with the truth of the circumstances, to outline the restrictions of what constitutes acceptable or unacceptable conduct or activities and to offer a tool for interacting professional ethics; which are the hallmark of banking distress in Nigeria.

1.1.1 The Concept of Bank Ethics and Professionalism

Ethics can be referred to well-founded standards of right and wrong that prescribe what humans ought to do, usually in terms of rights, obligations, benefits to society, fairness, or specific virtues. Ethics, for example, refers to those standards that impose the reasonable obligations to refrain from rape, stealing, murder, assault, slander, and fraud. Ethical standards also include those that enjoin virtues of honesty, compassion, and loyalty, as well as, standards relating to rights, such as the right to life, the right to freedom from injury, and the right to privacy (Aron, 2005).

Ethics can also refer to the study and development of one's ethical standards. As mentioned above, feelings, laws, and social norms can deviate from what is ethical. So it is necessary to constantly examine one's standards to ensure that they are reasonable and well-founded. Ethics also means the continuous effort of studying our own moral beliefs and our moral conduct, and striving to ensure that we, and the institutions we help to shape, live up to standards that are reasonable and solidly-based (Aron, 2005).

According to Aron (2006), ethical code is adopted by an organization or company like a bank to set out general principles about the organization's belief on matters such as quality, privacy, mission or the environment. The ethical issue involved here is concerned with principles and values that are imbedded, either implicitly or explicitly to guide behaviour of bankers.

The issue of code of ethics and professionalism is of great importance to bankers and the general public. Considering the requirements of banks for protection of the rights and interests of innumerable depositors, establishment of stability and confidence in financial markets and economic development, it is very paramount for banks to also ethically pursue their operations in compliance with the principles of integrity, impartiality, reliability, transparency, social responsibility and controlling of money laundering (Carse, 1999).

These concepts have been variously defined to fit the situations of various professions under consideration. However, efforts are made in this study to narrow down the various definitions to banking sector. "Ethics is often referred to standards of conduct, standards that indicate how one should behave on moral duties and virtues, which themselves are derived from principles of right and wrong. According to Baker (1999), Codes of Ethics in the banking industry worldwide cover important and fundamental aspects of principles and professionalism for their member. A formal code of ethics is the hallmark of professionalism everywhere. Also Professionalism from professional ethics is the moral standards, principles and regulations that guide the course of professional behaviour.

Ethics, also known as moral philosophy, is a branch of philosophy that involves systematizing, defending, and recommending concepts of right and wrong conduct. The term comes from the Greek word ethos, which means "character". Ethics is a complement to Aesthetics in the philosophy field of Axiology. In philosophy, ethics studies the moral behavior in humans, and how one should act.

According to Yidawi (2005), the management of a company is concerned with making decisions within, the ethics of the individual or group making these decisions have significant implications for the company's stakeholders: employees, customers, shareholders, suppliers, the government, and the public at large. Thus, Guy (1990) said "ethics refers to standards by which individuals evaluate their own conduct and the conduct of others". Schminke (1998) opined that ethics can be defined "as the systematic, descriptive and normative study of moral awareness, judgment, character, and conduct at all levels of individual and collective activity". Guy (1990:5) on the other hand explained that, "Values are beliefs about what is fundamentally desirable. They underlie the choices made in work decisions just as the choices made in one's private life. They give rise to ideals called ethics or morals. Ethics and morals are synonymous. Ethics is derived from Greek while morals are derived from Latin. They are identical terms referring to ideals of character and conduct. These ideals, in the form of codes of conduct, furnish criteria for distinguishing between right and wrong". Ethics is therefore the same thing as morality and they shape our conduct and behaviour right from childhood through adolescence and adulthood.

Thus, Heermance (1924) stated that 'practices are ethical if, on the long run, they make for the well-being of the human species and for normal human relations. If there is friction, and social loss, it is a sign of unethical conditions. Each profession or trade has its own problem of ethics. The conduct of members must be judged by its consequences, to the group itself and to the community. In the course of time there is likely to develop a certain standard of practice'.

Based on the definitions above, it is clear that banks must operate ethically; this is because duty demands that high ethical standards are required for banks to earn the confidence of depositors and the general public due to the fiduciary function, which banks perform.

On the other hand, Professionalism is the skill, good judgment, and polite behavior that are expected from a person who is trained to do a job well [Advanced Learners Dictionary].

1.1.2 **Professionalism in Ethics**

According to Yidawi (2005), Professional ethics are the moral standards, principles and regulations that guide the course of professional behaviour. Some examples of professions with established professional ethics include law, medicine, banking, teaching, and advertisers. Professional ethics are both individual and institutional in nature. Professional ethics can be learned during the course of study of the profession. Professional ethics also rely upon one's own personal sense of moral behaviour, applying their skills and making judgment. It is essential that professionals continue to evaluate and learn about ethical issues in their respective fields consistently, as professional ethics change in light of new technologies.

Professional ethics is the norms required by the moral point of view for the kind of work that professionals do, that is, an ideal rational ethic. It means the second common norms actually followed by most professionals. An ethic exists to the extent that professions regard such practices as morally obligatory. It is also a common element of codes of professional associations. Many such codes exist, but they do not always conform either to rational norms or actual practices.

