CONSUMER PROTECTION IN THE FINANCIAL SERVICES SPACE: A CASE STUDY OF THE NIGERIAN BANKING SECTOR.

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Abstract

The study analyzes the approaches to Consumer Protection in the financial service industry which plays a critical role in building and maintaining trust in the formal financial system and preserving financial stability by ensuring that financial providers operate responsibly and accountable for their market conduct with regards to consumers' harm. Consumer Protection in essence refers to the framework of laws, regulations and institutional arrangements that safeguard consumers by ensuring fair and responsible treatment for them. The researchers are inclined to maintain that a well-functioning financial system requires a sound legal and policy framework that defines clear goals aimed at protecting consumers' access to financial services while regulating the conduct of financial service providers.

Keywords: Consumer. Financial Services, Protection, Banking Sector.

1.0 Introduction.

The landscape of Consumer Protection is a critical aspect of any thriving economy, ensuring fairness, transparency and trust between consumers and businesses. A consumer on the one hand is defined as a person who purchases or uses any product or service; or is adversely affected by a product or service.[3] A reputed scholar posited that consumer protection is the act of safeguarding the interests of the consumer in matters relating to the supply of goods and services, fraudulent and hazardous practices, as well as environmental degradation.[4] In sum, the act simply safeguards the interests and rights of consumers of products and services. The repealed Consumer Protection Council Act[5] went further to define the term 'Consumer' as an individual who purchases, uses,

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[3]1 Monye F.C, "A Critical Examination of Consumer Protection Law and Practice in Nigeria," <publication.codesria.org/index.php/catalog/view/1252/2235/6396>) pg. 24, 1998; accessed on 26th January, 2025.

[4] Piwuna M.G, "Examination of Consumer Protection under the Nigerian Communication Commission (NCC) Act 2003,"(*Journal of Educational and Social Policy*) Vol.3 No.4, 2016; pg. 103<http://jespnet.com/journals/Vol_3_No_4_ October_2016/12.pdf>; accessed on 25th January, 2025.

[5] Monye F.C, Umoh B & Chukwunta C.; "Research Report on the State of Consumer Protection in Nigeria: A Review of Consumer Protection in the Telecommunication Sector in Nigeria," <https://www.consumers international.org/media/2255/consumer-protection-in-nigeria-research-report-eng.pdf>; January, 2016, p.gs 10-16; accessed on 26th January, 2025. Primarily consumer-focused, the Consumer Protection Act,

maintains or disposes of products or services. Thus, any consumer that suffers a loss, injury or damage as a result of the use or impact of any goods, products or service, may make a complaint in writing to, or seek redress through a State Committee.[6]
The term, it should be noted, is not restricted to any field and can be used interchangeably with the usual term used in relation to a person who receives products or services under any sector,[7] although it excludes other forms of protection which are not statutory such as, protection from the judiciary, trade associations and services, and from fraudulent and other unfair selling practices, especially in the telecommunications industry.[8]In Nigeria, like many other countries, consumer rights are enshrined in various laws and regulations to shield citizens from exploitation and ensure their economic welfare. The researchers intend to restrict the work to the financial and banking sector, for the purpose of this research.

The Consumer Protection framework in the banking sector applies significantly to all financial institutions regulated by the Central Bank of Nigeria[9], and thus, contains high level provisions supporting Nine (9) Consumer Protection principles. The essential principles relate to Legal Regulatory and Supervisory Structures, Responsible Business Conduct, Disclosure and Transparency, Consumer financial Education, Fair Treatment, Protection of Consumer Assets, Data and Privacy, Complaints, Handling and Redress, Competition, and Enforcement.[10] Recent studies on technological innovations in the financial services in Nigeria, paint a glowing picture of potential growth in digital financial services due to the rapidly growing mobile penetration and smart phone ownership, a lack of constraints from the traditional legacy banking systems and a growing population.[11] Such innovations as EFinA,[12] have championed financial inclusions with the adoption of digital financial services that has grown exponentially with millions of Nigerians daily

established in 1992, was the first consumer protection law that was specifically deals with the practical enforcement of consumer rights.

[6] *Ibid*.

