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Transparency and accountability in the Nigerian pension funds management

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ABSTRACT: *The paper highlights the main problems that have bedeviled the former pension scheme; which include unfunded and inadequate budget allocation for pension, huge outstanding pension liabilities estimated at over ₦1trn in the public sector, pension not based on defined benefits, the existence of multiple pensions scheme and the fraudulent activities of government officials which resulted in the delay in payment, short payments or outright non-payment of pension and gratuities to retirees. These sad developments coupled with the revolutionary changes in the management of pension schemes blowing across the globe necessitated Nigeria government's decision to introduce pension reforms which is backed by the Pension Reform Act, 2004. The Act spelt out in fine details the modus-operand of the new pension scheme which is contributory in nature.The paper also identified the roles and responsibilities of all stakeholders in the new scheme and emphasized the need for ethics, transparency and accountability in the management of pension funds. It concludes by identifying the challenges of the new scheme and proferred suggestions that could improve the operation of the scheme bearing in mind the overriding issues of ethics, transparency and accountability.*

KEY WORDS: *Transparency, Accountability, Pension Scheme, Governance, Retirees, Ethics.*

I. INTRODUCTION

The Nigeria Pension Reform Act, 2004 came into being to check the myriad of problems that bedeviled the old Pension scheme. Beside addressing the problems of the old scheme, government needed a system that would ensure that pensioners have adequate, affordable, sustainable and diversified retirement benefits. Also, the government needed a system that would be simple, transparent, financially sustainable, less cumbersome and cost effective. The objective of the Act is to ensure among others that every person who worked in either the public or private sector receives his or her retirement benefits as and when due, so as to prevent retirees who had served Nigeria in various capacities, from suffering untold hardship.(PRA, 2004).Sub-section (b) of Section 2 of the Pension Reform Act specifically states that the scheme is to assist improvident individuals by ensuring that they save in order to cater for their livelihood during old age. Although the new contributory scheme is to ensure that workers retire well, there have been concerns about the safety of the contributions being managed by various Pension Fund Administrators (PFAs) but kept by Pension Fund Custodians (PFCs).

Taking a general overview of the Act, some experts believe that the new scheme is robust and safe, and that contributors' funds are guaranteed. They argue further that the Act has put in place many safeguards which when properly adhered to by the commission, the custodian and the pension funds administrators will ensure accountability and transparency in the management of funds.

II. THE MEANING AND PURPOSE OF PENSIONS

Chiejina (2005) defined pension as post-employment or retirement benefits paid to a person to make that person financially independent at old-age. He summarized the reasons for pension payment as:

- To guarantee a comfortable retirement life after years of active work, business or professional practice.
- To enable the beneficiary to maintain the standard of living which they enjoyed during active productive years.
- To make pensioners financially independent, and not to depend on relatives or the community.
- To serve as remuneration package used as competitive tool to attract and retain the services of competent and loyal employees.
- To serve as reward for long service and loyalty to an employer, and thus a deferred remuneration.
- To provide financial support to the dependants of a deceased employee, and thus protect them against poverty and distress.

III. PROBLEMS IN THE OLD SCHEME

To what extent did the old pension scheme in the public and private sectors of the Nigerian economy achieve the above listed purposes? Hitherto, payment of pension was a big challenge to the Government of Nigeria due to a myriad of reasons which included: unfunded and inadequate budget allocation for pension in the public sector; determination of overall government's liability for budgeting and planning purposes; huge outstanding pension liabilities estimated at over ₦1, trillion in the public sector; pension and retirement gratuity scheme in the public sector not based on concept of defined benefits; and existence of multiple retirement schemes such as National Social Insurance Trust Funds, Gratuity Schemes and Provident Fund Schemes.

In the private sector, the pension scheme was not mandatory.Although some employers had pension schemes that were designed to cater for retirees, these schemes were mostly the product of collective agreement between management and the union.Also the old system of pay-as-you-go operated in the public sector was bedeviled with many unwholesome practices ranging from fraudulent diversion of pensioner's entitlements to outright non-payment of pension to retirees. Therefore the pay-as-you-go methods operated in the public service was unsuitable, cumbersome and not proactive to addressthe many issues relating to pension in Nigeria, therefore could not meet the purposes of pension enumerated earlier.