McDowell (1991) pointed out that one can aspire to professional status, but achieving it depends on acceptance and admittance by others. He further indicated that to qualify as a professional, there must be an internal dimension of acquiring the character of a professional, as a matter of individual choice and commitment. In other words, professional ethics isn't just about the acquisition of certificates but also about practicing the moral aspect of professionalism.

In Nigeria, entry into the banking profession is not strictly restricted but banks are expected to obtain good reference from schoolmasters or previous employers and other reputable individuals in the society before new entrants are offered jobs. However, the Banks and Financial Institutions Act (BOFIA), 1991 Section 43 (4) provides that "any person whose appointment with a bank has been terminated or who has been dismissed for reason of fraud, dishonesty or conviction for an offence involving dishonesty or fraud shall not be employed by any bank in Nigeria."

Denying persons who lack morality and ethics, entry into the noble banking profession aims at sanitizing the industry from the outset. This is facilitated by circulating the names of all dismissed/terminated bank staff amongst all the banks in Nigeria by the Central Bank of Nigeria. It is important that professionals remain carefully moral in order to adhere to the standards of professionalism. Employers and clients sometimes demand questionable actions of professionals precisely in their capacity as professionals therefore it is the duty of a professional banker to stand his ground in the face of difficulties or changes presented in diverse form no matter how difficult the situation is.

Francis (2000) indicated that commitment and adherence to a code of ethics may be seen as a contract.

Therefore professional bankers that want to remain experts in their field should abide with the rules of code of ethics and remain moral. Codes are used as a standard that is legally persuasive and binding. According to Kultgen (1998), perhaps those conception of ethics would suffice if the obligations of professional were clear and obvious and could be met without difficulty or sacrifice, if professionals never faced ethical dilemmas and could always be counted on to do what is right as a matter of routine.

Generally, this law, ethics, and the code of ethics should be applicable to the profession as well as other professions. In Nigeria, the Chartered Institute of Bankers in Nigeria (CIBN) is responsible for the professional training of bankers. The goals and objectives of the Institute include the following: (i) promoting banking education in Nigeria by conducting banking examinations; organizing lectures, seminars and conferences on banking, finance and other allied subjects; conducting research into banking theory and practice with special reference to local conditions; and production of professional and banking publications (ii) upholding and ensuring the observance of professional ethics and tradition in the banking industry (iii) promoting general advancement of banking practice in its branches and facilitating good rapport between bankers on matters of common interest and keeping abreast of the latest developments in the banking industry and (iv) disseminating banking information to the general public and liaising with government towards promoting and regulating the banking industry in Nigeria.

The aim and objective should be effectively monitored as part of the monthly or weekly duty of the CIBN, and ensure that bankers are consistent with the practice of banking in order to prevent misbehaviour and corruption in the line of duty as a professional banker.

1.1.3 **Professional Codes of Ethics**

Baker (1999) reported that Thomas Percival (1740-1804) of Manchester, England first proposed code of ethics for Physicians and Surgeons in 1794. This was enlarged in 1803 using such expressions as professional ethics and medical ethics. This proposal coincided with a code of medical ethics in America such as the Boston Medical Society code of 1808. Since then, codes have gradually displaced the ethics of honour. Today, a formal code of ethics is the hallmark of professionalism for professionals everywhere.

According to Yiwadi (2005), Codes of ethics are sometimes seen as controversial documents. Most Codes of Ethics in the banking industry worldwide try to cover important and fundamental aspects of principles and professionalism for their members. The Irish Bankers' Federation (IBF) has general principles as integrity, confidentiality, professionalism and compliance. The Code of Ethics of the Australian Institute of Banking & Finance (AIBF) touches on abiding by the law, integrity of records, free competition, misappropriations, conflict of interest, customer privacy and employer information, insider information, improper payments, gifts, entertainment and social responsibility.

Meanwhile, the Code of Ethics and Professionalism in the Banking and Finance Industry in Nigeria on the other hand cover areas like conflict of interests, abuse of trust/office, full disclosure, misuse of information, insider abuse, offer and acceptance of gratification, non-conformity with standards and guidelines, association with doubtful persons, and aiding and abetting improper employment. All these areas oppose the poor banking practices in Nigeria and attempt to solve these problems which can only be achieved when they are put into practice.

The Ethics Resource Centre (2003) has pointed out that codes of ethics should not only be developed but its development must just be the beginning of a general procedure of meeting the needs for the effectual communication of organizational ethics benchmark. The objectives include: ensuring that every employee receives a copy of, or has ready access to, the code; that every employee understands a personal responsibility to abide by the provisions and standards laid out in the code; that the organization's commitment to the code is unambiguous and clear to every employee; and that employees are exposed to abundant examples of the code's utility, and how common questions about its intent and application have been resolved.

Furthermore, the development of this code has the additional merit of being preceded by serious discussions, which, in turn, improve understanding and commitment to the principles that have been agreed. The codification of ethical practices was necessary to bring about ethical awareness amongst Nigerian bankers as well as provide guidance in cases of complex situations. This will also assist in redeeming the image of Nigerian bankers, which has been badly battered in the public opinion.

Mount (1990) and Kultgen (1988) have said that the apparent function of codes is moral, and that the codes should be simple and reasonable to a wide audience. This is because codes are instruments for persuasion both of members of the profession and the public. It should enhance the sense of communion among members, of belonging to a group with common values and common mission. Francis (2000) also advised that codes of ethics might be distributed through company booklets, annual reports and induction, and training programs.