[7] Omatseyin O.F, "Consumer Protection in Nigeria: The New Regime,"<http:consumerinternational.org/media/22 55/consumer-protection-in-Nigeria-research-report-eng-pdf>; accessed on 26th January, 2025.

[8] Piwuna M.G; *ibid.*

[9] Herein referred to as CBN.

[10] World Bank Group, "Diagnostic Review of Financial Consumer Protection: Key Findings and Recommendation," June,2017;<https://rosgrady.com/wp-content/uploads/2018/09/Nigeria-Diagnostic-Review-of-Financial-Consumer-Protection-June-2017.pdf; accessed on 26th January, 2025. The Reviews were conducted against Good Practices and had been prepared by the World Bank in middle as well as low-income countries. <http://responsiblefinance. worldbank.org/diagnostics-reviews>.

[11] *Ibid*.

[12] Enhancing Financial Innovation and Access (EFinA) "Transforming Lives through Consumer Protection: A Call to Action for Financial Service Actors," https://efina.org.ng/publication/transforming-lives-through-consumer-protection-a-call-to-action-for-financial-service-actors/Citations>; August, 2024; accessed on 27th January, 2025. EFinA is the leading financial sector development organization working to promote financial inclusion in Nigeria.

transacting on such platforms;[13]and with the introduction of the FCCPC[14] which has a broad consumer protection functions and powers which applies to all products and services – including financial products and services. Despite these achievements, the researchers are of the view that the need for improvement is apposite.

In view of the above, the researchers tend to back their arguments on the findings, interpretations and conclusions expressed by the World Bank Group on consumer Protection and financial literacy which in summary draws up the need of still strengthening and operationalizing the consumer protection framework in Nigeria, especially where it has a relatively low levels of financial inclusion;[15] and again, where there is potential for rapid innovation in financial services and their delivery, irrespective of the degree of complexity and risks for consumers with low levels of financial and technological literacy.[16] A recent survey showed that a significant proportion of formally served Nigerians face challenges related to fraud incidence, poor service, high banking costs and a lack of clarity in financial institutions.[17]

Perhaps, of most negative consequence, the Central Bank of Nigeria (it is worth mention), took steps towards institutionalizing financial consumer protection with the establishment of a dedicated Consumer Protection Department and high level of consumer protection framework, but the current legislative overlaps mayhap, makes it clear the provisions of FCCPC prevails over sector-specific legislation, which in essence, takes precedence over any other government agency (including the CBN), despite the provisions of the (BOFIA) Act[18] which provides the contrary. The researchers again feel there is a need to address the in-congruency in the legislation.

2.0 The Legal Framework for the Safeguard of Banking and Financial Customers/Consumers in Nigeria.

This paper shall go further to examine the various regulatory laws or legal regimes on banking and consumer protection.

2.1 Central Bank of Nigeria Act, 2007.

The Central Bank of Nigeria Act[19] came into effect on 25th of May, 2007. The Act repealed the CBN Act of 1991 and all its amendments; and serves as the current legal framework within which

[13]*Ibid*. Established in late 2007 and well known within the Nigerian financial sector development space for providing thought leadership toward achieving financial inclusion and championing the unbanked, EFinA's vision is to be the leader in facilitating an all-inclusive and growth promoting financial system.

[14]The Federal Competition and Consumer Protection Commission, which was established by the Federal Competition and Consumer Protection Act, for the development and promotion of fair, efficient and competitive markets in the Nigerian economy, to facilitate access by all citizens to safe products and secure the protection of rights for all consumers in Nigeria, and for related matters.

[15] World Bank Group; *ibid*.

[16] World Bank Group. *op cit*.

[17] (EFinA) "Transforming Lives through Consumer Protection:" *ibid.*

[18] Banks and Other Financial Institutions Act, 2020.

[19] Herein referred to as CBN Act, 2007.

the Central Bank operates and subject to the provisions of the Act, it refers to the Central Bank as a new entity and states; -

"There shall be established for Nigeria a body known as the Central Bank of Nigeria."