The history of pension schemes and administration in Nigeria in the past, fueled by the pitiable plight of retirees who could not access their pension after retirement and the recent revelations of unwholesome sharp practices by government officials during the public hearing of the Nigerian House of Representatives Committee on Pension has further heightened the issue of accountability and transparency in the management of pension fund.

These sad developments coupled with the revolutionary changes in the management of pension schemes blowing across the globe informed the Nigerian government's decision to introduce the pension reforms. On June 11, 2004, the then President of the Federal Republic of Nigeria, Chief OlusegunObasanjo signed the Pension Reform Act 2004 into Law.

IV. OBJECTIVES OF THE PENSION REFORM ACT, 2004

The main objectives and features of the Pension Reform Act 2004 are:

- To ensure that every person who worked in either the public service or private sector receives his retirement benefits as when due.
- To assist individuals by ensuring that they save in order to cater for their livelihood during old-age
- To ensure that pensioners are not subjected to untold hardship during pension payment.
- To establish a uniform set of rules, regulations standards and retirement benefit for the public service of the Federation, and the private sector.
- To stem the growth of outstanding pension liabilities.

V. FUNCTIONS OF THE COMMISSION

The Pension Reform Act 2004 established the National Pension Commission (PenCom) charged with the responsibility of ensuring the effective regulation and administration of pension matters in Nigeria. PenCom's main objectives are:

- The regulation and supervision of the scheme established under the Act.
- Issuance of guidelines for the investment of pension funds.
- Approving, licencing, regulating and supervising pension funds administrators, custodians and other institutions relating to pension matters as the commission may from time to time determine.
- Establishing standards, rules and regulations for the management of the pension fund under the Act.
- Ensuring the maintenance of the National Data Bank in all pension matters.
- Promoting capacity building and institutional strengthening of pension fund administrators and custodians.
- Receiving and investigating complaints of impropriety leveled against any pension administrators, custodians or employers or any of their staff or agents.
- Performing such other duties which in the opinion of the commission are necessary or expedient for the discharge of its function under the Act.

VI. GOVERNANCE, TRANSPERENCY AND ACCOUNTABILITY CONCEPTS

To give a proper background to the subject matter, it will be useful to discuss the concept of governance, transparency and accountability as they relate to Pension Funds Management. The term governance or public governance is used to describe how authority is distributed in the government system and how those who hold such authority are held to account for their actions.(OECD, 2002). When it comes to the notion of good governance, a number of generally agreed principles are recognized, which include; accountability, transparency and openness. Indeed, the success of public governance will ultimately be judged, not by governments or any other organization but by the citizens. It is the citizens who are demanding greater transparency and accountability from government (and its officials) as well as greater public participation in shaping policies that affect their lives. Therefore good governance and the fight against corruption are not just catchwords in international cooperation but rather represent the keys for successful reforms and for equitable and sustainable development (OECD, 2002).

In the words of Omotoye (2011), accountability and transparency are related fundamental concepts that define ethical conduct in any society. They are important ingredients in nation-building and formulation of national character; help scholars better understand the dynamics of corruption, and holds the key to successful resolution of corruption problems.If corruption is the most damaging disease that any organization or country must confront, then accountability and transparency are the major cures. (Wood et al, 2007). Therefore the level of accountability and transparency a society requires of its public financial management system is usually defined by the constitution and or the legislation governing the particular organization (OECD, 2002).

Accountability – originally derived from the latin word “accomptare” (which means to account) has often been used synonymously with other concepts as “answerability”, “enforcement”, “responsibility”, “blameworthiness” and “liability”. But notwithstanding the many meanings, all the terms used in connection with the concept are associated with one common meaning – “obligation and expectation of account giving”. (Omotoye 2011).

Transparency on the other hand is defined by Kopis et al (1998) as an attitude of openness toward the public at large, about government structure and functions, policy intention, public sector accounts and projections; ready access to reliable, comprehensive, timely, understandable information on government activities so that the electorate and financial markets can accurately assess government’s financial position and the true costs and benefits of government activities.