According to McDowell (1991) ethical codes enable definition of the limits of what constitutes acceptable or unacceptable behaviour, and provide a mechanism for communicating professional ethics policy. Nowell-Smith (1954) pointed out that "it is enough to have known the general, unchanging rules; we must also have known how to apply them and it is this reason that moral rules, like the law, cannot be codified at all times……..".

1.1.4 Corporate Code of Ethics

Each bank is expected to have Corporate Codes of Ethics to guide their staff of what is expected of them. The code should be made available to each staff right from the point of entry and should form part of the induction process. Sims (1994) insisted that, "One of the more perverse methods for achieving more ethical behaviour is the establishment of a company code of ethics"; while Wolfsan (2002) however believed that "the existence of a corporate code of ethics would not, in and of itself, ensure ethical behaviour on the part of its employees, since codes work to the extent that they reflect and support the corporate culture. Employees learn what is considered acceptable and appropriate conduct by observing the behaviour of top management.

Moreover, Sims (1994) believed that an organization when constructing or revising a code of ethics should consider issues such as, the effective date, general statement of policy, and scope of coverage; being reasonably consistent with reality; and not being arbitrarily imposed on employees. Furthermore, the code should not be carved in stone, and must be periodically updated to reflect changing environmental conditions.

Francis (2000) while supporting the above procedure suggested that there must be protection in the form of career preservation, an "ethical informers" support group; the use of an independent mediator, with relevant expertise, and an appeal procedure should be devised.

1.1.5 Code of Corporate Governance for Banks

The Bankers' Committee has issued a Code of Corporate Governance for banks and other Financial Institutions in Nigeria by August 2003. This is in furtherance of the inevitability of the need for corporate managers to adhere to processes to ensure good ethical behaviour in matters bordering on decision making and management of the organization. Unegbu (2003) defined Corporate Governance as "the process and structures by which the business and affairs of an institution are directed and managed in order to improve long term shareholder value by enhancing corporate performance and accountability, while taking into account the interest of other stakeholders". Poor corporate governance has been recognized as one of the major factors in almost all known instances of financial sector distress and opined that strong corporate governance should be observed in all financial institutions.

Like Hunk (2002) pointed out, "in truly great public corporations, passion is tempered by good corporate governance. A constructive dynamic tension exists between the company management and the board of governance process. An effective board would provide checks and balances on management without compromise. Corporate governance process should be energetic, noisy, constant and effective, especially in these times when management is under increased pressure to prove their mettle.

The candid opinion of this researcher is that, code of corporate governance is required and in addition, the rights and equitable treatment of shareholders' interest, and that of other stakeholders, the role and responsibilities of the board, the integrity and ethical behavior of all concerned, the disclosure and transparency of operators should be put in mind when creating the code of corporate governance.

1.1.6 The **Nature and Forms of Professional Misconduct in Nigerian Banks**

The opinion of Akintola (1992) has confirmed the upward trend in the nature of professional misconduct in Nigerian banks and went on to examine misconduct on the part of senior, middle and junior management staff. These he attributed to a number of factors such as, lapses on the part of directors, and suggested that the leadership has a sanitizing role to play in effecting positive changes deducing from the review of existing procedures for preventing identified misconduct. It was remarked that crime and fraud will continue to flourish, unless those who perpetuate it are decisively dealt with. It was noted that religious and moral persuasion is not enough. Adequate legal sanctions should be imposed against them and their beneficiaries.

Although the role of auditors is not to detect fraud per se, it is worrisome that some of the banks to which they give a 'clean bill of health' could collapse in no time. Sanctions should be imposed against such firms. There is need to evaluate the role played by CBN and NDIC in contributing to the environment for fraud; they presently serve as controllers and regulator; e.g. frauds can be countenanced by bank managers because they know their banks would be bailed out by NDIC. CBN's emphasis on detecting excess liquidity encourages banks to cut corners. Adequate sanctions should be promptly applied as a way of curtailing bad and doubtful debts and thus ensuring sound financial structure. The pressures caused by the absence of social security, the social demands of the extended family system and poverty equally provide added reasons and motivations for fraud. Even then it was noted that poverty should not be seen as providing a justification for fraud as most fraudsters are not poor.

It is necessary that the government should take the banks into confidence in policy formulation. Expensive lifestyle of bank staff, even clerks, may be indicative of fraud. CBN should ensure that it does not approve appointment of directors of questionable character. The new policy of CBN on retiring Chief Executive of Banks after ten years of service is a step in the right direction. The law makes adequate provision for the effective prosecution of fraud. However, the prosecution of fraud in the court is slow and ineffectual.

The growing incidence of bad debt and continuous failure of banks is very bothersome but it is to an extent attributable to a degree of unethical conduct among some staff in critical banking positions. Given the fact that fraudsters were becoming increasingly sophisticated it was suggested that increased training and adequate counter-measure would be necessary as a way out of the unwholesome situation, especially with the prevalence of the use of computers in all aspect of life due to globalization. This will go a long way in achieving excellence, survival and growth.