Furthermore, the standard rights of a corporation are reserved; i.e., succession, common seal and the right to sue and be sued, and guaranteeing independence of the bank in the discharge of its duties. The Act expressly provides that the CBN can be a fully autonomous body in the discharge of its functions under the Act,[20] and the Banks and Other Financial Institutions Act[21] with the objective of promoting stability and continuity in economic management, ensuring monetary stability as well as rendering economic advice to the Federal Government.[22]

The Act further re-established the Financial Services Regulation Coordinating Committee (FSRCC)[23]for the purpose of encouraging not only uniformity amongst financial institutions,[24] but also creating solutions that promote a safe, sound and efficient practice by financial institutions.[25] The CBN apart from making public at all times its monetary policy rate,[26] also that the stability of the banking system and the safety of depositor's funds remain top priority, by monitoring closely with banking operations to ensure that they are in full compliance with regulatory standards, operational transparency and the interests of depositors or consumers.[27]

The Act again has the power to license and regulate credit bureau. This novel provision permits the credit bureaus that once licensed, to be able to obtain information on the customers of banks and other financial institutions in a manner to be approved by the CBN.[28] Provided that such disclosure of any credit information by the bank to any person or institution is made confidential between the bank and the person or institution to whom the information is disclosed.[29]

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[20] CBN Act 2007; s. 2(a)

[21] BOFIA Act, 2020

[22] CBN Act; *ibid*, s. 2(e)

[23] CBN Act 2007; *op cit*, s. 43

[24] *Ibid*, s. 44 (a)&(b)

[25] CBN Act 2007; *op cit*, s. 44 (d)&(e). Abudu, Dalley & Co., "Nigeria: The Central Bank 2007 – Significant Changes," https://nigerianlawguru.com/wp-content/uploads/2024/06/BRIEF-ON-CBN-ACT-2.pdf > accessed 11th February, 2025. The previous legislation, it should be noted, also established the Committee, while the new Act maintained its provisions.

[26] *Ibid*, s. 35

[27] *Ibid*, s. 27 (e)&(f); s. 42 (1)(a) &(b). this is in line sub-paragraph (c) of the old Act which requires the bank to promote monetary stability and a sound financial system in Nigeria. H.M Ashike, "Press Release: CBN Assures Public of Keystone Bank's Stability Following Forfeiture Order by Court; < https://businessday.ng/banking-finance/article/cbn-assures-public-of-keystone-banks-stability-after-court-order/ >14th February, 2025; accessed on 21st February, 2025.

[28] CBN Act, s. 1(3); s. 57(1)

[29] *Ibid*, s.57 (2)

2.2 Banks and Other Financial Institutions (BOFIA) Act, 2020.

The review of the regulatory framework for banking and finance in Nigeria, most importantly, the subsequent amendment and replacement of the now repealed Banks and Other Financial Institutions Act, 2004, was imperative if one can revert back to the period of 2004 and 2007 financial crisis as result of excessive risk taking, reckless credit facilities and other unethical practices in the system.[30]

The intention of the enacted amended Act[31] was to update the existing Act to tackle some of the challenges in the Nigerian banking and financial services industry. The mandate of the Act is to regulate banking and businesses of other financial institutions by prohibiting the carrying on of such businesses in Nigeria except under license and by a company incorporated in Nigeria, update laws governing banks, financial institutions and financial services companies, enhance efficiency in the process of obtaining and granting banking licenses, accurate delineate the regulatory functions of the CBN (referred to as the "Bank" for this purpose of the above sub-heading) in the financial services industry, update and incorporate the laws enacting, licensing and regulating micro-finance banks, regulate the activities of the financial technological companies (Fin-Techs) and update commensurate penalties for regulatory breaches in the financial services sector.[32] We shall now analyze the essential regulations as provided in the amended Act in detail.

