

LITIGATION SUPPORT AND MONEY LAUNDERING CONTROL IN COMMERCIAL BANKS IN NIGERIA

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ABSTRACT

The study examined litigation support and money laundering control in commercial banks in Nigeria. The study adopted correlational survey research design. The population for this study is twenty-one (21) commercial banks in Nigeria. The sample size is 300 respondents in twenty-one (21) commercial banks in Nigeria. The instrument for this study was the questionnaire. The research questions were analyzed using Mean and Standard Deviation in the distributive statistics tables. The formulated hypotheses were tested using the simple bivariate regression analysis. The findings of the study among others were that; there is a significant relationship between litigation support and money laundering control commercial banks Nigeria. Based on the findings of the study, the following recommendations are therefore made; shareholders and directors of banking industry should provide regular training on data mining techniques to equip their accounting staff with the relevant and up-to-date skills, abilities, attitude and competences for money laundering detection. The Institute of Chartered Accountants of Nigerian should organize regular conferences, seminars and workshops for their members where emerging trends in anonymous communication are highlighted to help professional accountants and auditors detect and prevent frauds or at least reduce the incidence to save their employers.

Keywords: litigation, money laundering, commercial banks.

INTRODUCTION

Banking sector is the life wire of any economy. Perpetual escalation of fraud in Nigerian banks for over a decade has continued to induce loss of public confidence, threaten the going concern of commercial banks and cause adverse effect on shareholders' wealth, requiring improved statutory and regulatory frameworks governing both the industry and the accounting practice Ocansey (2017). According to Ibor (2016), today, the integrity and functional roles of Nigerian banks have been impaired due to pervasive increase in fraud and other deviant behaviours. Fraud not only incapacitates Nigerian banks' effective delivery of their economic functions, but also piles pressure on the nation's scarce foreign exchange resources with no visible economic benefits being transmitted to the productive sector and the general public. The paradigm shift in the accounting profession has put a focus on the need for forensic accounting.

Litigation supports the aim of forensic accounting, which refers to the application of analytical and investigative skills for the purpose of resolving financial issues in a manner that meets standards required by court of law. Forensic is defined as the application of application of analytical and investigative skills and techniques to factual outcome (Abdulrahman, 2019). This suggests however, that the term 'forensic' may cut across several areas of life for which evidences may be sought for litigation (Eliezer & Emmanuel, 2015). Accounting, on the other hand, according to Oluyombo (2016), is the process of collecting, recording, analysing, presenting and interpreting financial information for the users of financial statements. This involves accurate bookkeeping, records, measuring and interpreting the financial results of the business by the preparation of accounting ratios and communicating these results to management and other interested parties or users. Merging these two terminologies will paint the picture of what forensic accounting entails. Forensic accounting according to Apostolou et al., (2000) and Kolawole et al., (2018) is the use of accounting,

auditing and investigative abilities to provide expert support in legal matters. Jugurnath et al., (2017) describe forensic accounting as a field of accounting that takes care of present, existing or projected disputes hence it is therefore suitable for legal assessment and ensures a successful reduction of financial malpractices.

Thus, litigation supports is concerned with collecting, understanding, compacting and displaying intricate financial matters in a clear, precise, and accurate way for court adjudication. Onodi et al., (2015) perceive litigation supports as the utilisation of the concepts of accounting and its definitions in dealing with legal issues. Manning (2010), defined litigation supports as the art of assembling and exhibiting financial data in a form that will be acknowledged by a court of jurisprudence against culprits of monetary violations. Litigation Support provides assistance of an accounting nature in a matter involving existing or pending litigation. It deals primarily with issues related to the quantification of economic damages. A typical litigation support assignment would be calculating the economic loss resulting from a breach of contract in court. Litigation support interprets and represents problems which are current and are about going for litigation at the law court. It helps in the utilization of the forensic accountant or the expert witness or job performance. The forensic accountant /expert witness or is called upon to show some evidence as the litigation proceedings are on. The expert in this field is also required to make his or her input in the resolution of the court cases, (Dhar & Sarkar, 2010).