1.1.7 **Unethical Practices/Unprofessional Conduct in Banks**

According to the Regulatory Laws on Code of Ethics in Banking and Finance Industry dated 26th November, 2012 [Url:http://www.theconvention.org/pdf/regulations_CodeOfEthicsInBanking And Finance], and the Code of Banking Practice published in May, 2004 by Australian Banker's Association [ABA], there are a lot of immoral and unethical practices in the banking industry, which is not peculiar to Nigerian banking industry alone, and as such conducts are classified unprofessional and unethical including, but not limited to the following issues.

The issue of conflicts of Interests, involving engaging in extraneous activities which compete with or constrain a bank's primary responsibility; abuse of trust/office, involving abuse of position and taking advantage of the institution to enrich oneself, and the like. Also, lack of full disclosure such as, non-disclosure to relevant authorities in dealing with other players and customers in the market place; underestimating the volume of deposits in order to evade insurance premium, and the sidelining of vital prudential guidelines. There is also the issue of misuse of Information, (manipulation or non-disclosure of material information on reports supplied to Regulatory Authorities, in order to derive some benefit or avoid liability, etc). There is insider abuse syndrome (meeting re-capitalization requirement other than by actual injection of fresh/genuine funds, improper granting of loans to directors, insiders and political interests, insiders' conversion of bank's resources to purposes other than business interest, granting of unsecured credit facilities to directors in contravention of the provisions of Banks and Other Financial Institutions Act (BOFIA, 1991), granting of interest waivers on non-performing insider credit without CBN's prior approval as required by BOFIA, 1991, diversion of Bank earnings Through the use of subsidiaries or "secret accounts" to deny the bank of legitimate earnings].

Another is offer and acceptance of gratification to/by the regulator as an inducement to waive the imposition of penalties arising from failure to comply with laws or regulations, applying uneven standards/imposing unfair penalties by the regulator with the intention to induce gratification, offering/acceptance of gratification to/from customers and potential customers to do business, and aiding a customer to evade Tariffs and Taxes and to make unwarranted earnings. Also, there is non-conformity with Standards and Guidelines [Nigerian Accounting Standards and Central Bank of Nigeria prudential guidelines in the preparation of financial Statements, resulting in complete or false information, preparation of multiple financial statements in order to mislead the monetary and tax authorities, CIBN knowingly associating with or doing business with people of doubtful character, etc]; as well as aiding and abetting [e.g. the failure of a new staff to meet the financial obligations to a previous employer and employing new staff without obtaining suitable reference].

The regulatory laws on ethics mentioned above are concerned with the governing principles in the bank, which are ethical for bankers in ordinary course of business, such as concern the relationship of bankers with their customers in the opening of an account; the terms and conditions to be adhered to or followed by the bankers; the appropriate charges and interest payable by customers on the banking services provided; interest payable on customer's account; handling of customer's complaint on transactions and other banking services provided; confidentiality or secrecy of customers affairs unless as expedient bank's and public's interest, or compulsion of law and authority of customers; status enquiry(banker's reference); marketing of services by the bank; foreign exchange services and cross-border payments; guarantees and other types of third party security, etc. symbolize.

1.2 Overview of Distress of Banks in Nigeria

Ordinarily, the word "distress" symbolizes "unhealthy situation" or a state of inability or weakness, which prevents the achievement of set goals and aspirations (Ologun, 1994). According to Alashi (1993), distress is "a cessation of independent operation or continuance without the assistance of relevant authorities such as a deposit insurance institution". Thus, the traditional quantifiable measures of failure (loss figures presented in standard financial statement) are not very helpful in assessing the degree or severity of distress of such a financial institution (Alashi, 1993). A financial institution is described as unhealthy, if it is unable to meet its obligation to customers, owners and the economy occasioned by severe financial, operational and managerial weaknesses (Ologun, 1994).

According to Elebuta (1999), distress in banking is a situation when a fairly reasonable proportion of banks in the banking sector are unable to meet their obligation to customers, owners and the economy, as a result of weakness in the financial, operational and managerial capabilities which renders them either illiquid or insolvent. This may be due to mismatch of resources or excessive mismanagement (Ebhodaghe, 1996). In fact, the classical failure model assumes three main elements for failure namely: low profitability, high gearing and low liquidity. All these create distress for banks. According to the Munn's Encyclopedia of Banking and Finance, Cited by Owualah (1996), “a failed bank is one closed temporarily or permanently on account of financial difficulties”.

One major cause of distress is the banks’ exposures to the real estate sector of the economy and indeed all other sectors; professional and prudent appraisals of such exposures would reveal the necessary limits and the level of safety needed for a “safe and sound” banking practice. Loans that are not appraised ethically would certainly fail. Such failures have serious implications for the capital adequacy of banks, which are constantly being eroded signaling eminent collapse of the banks**.** In order to check the level of exposures to customers, the Central bank of Nigeria maintains a Credit Risk Management Bureau [CRMB] where records of all borrowings by bank customers are recorded and made available to all banks. This shows the exposures of such customers from all the banks and the status of such facilities. The credit rating of each customer is therefore available for analysis at the point of loan requests irrespective of where other facilities would have been taken by the same customer. The CRMB uses the Credit Risk Management System (CRMS) for credit appraisal procedures and to monitor overexposures in banks. The challenge here is that banks often do not wish to disclose relevant information.