Jabbra et al (1989) had argued that the fundamental element in improving organizational performance is the quality of overall management. Managers are people who get things done by working with other people to obtain organizational objectives. They must not only set an example through their own performance, but encourage employees throughout the organization to commit themselves to results, service and quality work. They view accountability as responsibility to someone for one’s actions, taken to ensure that programmes have maximum impact and results.Generally public officials and their organizations are considered accountable only to the extent that they are legally required to answer for their actions. However from the public’s perspective, people must be held accountable, which means accountability for one of three things: accountability for finances, for fairness; or accountability for performance.

Aristotle, 325 BC as quoted in Adair et al (1988) recognized the role of accountability in public service when he asserted “some officials handle large sums of public money; it is therefore necessary to have other officials to receive and examine the accounts. These inspectors must administer no funds themselves”. It follows therefore that transparency and accountability are the fundamental prerequisite for preventing the abuse of delegated power and for ensuring instead that power is directed towards the advancement of the organizational goals with the greatest possible degree of efficiency, effectiveness, probity and prudence (Jabber et al 1989).

With these perspectives in mind, it is clear that transparency and accountability in PenCom will unequivocally represent a shared concept of responsibility, trust worthiness, and open communication, between the PENCON and all the stake holders i.e. contributors, government, the capital markets, and the pension fund administrators.

VII. TRANSPARENCY AND ACCOUNTABILITY REQUIREMENTS IN THE COMMISSION

These accountability and transparency concepts are applicable to the management of pension in Nigeria. Indeed the Pension Act 2004 has introduced a number of safeguards which if strictly adhered to will impact positively on the administration of the new pension scheme and check the incidences of corruption, diversion and outright non-payment of pension to retirees. Some of these safeguards are highlighted as follows:

- Government had specified the type of securities that pension fund could be traded in. Limited investment profile is provided for domestic stock, foreign investment instruments and stock, etc.
- Capital requirements of One billion Naira (₦1bn) have been set for Pension Fund Administrators (PFAs). Olayinka, (2012) argued that the increase in the PFAs capital will encourage healthy mergers and acquisition that will promote stability in the industry.
- Payment of pension benefits to beneficiaries must include earnings from interests and other investments to which the funds have been invested.
- Employee opens an account known as “Retirement Saving Account” (RSA) in his name with the Pension Fund Administrator of his/her choice. This account belongs to the employee and will remain with him/her for life.
- Pension Fund Administrators are duly licenced to open retirement saving accounts for employees, invest and manage the pension funds.
- The PFA has a mandatory obligation to ensure the safety and security of funds being managed.
- Pension Assets Custodian (PAC) is responsible for the safe keeping of the pension assets and shall execute transactions and undertake activities relating to the administration of the pension fund investment upon instructions from the Pension Fund Administrator.
- There is a total separation of functions between the Pension Fund Administrator and the Asset Custodian. A custodian must issue a guarantee to the full sum and value of the pension funds and assets held by it or to be held by it.
- The Pension Fund Administrator shall employ a compliance officer whose responsibility is to ensure compliance with the provisions of the law regarding pension matters as well as the internal rules of the PFA.
- PFAs and Asset Custodian are enjoined by law to disclose their rates of return and publish their audited accounts.
- The National Pension Commission (PenCom) will regulate, supervise and ensure effective administration of pension matters in Nigeria. This function include ensuring safety of pension funds by issuing guidelines for licencing, approving, regulating and monitoring the operations of pension funds administrators and custodians.

VIII. ACCOUNTABILITY AND TRANSPARENCY REQUIREMENTS FOR PENSION FUND CUSTODIAN

The Act empowers the commission to appoint custodians for the assets of the funds. Therefore the commissions in appointing or reviewing/evaluating already appointed Pension Fund Custodian have set out the requirements to include:

- Custodian expertise must be good
- Risk management systems and other information systems and technology, as appropriate must be put in place
- The Corporate structure must be in compliance with the Law
- Reporting capabilities and medium of reaching all stakeholders must be verified.
- Financial strength of Custodians should be established and acceptable to PENCOM.
- Internal ethical and compliance guidelines should be established and made known to everyone that is concerned.
- External regulatory obligations should be strictly adhered to.
- Management fees, commission and other expenses should be well documented.