According to Harwood (2016), stages in litigation involves before litigation starts, preparing a case and finally, trial and enforcement. Before litigation begins various forms of preliminary investigations takes place also, various forms of alternative dispute resolution are encouraged to be examined. It is encouraged that parties consider alternative means of resolving the disputes first. The more conventional alternative dispute resolution options include: Arbitration a confidential form of dispute resolution where one or more arbitrators decide a case rather than a court appointed judge. Mediation is a facilitated negotiation assisted by an independent third- party mediator appointed by the parties. An independent expert is appointed to resolve the matter by producing a legally binding decision (Harwood, 2016). In preparing cases for litigation claim forms and particulars of claims for both parties are drafted and served accordingly, this is usually followed by defence and counter claims and replies by the parties involved. Allocations and directions for future conducts of the case are done, presentation of documents, statements by witnessing, expert reports and meetings with experts all form part of the preparation of cases for litigations.

Money laundering crime is concealment in the flow of fund. It represents the illegal flow of money across the borders of states or nations. Corporate enterprises could be victims especially deposit money banks. The Money Laundering (Prohibition) Act, 2004 makes various provisions prohibiting laundering of money as proceeds of crimes or illegal activity, and provides for appropriate penalties for money laundering infringements. According to the Money Laundering Act, no person or corporation or enterprise is allowed to make or accept cash payments of a sum in excess of five hundred thousand naira (₦500, 000.00) and two million naira (₦2,000,000.00) or its equivalent in the case of an individual, and enterprise respectively, unless such cash payment or acceptance is undertaken through a deposit money banks, (Owojori & Asaolu, 2009).

Money laundering is the criminal act of filtering illegally obtained (dirty) money through a series of transactions designed to make the money appear legitimate (clean). Money laundering often involves three steps. First, the money is deposited typically into a financial institution such as a bank or brokerage. Next, the money is separated from its illegal origin by layers of often complex transactions, making it more difficult to trace the "dirty" money. The third step is integration. This is where the freshly "cleaned" money is mixed with legally obtained money, often through the purchase or sale of assets. top management staff assist and also involve in this practice. Thus, litigation of money laundering crimes by forensic accountant becomes necessary (Ramaswany, 2009).

Statement of the Problem

Money laundering today have grown wild, and the emergence of computer software coupled with the advent of internet facilities has compounded the problem of money laundering. Besides, the detection or minimization of these, crimes are made more difficult and committing these crimes much easier. The size and complexity of accounting services and the inability of the statutory auditors further constrained by the related clauses in the company laws and standards, present very visible and poor show of the fight against money laundering in corporate organizations. Thus, focusing on expert witness and litigative support would be an efficient and sufficient means to unravel and control financial crimes in commercial banks in Nigeria.

Several empirical studies have been conducted to examine the effect of litigation support on fraud or financial crime in commercial banks in Nigeria. These studies mainly concentrated on the use of forensic in detecting or investigating financial crimes or frauds in various sectors / industries especially in the deposit money banks. Hence, no known research has been studied on the effect of litigation support on money laundering control. Which is the application of litigation support in controlling or preventing money laundering before it occurs in commercial banks in Nigeria to the best of our knowledge. This study by examining these dimensions of litigation support and measures of money laundering control in commercial banks will fill the existing research gap in litigation support and money laundering control in commercial banks in Nigeria.

Aim/Objective of the Study

The aim of this study is to investigate litigation support and money laundering control in Commercial banks in Nigeria. Specifically, the study attains the following objective, to:

1. Evaluate the relationship between litigation support and money laundering control in commercial banks in Nigeria.

Research Hypotheses

In order to provide answers to the research questions raised, the following hypothesis stated in null form are presented below:

HO₁: There is no significant relationship between litigation support and money laundering control in commercial banks in Nigeria.