Owualah (1996) also observed that, under-capitalization, poor management and excessive competition are among many reasons cited for bank failures. Excessive competition for instance, forces banks to raise sharply their interest rates on deposits. As their cost of funds rise and profit margins shrink, higher yielding but risky assets are sought in order to sustain earnings. In the process, they become more susceptible to failures as the economy weakens. This popular view of one of the major causes of bank failures also accords with recent experiences in Nigeria in the wake of the surge in the number of financial institutions and the keen competition generated by their activities, including the distress borrowing by the weak ones in order to remain afloat. According to Section 33(1) of the BOFIA No. 25, 1991, a bank is deemed to fall into the category of a failing bank if any of these situations arise. The bank is likely to become unable to meet its obligations under BOFIA; it is about to suspend payment to any extent (the inability to fulfill its role as a bank); is in a situation of insolvency (accordingly, the test of liquidity rests on the volatility of deposits, the reliance on interest sensitive funds and level of borrowings. It is about the availability of assets, readily convertible to cash and the access to money markets and other ready source of cash, banks’ liquidity is ultimately evaluated on the basis of its capacity to promptly meet the demands for payment obligations and ability to meet sound credit needs of customers); and if it is considered to be in a grave situation (a situation of inability to meet its responsibilities and satisfy the needs of the customers, capital inadequacy or consistent negative earnings).

Some 36 banks have been liquidated between 1994 and 2003. The primary reason in each case is failure to adhere to guidelines as well as mismanagement due to unethical practices. In all cases, depositors have lost their income while the banking system has been blamed for failing in its intermediation responsibilities. These failures have further eroded public confidence in the banking system in Nigeria. Concerted efforts have been made to restore public confidence in banks in Nigeria with the introduction of the Code of Ethics. The message is that unethical practices should stand the test of time and banks which survive on public confidence must be ethical in all ramifications in order to provide safe and sound banking environment. One obvious step to correct this situation is by being ethical and professional about the way banking transactions are handled.

According to Ogunleye (2010), it has been reported that two-third of member countries of the International Monetary Fund (IMF) both developed and developing country members, had significant banking problems. There has always been a debate about the major causes of bank failures. While bankers usually blamed this on external factors such as inappropriate government policies; supervisors attribute it to poor management and depositors invariably blame inadequate supervision and weak management. However, the principal source of bank failures can be said to be from unethical practice.

For the purpose of this study, other causes of bank failures have been grouped into Institutional factors; Economic and Political factors; and Regulatory and Supervisory measures most of which are sourced from unprincipled exercises (Ogunleye, 2009). This assertion is corroborated by the findings of an empirical study on the causes and depth of distress in the financial services industry conducted by the CBN and the NDIC in 1995. The problem of appointing incompetent management is aptly described by Olufon (1992) as follows: “Since the owner-managers regarded banking as an extension of their business empires, they invariably try to dominate their operations by appointing their relatives or friends to key positions instead of relying solely on professional managers; which led to series of shareholders quarrels and boardroom squabbles. This may be as a result of the fact that, some shareholders were mere strange bed-fellows who came together to meet the requirement of geographical spread for ownership of banks and the ceiling on individual shareholding.

There was also the problem associated with the raising of initial capital of some of the banks which as a result of the crisis, it was discovered that the share capital was contributed by a few “well to do” individuals. As soon as the banks commenced operations, the minority or nominee shareholders felt marginalized. In some cases, it was discovered that the major promoters raised commercial papers for statutory paid-up capital and used depositors’ funds to liquidate such facilities. The consequences of the crises included irregular board meetings;

lack of management cohesion as members and officers represented different and opposing interest group; confusion and chaos in the bank; high labour turnover; and loss of public confidence, all of which adversely affected the banks. Another major factor is insider abuse. This point had been over-flogged in this study.

There have been efforts made by the regulatory authorities in the promotion of Ethics and Professionalism in Banking for its relevance and benefit in the banking industry and also as a solution to banking distress. The regulatory authorities in the interest of the banks have always made concerted efforts not only to contain the incidence of distress, but also to ensure that the established ethical standard are complied with and that greater discipline is maintained by the banking institutions in their dealings, with the banking public. In this connection, the regulatory efforts included the following. First, the issuance of prudential guidelines, which in the wake of proliferation of banks, the CBN issued the "Prudential Guidelines for Licensed Banks of 1990" to facilitate uniformity in asset classification, provisioning and income recognition. Furthermore, the regulatory authorities collaborated with the Nigeria Accounting Standard Board (NASB) to issue the Statement of Accounting Standard (SAS) No. 10 in order to reinforce the requirements of the prudential guidelines. Before then, banks had different approaches to reporting their performance.

Second, enhanced legal framework that is the promulgation of the Failed Banks (Financial Malpractices) Decree No. 18 of 1994 and the subsequent establishment of the defunct Failed Banks Tribunals (FTBs) made possible the trial and prosecution of the directors and officers who either directly or indirectly contributed to the failure of their respective banks. The objective was to promote professionalism, ethical behaviour, probity and accountability. The amendment of BOFID up till 1997 with a view to enjoining directors to declare their interest in loans and contracts in which they have direct or indirect interest, prohibiting insider abuse of information, position of authority to take decisions, prohibition of activities that may be socially and economically undesirable, enjoining banks to make reports as required and to keep proper records of accounts. Furthermore, there are provisions to discourage excessive risk-taking by banks.