IX. ACCOUNTABILITY AND TRANSPARENCY REQUIREMENTS FOR PENSION FUND ADMINISTRATORS

All Retirement Savings Account (RSA) holders should maintain individual accounts with the Pension Funds Administrators (PFAs) who are seen as the most important entity in the pension scheme by individual retirement saving account holder. It is therefore pertinent that the PFAs must build the confidence of the RSA holders in the pension scheme by adopting the principles of good administration suggested by the parliamentary and Health Ombudsman, 2007.These principles no doubt satisfy the requirement of accountability and transparency in the management of pension scheme. They include:

- Acting in accordance with the Provision of the Pension Act 2004 which has specified the rights and obligations of those concerned.
- Taking proper account of established good practice and providing effective services, using appropriately trained and competent staff.
- Dealing with RSA holders helpfully, promptly, sensitively, and flexibly, bearing in mind their individual circumstances.
- Being open and clear about policies and procedures and ensuring that information, and any advice provided, is clear, accurate and complete.
- Handling information properly and appropriately, keeping proper and appropriate records and taking responsibility for its actions.
- Treating RSA holders impartially, without unlawful discrimination or prejudice, and ensuring no conflict of interests.
- Dealing with RSA holders and issues objectively and consistently ensuring that decisions and actions are proportionate, appropriate and fair.

- Acknowledging mistakes and apologizing where appropriate and putting these mistakes right quickly and effectively.
- Operating an effective complaints procedure, which includes offering a fair and appropriate remedy when a complaint is upheld and providing clear and timely information on how and when to appeal or complain.
- Reviewing policies and procedures regularly to ensure they are effective and meets the challenges of the time.
- Asking for feedback from RSA holders and the general public and using it to improve services and performance.

X. CONCLUSION

The challenge of enforcing transparency and accountability in the management of pension funds is a difficult task that must be surmounted by the collaborative efforts of all stake holders in the industry. Indeed, the enormity of the task to deal with corrupt practices and to promote good governance, ethics, transparency and accountability in both public and private sectors is not to be underestimated. Therefore, the first requirement for accountability is that there must be a focus of liability on a governing body or person that is in turn accountable to someone else. If responsibility is not clearly imposed there will be no scope for clear accountability and transparency.

The governing body or person must comply with good governance requirements in running of its own entity as well as in running of the pension fund. That is to say, the Pension Commission, the Pension Fund Custodians and the Pension Fund Administrators comply with the legal and accounting requirements that apply to corporate entities of their kinds. Effective accounting and audit requirements serve two purposes: they monitor and confirm the financial dealings of the fund and they serve as a channel of communication to the public of important financial information.

Effective custody is another important requirement for accountability. Fund assets must at all times be held in safe, independent custody as otherwise all of the requirement will be worthless at the end of the day. The requirements for transparency and reporting to all stakeholders should be at the heart of Pension Fund Management.

Finally, it is desirable that there should be verification of fund management. At the minimum, this should take the form of an external audit, external actuarial valuations of assets and liabilities, and external verification of investment reforms.

RECOMMENDATIONS

- PenCom should take the challenge of technological advances seriously by modernizing its systems, because the traditional approaches to business management is fast fading out. The adoption of Information and Communication Technology based methods instills reliability and confidence in the information produced.
- Federal Government should encourage State Governments to enact laws that will enable them convert to the contributory pension scheme. As at December, 2012, only about 3 out of the 36 states in Nigeria have joined the scheme.
- The scheme should be made to cover those in the informal sectors who are willing to join the contributory pension scheme.
- All PFAs, PFCs and the Commission should establish clear lines of responsibility, authority and accountability in their management/administrative hierarchy such that officers could be held accountable for their actions.
- PFAs and PFCs should be made to incorporate result – oriented performance measures and monitoring tied to their financial management activities to form a basis for evaluating their performance.
- The PenCom should engage in effective oversight and monitoring of the PFAs and PFCs to ensure compliance with the provision of the Act. If oversight and monitoring is regularly done, early detection of anomalies and breaches can be made and remedied before they escalate.
- Government should empower PenCom to summon the Chairmen, Directors or Managers of non-compliant employers and impose severe sanctions on them.
- PFAs should exploit the new windows of investment to expand their investment base by investing in infrastructure and real estate.
- PenCom should embrace high level standard of corporate governance. It should encourage the PFCs and PFAs to follow suite considering the benefits to be derived by the parties concerned.
- PenCom, the PFCs and PFAs should tap into global expertise for training and education of staff, systems development, technology and information communication technology.

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