Litigation Support

Litigation is a term encompassing the use of court processes to resolve a dispute, in line with the rules in place in that jurisdiction. According to Harwood (2016), stages in litigation involves before litigation starts, preparing a case and finally, trial and enforcement. Before litigation begins various forms of preliminary investigations takes place also, various forms of alternative dispute resolution (ADR) are encouraged to be examined. It is encouraged that parties consider alternative means of resolving the disputes first. The more conventional alternative dispute resolution (ADR) options include: Arbitration a confidential form of dispute resolution where one or more arbitrators decide a case rather than a court appointed judge. Mediation is a facilitated negotiation assisted by an independent third- party mediator appointed by the parties. An independent expert is appointed to resolve the matter by producing a legally binding decision (Harwood, 2016). In preparing cases for litigation claim forms and particulars of claims for both parties are drafted and served accordingly, this is usually followed by defense and counter claims and replies by the parties involved. Allocations and directions for future conducts of the case are done, presentation of documents, statements by witnessing, expert reports and meetings with experts all form part of the preparation of cases for litigations. This stage is now followed by the trial and enforcement stage as well as appeals by the parties involved. The concept of litigation and business advisory adopted in this study is how the fear and possible avoidance of a court process as well as yielding to expert's objective and independent advice as a forensic accounting technique can serve as an instrument for mitigating as well as possible curbing of financial crimes in the public sector organizations by the perpetrators

of these crimes (Harwood, 2016).

Litigation Support provides assistance of an accounting nature in a matter involving existing or pending litigation. It deals primarily with issues related to the quantification of economic damages. A typical litigation support assignment would be calculating the economic loss resulting from a breach of contract in court. Litigation support interprets and represents problems which are current and are about going for litigation at the law court. It helps in the utilization of the forensic accountant or the expert witness or job performance. The forensic accountant /expert witness or is called upon to show some evidence as the litigation proceedings are on. The expert in this field is also required to make his or her input in the resolution of the court cases, (Dhar & Sarkar, 2010). According to Akenbor & Oghoghomeh (2013), litigation Support involves the presentation and interpretation of various issues related to assisting existing or pending litigation by the forensic accountant. In the area of expertise, the forensic accountant may be asked to assign an estimated value for damages sustained by parties involved in legal disputes, and to assist in resolving disputes, even before they reach court room. On the role of forensic accountants in litigation case, He said that the roles are:

- i. Giving preliminary advice at the starting of proceeding on amount of damages based on initial interview of the pleading and the evidence available
- ii. Identification of documents made available as evidence during proceeding
- iii. Briefing counsels on the financial and accounting aspect during pre-trial of the cases and serving as an adviser to lawyers while the trials are on, particularly in the aspect of cross examining the expert from the other side.
- iv. Full-service online case review from data loading to production to opposing counsel. That is cash flow planning, case set up, consulting, project management and training.
- v. Assisting in legal proceedings, including testifying in court as an expert witness and preparing visual aids to support trial evidence.
- vi. Developing computerized applications to assist in the analysis and presentation of financial evidence
- vii. Communicating their findings in the form of reports, exhibits and collections of documents to lawyers or court.

Forensic accounting expert is employed in cases like; general commercial disputes, accident claims, personal injury, legal support in criminal cases such as prosecution of persons accused of corrupt practices (including bribery), matrimonial disputes, the valuation of business. Litigation support is the process of providing consultation and support service to attorney with regard to current and pending cases. Oworjori and Asaolu (2009), assert that forensic accountants provide litigation support services which are the provision of assistance of an accounting nature in a manner involving existing or pending litigation. Litigation support services tackle each case with a common sense approach; doing what's necessary to accomplish the clients economic and strategic goals.

Money Laundering Control

This is a financial crime of concealment in the flow of fund. It represents the illegal flow of money across the borders of states or nations. Corporate enterprises could be victims especially deposit money banks. The Money Laundering (Prohibition) Act, 2004 makes various provisions prohibiting laundering of money as proceeds of crimes or illegal activity, and provides for appropriate penalties for money laundering infringements. According to the Money Laundering Act, no person or corporation or enterprise is allowed to make or accept cash payments of a sum in excess of five hundred thousand naira (₦500, 000.00) and two million naira (₦2,000,000.00) or its equivalent in the case of an individual, and enterprise respectively, unless such cash payment or acceptance is undertaken through a deposit money banks, (Owojori & Asaolu, 2009).

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or brokerage. Next, the money is separated from its illegal origin by layers of often complex transactions, making it more difficult to trace the "dirty" money. The third step is integration. This is where the freshly "cleaned" money is mixed with legally obtained money, often through the purchase or sale of assets. Top management staff assist and also involve in this practice. Thus, litigation of money laundering crimes by forensic accountant becomes necessary (Ramaswamy, 2009).