Thirdly, the Nigerian Depository Insurance Corporation [NDIC] Decree required banks to obtain Fidelity Insurance Cover as a safeguard against fraud and defalcation by bank workers. The promulgation of the Money Laundering Decree made it obligatory for banks to make routine reports that may expose money laundering activities, as well as to report suspicious transactions of any amount; fourthly, the CBN required bank directors to complete Code of Conduct Forms which spells out in detail their duties and responsibilities as well as unethical practices they should not indulge in; and finally the establishment of Financial Services Regulation Coordinating Committee (FSRCC) under the Chairmanship of the CBN Governor recognized the need to harmonize supervisory standards and minimize arbitrage opportunities which could be exploited by market participants.

2.0 Methodology

2.1 Sources and Methods of Data Collection

This study was conducted using primary and secondary data [ex-post research design]. Primary data was based on administration of a well-structured questionnaire using 5-point Likert scale rating, with 5-1 coding for strongly agreed, mildly agree, undecided, mildly disagree and strongly disagree respectively. 100 copies of questionnaires were distributed evenly to the population of study who were carefully selected from members of the banking industry [staff and management teams of banks sampled, i.e. ECO Bank, Zenith Bank, UBA Bank and Access Bank] in Lagos area, to ascertain whether indeed the code of ethics and professionalism of the banks are followed, despite the systemic distress. The responses were analyzed and to test the hypotheses from which valid decisions and conclusions were drawn, based on the opinions of professionals in the banking industry.

The Pearson's product moment correlation co-efficient was used in analyzing and interpreting responses obtained which are related with the core variables of the hypothesis and to test the relationship between the variables; and confirm the extent to which non-adoption of banking Code of Ethics and Professionalism does contribute to failure in the Nigerian Banking sector.

2.1.1 Analysis and Interpretation

For the purpose of the study, by statistical definition, the Pearson's correlation co-efficient (r) is given by the formulae:

$$r = \frac{n \sum xy - \sum x \sum y}{\sqrt{[n\sum x^2 - (\sum x^2)]\,[n\sum y^2 - (\sum y^2)]}}$$

Where: r = correlation co-efficient; x= independent variable; y = dependent variable; n = number of observed data and $\sum$ = summation.

The interpretation of the result of r is that when r = 0, there is no relationship between the variable tested. Where $0 < r < 0.499$, there is a weak correlation between the variables and when $0 > r > 0.499$, then there is a strong correlation between the variables. Also, where r is negative, the variables are inversely related and if positive, the variables are directly related.

The Decision Rule
The decision rule for this research work is already described above. When r is greater than ± 0.499, we accept the H_1 (Alternate Hypothesis) because a direct relationship exists, otherwise, where r is less than 0.499, H_0 (Null hypothesis) is accepted and the alternate hypothesis is rejected.

Hypothesis One
H0 (Null): Adoption or non-adoption of Banking Code of Ethics and Professionalism does not necessarily create distress in the Nigerian Banking sector

SCALE	X	Y	XY	X^2	Y^2
Strongly agreed	5	20	100	25	400
Mildly agree	4	6	24	16	36
Undecided	3	3	9	9	9
Mildly disagreed	2	18	36	4	324
Strongly disagree	1	32	32	1	1024
Total	15	79	201	55	1793

By statistical definition, the Pearson's correlation co-efficient is given by the formulae:

$$r = \frac{n\sum xy - \sum x \sum y}{\sqrt{[n\sum x^2 - (\sum x^2)]\,[n\sum y^2 - (\sum y^2)]}}$$

$$r = \frac{5(201) - 15(79)}{\sqrt{[5(55) - (55)]\,[5(1793) - (1793)]}}$$

$$r = \frac{1005 - 1185}{\sqrt{[275 - (55)]\,[8965 - (1793)]}}$$

$$r = \frac{-180}{\sqrt{[220]\,[7172]}}$$

$$r = \frac{-180}{\sqrt{1577840}}$$

$$r = \frac{-180}{1256.121}$$

$$r = -\underline{0.1433}$$

2.1.2 Interpretation and Decision

From the result above, there is a significant variation between the variables correlated [a negative outcome i.e. an inverse relationship]. Since the result of the test is lower than 0.499, H0 is accepted and H1 is rejected. This clearly suggests that the Code of Ethics and Professionalism for banks does have a negative impact on bank failure in Nigeria. That is to say, the impact of code of ethics and professionalism on the operation and management of banks is negative and cannot lead to the distress of banks. Therefore the cause of banking distress isn't ethical codes and professionalism but as a result of other factors identified in the study, such as insider's lending, lending to high risk borrowers, micro-economic stability, deficiency in bank regulation and supervision, inadequate capitalization, mismanagement of resources, high incidence of fraud and forgeries, board room squabbles, weak internal control system, poor credit appraisal system, low liquidity, instability in the economic environment, high cost of business operations, inadequate trainings, high loan default rate, inadequate number of qualified staff amongst others.

Hypothesis Two

H0 (Null): Many banks in Nigeria are not distressed due to unethical practices and mismanagement.