Under the Act, it is an offence for any person or body to transact banking business without a valid license issued by the CBN.[33] Such offence attracts a stiff penalty of N50 million (Fifty Million Naira) or two times the cumulative deposits, or the amount collected, or both imprisonment and fine for anyone who violates the provisions.[34] The Act further extends the scope of the CBN's regulatory oversight and licensing over and beyond just the collection and solicitation of deposits from the general public.[35]

The amended Act again provides for non-compliance with the conditions of license, that any bank which fails to comply with any of the conditions of its license shall be liable to a penalty of N500,000.00 (Five Hundred Thousand Naira) for each day during which the condition is not complied with. This is a significant change with the old Act which such penalty on conviction for non-compliance attracts a fine not exceeding N50,000.00 (Fifty Thousand Naira) for each day during which the conditions are not complied with.[36]

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[30] K.O Ogwemoh, "An Overview of the Banks and Other Financial Institutions Act, 2020," (Newsletter)< https://www.kmo.legal/wp-content/uploads/2020/12/AN-OVERVIEW-OF-THE-BOFIA-2020.x45260.pdf> accessed on 11th June, 2025

[31] BOFIA Act, 2020

[32] K.O Ogwemoh, *op cit*.

[33] BOFIA Act 2020; s.2(1)

[34] *Ibid*, s.2(2)

[35] *Ibid*; s.2(5) (a)&(b)

[36] *ibid*; s.5(3)

The Act also provides that failure of any bank to comply with any fresh or additional condition imposed in relation to license, shall be liable to a penalty of not less than N5,000,000.00 (Five Million Naira) and an additional fine of N500,000.00 (Five Hundred Thousand Naira) for each day during which the fresh and additional condition is not complied with.[37]

The amended Act, somewhat interestingly, made a significant expansion in the provision dealing with the revocation of banking license.[38] Unlike the old Act which had only one sub-section, the amended Act enlarged the provision to cover more grounds by adding six (6) sub-sections.[39] In addition, the Act provides that no bank may open or close any branch office, cash centre or representative office anywhere within or outside Nigeria, except with the prior written consent of the Bank (CBN).[40] Non-compliance again, attracts a fine.

Moreover, in an unexpected course of event, the Act provides that where any bank proposes to enter any agreement or agreement for restructuring, re-organization or merger, the Bank (CBN) may on application of any of the banks to be affected, order separate meetings of the banks to be summoned in such manner as the Bank may direct.[41]

The new Act again made noteworthy changes to the regime for publication of financial statements by the banks and other financial institutions, which shall be not later than Three (3) Months, after the end of their financial year.[42]

2.3 Consumer Protection Framework 2016

The Consumer Protection Framework essentially defines the direction of the CBN on consumer protection that would ultimately result in the development of various regulatory or supervisory instruments that would aid in the achievement of the overall objectives.

The Central Bank of Nigeria released the Consumer Protection Framework on 7th November, 2016 to enhance consumer confidence in the financial services industry and promote financial stability, growth and innovation.[43] The idea of such framework came at a time of growing concerns over bank's alleged unethical conducts towards consumers, particularly in the areas of arbitrary charges. The essential objectives of the framework is to protect the consumer's assets,[44] ensure timely complaints handling and dispute resolution as well as ensure financial services operators put in

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[37] *Ibid.*

[38] *Ibid*, s.12(1)

[39] *Ibid.*

[40] BOFIA Act 2020; s.6(1)

[41] *ibid*, s.7(1)(a)(b)(c)(d) &(e); s.7(2)

[42] BOFIA Act 2020: s.26(1). By applying to the Bank (CBN) for approval to publish the financial statements prepared in accordance with the relevant accounting standards as may be prescribed by the relevant authorities. This also applies to non-interest banks. Sub-section (2) provides for the procedure expected of banks to publish same after approval by the CBN.

[43] ThisDay Newspaper (Online), "CBN Releases Consumer Protection Framework for Financial Institutions,"< https://www.thisdaylive.com/2016/11/09/cbn-releases-consumer-protection-framework-for-financial-institutions/> accessed on 11th June, 2025.