Onuorah and Ebimobowei (2011), a transfer of funds or securities to or from a foreign country in excess of \$10,000 dollars or its naira equivalent must be reported to the Central Bank of Nigeria or the Securities and Exchange Commission in the case of a public enterprise. The mandatory reporting of all monetary transfers to or from outside the country must indicate the nature of the transfer, the amount of the transfer, the names and addresses of the sender and the receiver of the funds or securities that were transferred, and the ultimate beneficiary of the transfer if different from the latter persons. The Money Laundering Act (Prohibition) (2004) of Nigeria is an attempt to control the illegal flow of funds into and out of Nigeria including funds from corporate enterprises. Top management and opportunist ride on the back of the organization to embezzle funds met for the organization. Joseph (2012), estimates that funds laundered across the globe are between \$300 and \$500 million worldwide. In the context of fund flowing from the organization and committed by staff from within, it is a financial crime from within. The law specifies what constitutes money laundering offences and the liability of directors of financial institutions in the event of money laundering offences. Even though the Act provides that any movement of cash in excess of five hundred thousand naira (₦500, 000.00) or its equivalent in the case of an individual now one million (₦1, 000, 000.00) and two million naira (₦2, 000,000.00) or its equivalent in the case of an enterprise, now ten million (₦10, 000,000.00) for corporate enterprise beyond should be reported to CBN; this has in most cases not been the case because of the sophistication in the act of committing the crime.

Litigation support and Money Laundering Control

Numerous third world and developing countries are perplexed with either falsification of records or high falsification of records index perception due to weak regulatory environments. Thus, many a time's statutory audit has shown passive and disinterested attitude towards financial crimes fighting and have failed to inform the public with the needed guarantee and professionalism of their preparedness to stand up to falsification of records, bribery, money laundering, etc The Nigerian Economy has been attributed traditional problem of financial crime has hindered the economic growth and development of the nation. According to EFCC (2004), financial crimes such as bribery, bankruptcy, security fraud, embezzlement, among others, have taken the center stage in both private and public financial discourse and is assuming a position of preeminence.

The application of litigation support in financial crime control is a necessity. As opined by Akenbor and Oghoghomen, (2013), most cases corporate enterprises have loss valuable employees as a result prosecution, found guilty and terminated of their job or innocent employees who may voluntarily resign their employment due to humiliating experience they had during the financial crime investigation.

Theoretical Framework

The study adopted white collar crime theory. The purpose of adopting the aforementioned theory for this study is that it will captured the essence of the work.

White Collar Crime Theory: Sutherland, 1949 cited in Michael (2004), defined white collar crime as crime committed by a person of respectable and high social status in the course of his occupation stating that white collar crime are crimes committed respectable and of high-status staff in his place of work. White collar criminals are intelligent, opportunists, affluent and educated individuals who believed they can take advantage of circumstances to accumulate financial gain. Commercial banks and their staff are highly educated and Fraudulent financial activities are illicit activities committed

with the purpose of acquiring riches either individually, in group or organized manner thereby violating existing legislation or accounting policies governing the economic activities and administration of the organization. Hence, litigation support is needed to fast track these highly educated fraudulent staff of banks. via relating effectively with litigation of money laundering crimes, litigation of fraudulent loans, adjudication of diversion of financial investment crimes and adjudication of financial statements crimes.

Thus, the study is based on white collar crime theory stating that white collar crime are crimes committed respectable and of high-status staff in his place of work. White collar criminals are intelligent, opportunists, affluent and educated individuals who believed they can take advantage of circumstances to accumulate financial gain. Hence, litigation support is needed to fast track these highly educated fraudulent staff of banks. via relating effectively with litigation of money laundering crimes, litigation of fraudulent loans, adjudication of diversion of financial investment crimes and adjudication of financial statements crimes. And the intermediating variable is financial audit report.

Reasons for anchoring on white collar fraud theory

Most white-collar crimes are committed in a business setting mostly banks, and all of them are committed for financial gain. In many instances, the person committing the white-collar crimes is a trusted acquaintance or senior staff that appears to be innocent while taking advantage of the relationship they have with their company.