SCALE	X	Y	XY	X^2	Y^2
Strongly agreed	5	47	235	25	2209
Mildly Agree	4	22	88	16	484
Undecided	3	1	3	9	1
Mildly Disagreed	2	7	14	4	49
Strongly Disagree	1	2	2	1	4
Total	15	79	342	55	2747

$$r = \frac{n\sum xy - \sum x \sum y}{\sqrt{[n\sum x^2 - (\sum x^2)]\,[n\sum y^2 - (\sum y^2)]}}$$

$$r = \frac{5(342) - 15(79)}{\sqrt{[5(55) - (55)]\,[5(2747) - (2747)]}}$$

$$r = \frac{1710 - 1185}{\sqrt{275 - (55)]\,[13735 - (2747)]}}$$

$$r = \frac{525}{\sqrt{220]\,[10988]}}$$

$$r = \frac{525}{\sqrt{2417360}}$$

$$r = \frac{525}{1554.79}$$

$$r = \underline{0.338}$$

Interpretation and Decision

This result suggests a weak relationship between the variables correlated, since r is less than 0.499. H0 is therefore accepted and H1 rejected. It can thus be concluded that many banks in Nigeria are not necessarily distressed due to unethical practices; but other related factors of gross mismanagement. This is to say that, despite strong evidence of unethical practices in almost all operations of a bank and at most level of management, there is no empirical evidence that, banks in Nigeria have failed because of that reason alone.

2.2 Conclusion

From the research analysis, it can be confirmed that many banks in Nigeria are not necessarily distressed due to unethical practices, but may be due to other means of mismanagement and abuse. Nigerian banks and bankers are very much aware of the Code but may not have been adopted by all as appropriate. There is therefore the need to encourage and promote its adoption through staff training, for instance, the professional examination of the CIBN includes a course on Ethics. This must be supplemented by more management efforts.

A good proportion of Bank Chief Executives in Nigeria are professional bankers but not all top management staffs of banks are professional bankers. Although banking is a profession, entry into the banking profession in Nigeria is generally unrestricted and so it is difficult to enforce ethics as the industry as there are both professional and non-professional workers in the sector.

It can therefore be concluded that, code of Ethics and Professionalism is very important and should be seen as a guiding principle in operation for every banker. The job of a banker requires moral, professional ethical behaviour and competence. It is not sufficient to have a code of ethics. The Code should be readily available to all bankers to promote ethical awareness; address all ethical issues and problems for proper professional guidance; should be evaluated frequently to ensure that it is current and not stale; enforceable to ensure conformity by all professional bankers; and adopted by all banks.

2.3 Recommendation

There is still need to promote greater awareness and publicity of Ethical issues in the Nigerian Banking Industry. The Chartered Institute of Bankers in Nigeria should step up and sustain enlightenment campaigns through seminars, workshops, certification trainings, newsletters, journals, magazines and other publications. Nigerian Banks should ensure strict adoption and compliance with the Code of Ethics on a continuous basis in order to prevent banking failures and should also ensure that all banking transactions and operations are done bearing in mind all the ethical issues.

Top management staff should also be monitored by the regulatory authorities in order to ensure that all operations conducted comply with ethical standard of the banks. All Nigerian Banks must collectively adopt the Code of Corporate Governance and ensure that there is transparency in the industry, especially at the top echelon, to restore public confidence in the industry. Bank staffers, especially those in sensitive assignments, should be well remunerated to ensure that they remain ethical and professional in all their assignments to avoid falling prey to fraudulent temptations. Each Bank should also have a good and reliable Board of Directors capable of providing and sustaining purposeful ethical leadership and sound management devoid of conflict of interests, mismanagement and insider abuses.

The legal and professional limitations on external auditors on detection of fraud should be modified or extended to enable external auditors actually report and identify fraud. This is necessary because it is the depositors that stand to lose more when banks collapse. More importantly, it is important that bankers and everyone in critical leadership position should seek to be respected and not unnecessarily loved; this was denoted as standing for a principle. There should also be a system that prosecutes fraud expeditiously. The bankruptcy laws in banking should now be enforced. Unrealistic government directives such as imposition of non-market interest rate, administered exchange rate, the level and capability of auditors; which encourage corrupt practices in the market place should be addressed.

References

Adewunmi, W. (1998). "*Ethics in the Financial Services Business"*. Lagos: The CIBN Press Limited.

Agbetuyi, C. (2004). "*Cowboy Directors and Distress in Banks", The Punch Newspaper* retrieved on 15th February, 2012.

Alashi, S.O (1993), "*Bank Failure Resolution: The Main Option*", NDIC Quarterly Vol. 3(2).

Ali, Y. (2005). "*A Survey of Ethics in the Nigerian Banking Industry"*. Swiss: St. Clements University, 23-66. From www.stcle.edu/grad/gradyida retrieved on 15th November, 2011.

Anthony, M. O., Elumilade, D. O. and Ashaolu, T. O. (2005), "*Transparency, Accountability and Ethical Violations in Financial Institutions in Nigeria"*. Osun State, Nigeria: Ile-Ife University, 23-26.

Aron. B. (2006), "*Ethics and Decision Making for Interpreters"*

Baker, R. (1999). "*Code of Ethics: Some History"*, *Journal on Perspectives on the Profession*, *19,* 1*,* Fall 1999.

Black, K. (2008). "*Pilot Testing: Why and How",* Retrieved on 19th February, 2012, from http://www.unescap.org/stat/disability/census-ws/Session4-Ken-Black-Pilot-tesiting.pdf.

Carse, D (1999). "*The Importance of Ethics in Banking"*. A paper presented at 2nd International Conference on Banking Ethics, Hong Kong.