[44] Article 2.6

place, effective consumer risk management framework. Other objectives are to empower consumers to make informed decisions,[45] promote professionalism and ethics, and outline the rights and responsibilities of consumers. The consumers under the guidelines are now at liberty to engage in banking transactions with their preferred financial institutions. Consumers would also exercise the right to terminate contracts, change or switch financial institutions, products and or services subject to contractual terms.[46]

The scope of the framework is further enhanced to guide the effective regulation of consumer protection practices of financial institutions under the regulatory purview of the CBN to ensure that consumers of financial services are adequately protected and treated fairly.[47] The institutions defined under this section include: Commercial and Merchant Banks, Specialized Banks, Micro-Finance Banks, Discount Houses (DHs) Development Finance Institutions (DFIs), Finance Houses (FHs), Bureau-de-change (BDCs), Primary Mortgage Banks (PMBs) Credit Bureau, Mobile Money Operators and other financial institutions licensed by the CBN.[48]

The framework again provides for the existence of a legal, supervisory and regulatory structure to protect consumers of banking and other financial services regulated by the CBN.[49] It further states that institutions mandated to fulfill consumer protection shall have the necessary authority to fulfill their mandate, clear responsibilities supported by appropriate governance structures, operational independence and high professional standards.[50] This encompasses the measures designed to shield consumers from exploitative, unfair or deceptive market practices. It also empowers the consumers to make informed decisions by ensuring access to accurate information and providing effective channels for resolving disputes and seeking redress.

Under the complaints and handling, the framework provides for adequate measures to be established to address disputes that may arise from interactions and relationships between financial institutions and the consumers.[51] The existence of effective complaints handling mechanisms that are affordable, timely, transparent, accessible and independent would enhance overall consumer confidence in the financial system.

2.4 Consumer Protection Regulation 2018.

The Consumer Protection Regulation was established by the CBN pursuant to powers conferred on it by the Act,[52] and the Banks and Other Financial Institutions Act 1991 (as amended) to give effect to the principles contained in the Consumer Protection Framework for institutions licensed and/or

[45] Article 2.3

[46] ThisDay Newspaper; *op cit*.

[47] Article 1.2

[48] Article 1.2.

[49] Article 2.1

[50] *Ibid*; also provided in art. 2.1.1, which states that Financial Consumer Protection shall be carried out by the Central Bank of Nigeria (CBN) in accordance with powers granted in s.2(d) of the CBN Act and s.57 of BOFIA.

[51] Article 2.7

[52] Cbn Act, 2007

regulated under the CBN. The regulation further provides the minimum standards required of institutions under the regulating purview of the Bank (CBN) on fair treatment of consumers, disclosure and transparency, business conduct, complaints handling and redress; in order to protect the rights of the consumers and to hold the institutions accountable.

Under Part I of the rules, the scope and objectives shall apply to all institutions licensed and/or regulated by the CBN. Institutions shall ensure that the provisions of the regulation form part of any consumer related transaction, product or service agreement they may enter into with any other institution which are otherwise not regulated by the CBN.[53] The objectives further protects consumers from: unfair and exploitative practices by institutions in their dealings with the consumers,[54] unethical and predatory practices by institutions that undermine consumer confidence in the use of financial products and services;[55] it also protects against the provision of inadequate and misleading information and/or failure to disclose material information,[56] and ensuring access to complaint redress mechanisms that are free fair, timely, transparent in their dealings with consumers,[57] accessible and independent.[58]

Part Five of the rules which accommodates Complaints Handling and Redress, ensures that disputes shall be the responsibility of the institutions and consumer complaints shall be lodged for timely resolution and redress[59] with the availability of management channels to receive and handle the complaints. This may be by way of verbal complaints or complaints channeled through letters, e-mails, telephone/mobile lines, social media and digital software platforms.[60]

The institutions shall not later than Three (3) Months after the issuance of the regulations, develop a policy approved by the board of directors that documents the processes, procedures and systems designed to ensure compliance with the provisions of the regulation.

2.5 The Federal Competition and Consumer Protection Act.[61]

This may arguably be stated as the most fundamental or main statute governing consumer protection and equally competition regulation in Nigeria. The Act was enacted in 2019 and introduced significant reforms in Nigerian consumer law, focusing on curbing trade practices, ensuring transparency and promoting fairness in the market place.[62] The FCCPA established the

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[53] Under Part I of the CPR Regulation, 2018, art. 2

[54] CPR 2018, art. 1.1; see also art. 3.3 which deals with Unfair Contract Terms

[55] CPR 2018, art. 1.2; see also art. 3.31 (b)&(c)

[56] *Ibid*; art. 1.3.