White collar crimes occur over the course of weeks, months or years. It usually takes some time to establish a relationship of trust and then to carry out the act. Plus, if the white-collar crimes go undetected, the criminal can take advantage of the victim for a long time before being found out, as is sometimes the case when senior bankers embezzle funds from their banks and we hear it in the dailies and various news mediums. The amount of money lost due to white collar crimes amounts to hundreds of billions of dollars per year according to a New York Times article, (2017).

Empirical Literature Review

Many researchers have attempted to examine the effect of litigation support on financial crime investigation, some of these eminent scholars includes; Enofe and Utomwen (2019), examined the role of litigation support in curbing financial crimes. The study adopts a survey research design. The method was adopted because it is likely to generate the kind of information required as well as providing good basis for the generalization of findings. The population of the study comprises of staffs of selected banks. Primary data was used for the purpose of this research. This research work employed the use of structured questionnaire in eliciting the required data needed to test the formulated hypotheses. Regression analysis was utilized as the method of data analysis and the results will be used in testing the hypotheses specified in the study. The study finding reveals that there is a need for forensic accountants in the Nigerian banking system, Litigation support is an effective tool for addressing financial crimes in the banking system and finally that Conventional accounting techniques are not effective in curbing financial crimes. The recommendation is that there is the need for corporations in Nigeria to engage the services of forensic accountants as litigation support now appears as a one of the strategic and dynamic tools for the management of all types of financial crimes. Also, they need to focus on training and up-dating the skills of the internal control and audit staffs.

Eliezer and Balogun (2015), the increase in the number of cases of financial fraud due to failure of statutory audit to detect and prevent fraudulent activities has given rise for the services of forensic accountants. This paper highlights how forensic accountants can be employed to resolve this challenge. The study was a theoretical research which considered the roles of forensic accountants in combating fraudulent activities, differences between a forensic accountant and traditional accountant, features of a forensic accountant and the impact of forensic accountants to detect and prevent fraud. From the research, it was found out amongst others that their services will assist audit committee members in carrying out their oversight functions by providing them assurance on

internal audit report. Some of the recommendations proffered is for government to ameliorate the cost of hiring the services of forensic accountants and to treat culprits equally without any favoritism. Okoye, et al., (2019), investigated the relationship of accounting profession and crime control in Anambra State. The specific objectives are: To determine the effect forensic accountant on internal control, to examine the effect of forensic accountant on fraud policy and to investigate the effect of forensic accountant on physical security control. Survey research design was adopted. The sample size for the study was 122 respondents and SPSS was used to analyze and test the relationship between variables. We recommended that there should be constant education of staff about fraud policy and the implication of break them and also, government should make litigation support more relevant by introducing the subject at the undergraduate level both private and public universities. Amake and ikhatua (2016), examine the significant difference between litigation support and fraud detection in the Nigerian public sector. A research survey design was used for the purpose of this paper with a sample size of one hundred (100) respondents which comprises of auditors and accountants of four (4) ministries selected from Edo state in Nigeria. The statistical tool used to test the hypotheses was Analysis of variance, (ANOVA). From our findings we found out that the application of litigation support in Nigeria’s public sector is effective in detecting fraud, there is a significant relationship between forensic accounting and litigation support service in Nigeria’s court and lastly the application of litigation support in the public sector is effective in preventing fraud. We therefore recommended that the public sector should build a continuous improvement in the internal control system and initiate effective and efficient internal check, they should adopt a sound accounting system in principal and effective practices, forensic accountant should acquire proper training on litigation support skills and procedures and officials in the public sector should embrace integrity, objectivity, fairness, accountability as a moral duty to reduce the level of fraud.

METHODOLOGY

This study basically adopted correlational research design. The instrument for this study was the questionnaire. At the time of this research, the population of the entire staff above in these financial institutions were one thousand, one hundred and ninety-seven (1197). The sample size of this study is three hundred (300). The research questions were analyzed using Mean and Standard Deviation in the distributive statistics tables. A criterion means of 3.0 was set as a guideline for accepting and rejecting option. The criterion mean was calculated as follows: $5+4+3+2+1/5 = 3$. The formulated hypotheses were tested using the simple bivariate regression analysis

Model Specification and Estimation

According to Nmesirionye et al. (2019), regression analysis is concerned with the study of how one or more variables affect changes in another variable. Thus, on the basis of the theoretical framework, the study adopted the regression formula adopted in the work of with some modifications. The model is specified as:

$$Y = f(a_0 + bX_1) + E_t$$

Where:

- y = Criterion variable
- f = Function
- x = Independent (explanatory) variables
- a = Intercept
- b = Slopes

In functional form, our hypotheses model are:

$$FCC = f(LGS) + E_t \dots 2$$

$$FCC = f(MLC + BC) + E_t \dots 2$$

In functional form, our model is:

The First Model: The First hypothesis test model; shows the relationship between litigation support and money laundering control: $H_{01}: MLC = f(LGS) \dots \dots \dots (i)$

Where:

- MLC = Money Laundering Control
- LGS = Litigation Support
- ∞ = Regression Constant
- β = Regression Coefficient
- μ = Stochastic term

The model for this study was adapted from the models of Abdul, Muhammad, Hafiz, Ghazanfar, and Arslan (2014) with little modification to suit the purpose of this present study.

Data Analysis and Results

HO₁: There is no significant relationship between litigation support and money laundering control in commercial banks in Nigeria.

Relationship Between Litigation Support and Money Laundering Control in Commercial Banks in Nigeria

Model	Unstandardized Coefficients		Standardized Coefficients	T	Sig.	DW
	B	Std. Error	Beta			
Constant	1.183	1.327		8.001	.000	
LGS	3.018	2.072	.853	3.247	.002	2.431

Dependent variable: Money laundering control

Source: Author Computation (2021) Using SPSS 22

From the results, there is a high coefficient of correlation 3.018 and Beta correlation of 0.853 between the dependent and predictor variables. The implication is that the variables in the equation are useful for explaining changes in money laundering control. The T- statistic value is found to be 3.247 indicating that the overall fit of the regression model measured by the statistic, is statistically significant at this level. The Durbin Watson (DW) statistic of 2.431 indicates presence of minimal serial correlation or autocorrelation in the regression model.

The above result shows a significant effect of expert witness s on money laundering control with p-value 0.002 < 0.05.

CONCLUSION

Litigation support is seen as encapsulating all the other areas in the use of accounting for investigative purposes. The increasing sophistication of certain crimes requires that litigation support be added to the tools necessary to bring about the successful investigation and prosecution of those individuals involved in criminal activities. The general expectation is that litigation support may offer some respite to the seeming vulnerability of conventional accounting and audit systems to financial fraud. Consequently, the incorporation of modern forensic auditing techniques in an audit in Nigeria is seen as timely in order to prepare the accounting profession to deal effectively with the problem of unearthing ingenious fraud schemes arising from audit failure to detect frauds in Nigeria. Effective in curbing financial crimes. Fraud and white-collar crime have increased considerably over the past years, and experts believe that the trend is likely to keep on growing if adequate measures are not taken to curb this perfidy.

RECOMMENDATIONS

Based on the findings, shareholders and directors of banking industry should provide regular training on data mining techniques to equip their accounting staff with the relevant and up-to-date skills,

abilities, attitude and competences for money laundering detection. The Institute of Chartered Accountants of Nigerian should organize regular conferences, seminars and workshops for their members where emerging trends in anonymous communication are highlighted to help professional accountants and auditors detect and prevent frauds or at least reduce the incidence to save their employers.

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SECTION A

Listed below are different statements about litigation support and money laundering support. Please indicate how strongly you agree or disagree with each, by using the following scale: 1=Strongly disagree, 2=Disagree, 3=Neither agree nor disagree, 4=Agree, 5=Strongly agree.

S/N	Money laundering control	5	4	3	2	1
1	Investigating audits offered by forensic accountants of your bank have been very effective in auditing of financial records					
2	Expert witness s is capable of minimizing the fraudulent act of money laundering in the next auditing period					
3	Expert witness s show credibility in their dealing with management					
4	Expert witness s is capable of detecting unauthorized money transfer within the banking sector					
OVERALL MEAN						

Independent Variable dimensions

S/N	Litigation Support					
5	Accountants/auditors with forensic accounting skills will deliver more litigation support quality financial reporting.					
6	Litigation support service delivers quality accounting and economic information for financial crime purposes.					
7	Litigation services unit can lead to prevention of cases misappropriation					
8	Information on litigation support is relevant in the fight against insider transactions					