Cottell, P.G. and Terry, M.P. (1990), "*Accounting Ethics: A Practical Guide for Professionals",*Westport, Quorum Books.

Dike, O. (2009). "*Banks: One Crisis Too Many"*. *Newswatch Magazine,* 1-2. retrieved on 19th February, 2012.

Ebhodaghe, J.U. (1997), "*Deposit Insurance: The Nigerian Experience and Future Perspectives"*. A Paper presented at a seminar on issues in Central Banking and Bank Distress in Sub Saharan African Countries, At CBN Training Centre, Lagos

Ebhodaghe, J.U. (1996), "Implications of Failed Banks on the Nigerian Economy " NDIC Quarterly, Volume 6 No & 2.

Elebute, K.(1999), "*The Role of External Auditors in Resolving Distress*", This Day Newspaper 30th May

Francis, C. C. (2010), "*Corporate Governance in the Nigerian Banking Sector: An Ethical Analysisof the 2009 Regulator Intervention and Operators Behaviours*", Pennsylvania: University of Pennsylvania.

Francis, R.D. (2000). "*Ethics and Corporate Governance"*. University of New South Wales:University of New South Wales Press Ltd.

Frenkel, D.A. and Lurie, Y. (2003). *"Stakeholders in Banking Ethics Tellers Management and Clients, Building Ethical Institutions for Business"*, EBEN 16th Annual Conference, Budapest, Hungary.

Ganiyu, A. O. (2009). "*Perspectives on the Nigerian Financial Safety-Net",* A Nigeria Deposit Insurance Corporation Book on Code of Banking Practice: CIBN.

Guy, M. E. (1990), "*Ethical Decision Making in Everyday Work Situations",* Westport: Quorum Books, *1*, 5-6.

Heermance E. L. (1924), "*Code of Ethics: A Handbook*. Burlington: V. T, Free Press Printing Co, 1-2.

Hortacsu, A and Ozkan-Gunay, E.N. (2004). "*Ethical Issues and Attitude in the Turkish Banking Sector",* Bogazici: Bogazici University.

Hunkin, J. S. (2002), "*Ethics in Business and Everyday Life",* Canada: Gale Group. 16, 4, September-October,

2002.
Kultgen, J. (1998), "*Ethics and Professionalism",* Philadelphia: University of Philadelphia, 3-13, 209-216.
McDowell, B. (1991), "*Ethical Conduct and the Professional's Dilemma*: *Choosing between Service and Success",* New York: Quorum Books, 13-36.
Mount, E. (1990), "*Professional Ethics in Context: Institutions, Images and Empathy",* Louisville: Westminster / J Knox press, 27.
Nowell-Smith, P.H. (1954), "*Ethics",* Melbourne: Penguin Books, 4-12.
Nwankwo, G. O. (1980), "*The Nigerian Financial System",* London: Macmillan Publishers.
Ogunleye, G. A. (2000). *Banking Activities and its Regulatory Framework in Nigeria: The Past, Present and Future*. Lagos: Mainland District Society of ICAN, 11-20.
Ogunleye, G. A. (2000). *Ethics and Professionalism: Lessons from the recent Distress in the Nigeria Banking System".* Lagos: NDIC Quarterly*, 10*, 1, 18-27.
Ogunleye, G. A. (2001), *"The Regulatory Imperatives of Implementing the Universal Banking Concept in Nigeria",* Lagos: NDIC Quarterly, *11*, 1&2, 46-51.
Ologun, S.O. (1994), "*Bank Failures in Nigeria: Genesis, Effects and Remedies*", CBN Economic and Financial Review, Volume 32 No. 2
Owualah, S. I. (1996), "*Contemporary Issues in Nigeria's banking and Finance",* Lagos: G-MagInvestmentsLtd,1-57.[Url:http://www.theconvention.org/pdf/regulations_ Code Of Ethics In Banking And Finance]
Rue, L.W. and Byars, L.L. (2000). "*Management Skills and Application",* The 9th Ed. United States of America: Irwin McGraw-Hill, 108.
Sabourin J.P. (2004, September 30), "*The Deposit Insurer's Role in Maintaining Financial Stability",* A Paper presented at the Chicago Federal Reserve Conference on Systemic Financial Crises: Resolving Large Ban Insolvencies.
Sanusi, J. O. (2000), "*Ethics and Professionalism in Banking. A past Experience and Challenges for Industry Operators in Nigeria",* Annual Dinner: CIBN, 2000, p.3-7.
Saunders, M.; Lewis, P.; Thornhill, A. (2007), "*Research Methods for Business Studies",* London: Prentice-Hall.
Sims, R.R. (1994), "*Ethics and Organizational Decision Making: A Call for Renewal"*. Westport: Quorum Books, 13- 204.
Solomon, R.C. (1999), "*A Better Way to Think about Business: How Personal Integrity Leads to Corporate Success"*. New York: Oxford University Press, 121-123
Souter, G.; Neil, M.; Molster, C.(1995), "*A Management Perspective on Business Ethics*", Journal of Business Ethics, 14, 603-611.
Unegbu, O.C.K. (2003), "*Corporate Governance in Banking and other Financial Institutions: Laws, Issues and Ethics",* Lagos: The CIBN Press Limited, p 5-6.
Wellman, C. (1961), "*The Language of Ethics",* Cambridge: Harvard University Press, 8.

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