[57] *Ibid*; art. 1.5; see also art. 4.1 and art. 4.4

[58] *Ibid*: art. 1.4.

[59] *Ibid*; art. 6.1

[60] *Ibid*; art. 6.2. Art. 6.3 contain provisions for internal dispute resolution structures and processes; this internal dispute can go as far up the chain to the CBN on certain circumstances – art. 6.4.

[61] Herein referred to as the FCCPA 2018

[62] W. Olanipekun, *et al*, "An Analysis of the FCCPA and its Role in Safeguarding Consumers in Nigeria" (22nd April,2025)<https://www.woleolanipekun.com/wp-content/uploads/2025/04/Legal-Lens-An-

Federal Competition and Protection Competition (FCCPC) and the Competition and Consumer Protection Tribunal (CCPT) for the development and promotion of fair, efficient and competitive markets in the Nigeria economy to facilitate access by all citizens to safe products and secure the protection of rights for all consumers in Nigeria, and for all related matters.[63] The FCCPC[64] plays an important role in the enforcement of the FCCPA. As the primary regulatory body, the FCCPC has broad mandate which includes monitoring, investigating and prosecuting violations of the Act. The key provisions in the Act include:

2.5.1 Consumer Protection Rights:

The Act outlines the objective of the Act which includes protecting and promoting the welfare of consumers. It further mandates that businesses act fairly towards consumers, and enhance the development of competition in Nigerian markets in order to promote economic efficiency;[65] and to ensure the consumer's right to safety, quality products and accurate information, failure to which attracts sanctions to the defaulters.[66]

The Act also deals essentially with practices relating to pricing of goods and services, further prohibiting unfair practices in the nature of deceptive pricing strategies that would affect the consumer.[67] It goes further to prohibit fraudulent and deceptive misrepresentation of goods and services by businesses to consumers and empowers the commission,[68] to set standards for the safety and quality of goods and services in Nigeria, ensuring that only safe and reliable products are sold to the consumers. The Act again empowers the commission to investigate, determine and address unfair contract terms that are a disadvantage to consumers and the economy.[69]

In addition, the Act sets out the penalties for violations which include fines and other sanctions that can be impose on businesses found guilty of engaging in unfair trade practices or violating consumer rights.[70] Thus, consumers whose rights have been breached under the Act are at liberty to enforce their rights and seek redress through appropriate means.[71] In summary, it is through this effective implementation of the FCCPA that consumers are better informed about their rights and can more effectively hold businesses accountable for poor practices.

Analysis-Of-The Federal-Competition-And-Consumer-Protection-Act-FCCPA-And-Its-Role-In-Safeguarding-Consumers-In-Nigeria.pdf> accessed on 12th June, 2025.

[63] W. Olanipekun; *op cit.*

[64] Federal Competition and Protection Competition (herein referred to as FCCPC)

[65] FCCPA, s.1; W. Olanipekun; *ibid*.

[66] *Ibid*; s.17, also in ss.116 & 117

[67] *Ibid*; s.107

[68] *Ibid*; ss.123&125

[69] *Ibid*; ss.107&127.

[70] *Ibid*; s.142

[71] *Ibid*; s.146

3.0Consumer Protection in the Financial Services Sector.

On a daily, consumers are faced with a myriad of choices, be it from the banking and financial markets. It is axiomatic these can impact on their financial well-being and the society as a whole; therefore, a study of the issues, opportunities and challenges for financial consumers in relation to financial services, with particular salient consideration on the banking sector in Nigeria will be very much apposite.

3.1 The Banking System and Reforms in Nigeria.

As a component of the financial sector, the reforms in the banking sector seeks to get the incentives right for the sector to take the lead role in enhancing the intermediation role of the banks and enable them contribute to economic growth. The rationale for these reforms was an integral part of the country-wide reform program undertaken to reposition the economy to achieve the objective of becoming one of the largest economies in short order.[72]

Banking sector reforms in Nigeria have been embarked upon to achieve the following objectives, among others: market liberalization in order to promote efficiency in resource allocation, expansion of the savings mobilization base, promotion of investment and growth through market-based interest rates. Other objectives are: improvement of the regulatory and surveillance framework, fostering healthy competition in the provision of services and laying the basis for inflation control and economic growth.[73]

In the past, the banking sector in Nigeria had witnessed significant reforms and hard choices were made to tackle the lingering effects of global financial crisis; as we aware of the global crisis of 2007-2009 which collapse several prestigious financial institutions of the world.[74] Factors which necessitated this collapse include: macro-economic instability caused by large and sudden capital flows, major failures in corporate governance at the banks, lack of investor and consumer sophistication, inadequate disclosure and transparency about the financial position of banks, critical gaps in the regulatory framework and regulations, unstructured governance and management processes at the CBN, and uneven supervision and enforcement.[75] Since then and to this present time, measures have been introduced to establish financial stability, a healthy evolution of the financial sector and ensure the banking sector contributes to the development of the real economy.

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[72] S.L Sanusi, "Banking Reform and its Impact on the Nigeria Economy," CBN Journal of Applied Statistics (Vol.2No.2(2012),<https://www.cbn.gov.ng/out/2012/ccd/cbn%20jas%20vol%202%20no%202_document%20two.pdf>pg.115; accessed on 14th June, 2025.

[73] C.M Anyanwu, "An Overview of the Current Banking Sector Reforms and the Real Sector of the Nigerian Economy," CBN Journal of Economic and Financial Review (Vol.48/4) 2010 <https://www.cbn.gov.ng/Out/2012/publications/reports/rsd/efr-2010/Economic%20and%20Financial%20Review%20Vol%2048%20No%204,%20December%202010/An%20Overview%20of%20Current%20Banking%20Sector%20Reforms%20and%20the%20Real%20Sector.pdf pg. 31; accessed on 14th June, 2025

[74] S.L Sanusi, *ibid.*

[75] *Ibid*, pg. 116. The CBN rescued some of the banks through capital and liquidity injections as well as removal o their top executives and consequent prosecution of those who committed some infractions.

3.2 Consumer Protection in the Nigerian Banking and Financial Industry.

Consumer Protection is a rapidly evolving area and policy makers have established various techniques to address issues such as appropriate sale practices, develop new supervisory tools and assessing the market behavior of the financial service providers.[76] The principle of every licensed banking and financial institution is to deliver the required level of fair treatment, honesty and financial inclusiveness; and to meet the strategic objectives for financial consumer protection.[77] The financial system is dominated by the banking sector which represents 75percent of the system's assets. The banking sector holds immense importance in the economy, thus, essential to establishing a framework that protects customers from fraudulent activities, unfair practices and financial exploitation.[78]

Consumer Protection is regulated by the Central Bank of Nigeria, and the apex bank has already taken important step towards institutionalizing financial consumer protection with the establishment of a dedicated Consumer Protection Department (CP Department) and development of a high-level Consumer Protection Framework (CP Framework). The CP Framework applies to all financial institutions regulated by CBN and contains high-level provisions supporting nine key consumer protection principles.[79] These principles relate to: i) Legal, Regulatory & Supervisory Structures; ii) Responsible Business Conduct; iii) Disclosure & Transparency; iv) Consumer Financial Education; v) Fair Treatment; vi) Protection of Consumer Assets, Data & Privacy; vii) Complaints Handling & Redress; viii) Competition; and ix) Enforcement. While the provisions of the Act[80] serve to protect the rights of the consumers of financial products and services, it is also implicit in the promotion of safety and stability of the financial system among others, engender and sustain public confidence. The CBN's Consumer Protection Department is formally responsible for supervising all financial institutions regulated by CBN in respect to consumer protection matters but given limited capacity, resources, and enforcement powers in practice it focuses primarily on commercial banks.[81]

Notwithstanding the above innovations by the CBN, customer complaints in the banking and financial sector have become increasingly common and extensive, which include unauthorized

[76] O. Ajai, "Financial Consumer Protection," (Vol.1 Issue 10)2020 https://sustainabledfs.lbs.edu.ng/wp-content/uploads/2021/08/DFS%20Policy%20Tracker%20-%20October.pdf > accessed on 15th June 2025.

[77] SAMA, "Banking Consumer Protection Principles," Saudi Arabia Monetary Agency Consumer Protection Department, June, 2013https://country.db.com/mea/documents/Consumer_Protection_Code.pdf?language_id=1 >accessed on 15th June, 2025.

[78] World Bank Group, "Diagnostic Review of Financial Consumer Protection: Key Findings and Recommendation," June, 2017; *op cit*.

[79] *Ibid*.

[80] Cbn Act 2007

[81] World Bank Group, "Diagnostic Review of Financial Consumer Protection: Key Findings and Recommendation," June, 2017; *ibid.*

deductions, excessive charges and digital fraud – fraudsters exploit gaps in the cyber-security;[82] while the consumer often bear the financial burden of system errors, for instance payment systems like the Point-of-Sale System (POS) used to process customer payments for goods and services using credit or debit cards, may decline and yet would still debit the customer financial account. A common challenge is the need of an adequate institutional structure for financial consumer protection; however independent of the specific institutional structures, financial consumers should have one single agency where to submit complaints and inquiries.[83]

Though innovation and inclusion have gained foothold in the financial fold, there is still the need for a strong and robust consumer protection, which in the absence of it, the financial sector risks stagnation as disillusioned consumers will disengage from formal financial services and may yet revert to the old/ancient system of transacting and other services.[84]

3.3 A Nexus for the Attainment of Financial System Stability: The Challenge to Date.

The Consumer Protection Council Act was enacted in 1992. However, consumer laws are neither comprehensive nor coherent still.[85] They are thus, largely scattered in various legislations; foremost among them which concerns the applicability of the Federal Competition and Consumer Protection Act, 2018 ("FCCPA") to consumer protection matters in the banking industry, and has been a subject of legal debate. There have been mixed judicial decisions by Nigerian courts on whether consumer complaints arising from banking transactions fall within the regulatory purview of the Federal Competition and Consumer Protection Commission ("FCCPC").[86]

The relevant section in the BOFIA Act[87] provides that, *"provisions of the Federal Competition and Consumer Competition Protection Act shall not apply to any function, act, financial product, or financial services issued or undertaking, and transaction howsoever described by a bank or other financial institutions licensed by the Bank."* Similarly, FCCPA states that *"notwithstanding the provisions of any other law, but subject to the provisions of the Constitution of the Federal Republic of Nigeria, in all matters relating to competition and consumer protection, the provisions of this*

[82] O. Eromosele, "Strengthen Consumer Protection in Nigeria' Financial System: A Call for Action< https://businessday.ng/brands-advertising/article/strengthening-consumer-protection-in-nigerias-financial-system-a-call-to-action/> January 24, 2025; accessed 16th June 2025

[83] O. Eromosele; *op cit*.

[84] *Ibid*.

[85] S.L Sanusi, *op cit*.

[86] G. Elias, "The BOFIA, the FCCPA and the Battle for Supremacy: Does the FCCPA apply to Consumer Complaints Arising from Banking Transaction?" 19th March, 2025 <https://www.gelias.com/images/The_BOFIA_the_FCCPA_and_the_Battle_for_Supremacy_05032025.pdf > accessed 16th June, 2025.

[87] BOFIA Act 2020; s. 65(1). An addendum under s. 29(1) paragraph (2) provide that the Bank (CBN) may share information regarding other banks and financial institutions with other agencies or institutions, or grant access to books and records of banks to these agencies or institutions (which the researchers assume would also include the FCCPC). Section 29 (1) BOFIA Act further empowers the Bank with regulatory and supervisory authority over any other agency or institution.

Act shall override the provisions of any other law.[88]" The Act even went further to emphasize the supremacy of the provision over any law concerning consumer protection and competition.[89] Moreover, as pointed out, judicial decisions are divided on this debate.

In the 2023 case of *Lamfat Gas Nig Ent, Ltd v Kuda Microfinance Bank*,[90] the claimant in relying on the FCCPA, argued that the act of the Defendant, its bankers, contravened s.114 of the Act in placing restrictions on its account without issuing prior notice. On the other hand, the defendant bank argued that BOFIA Act, under s. 65(1) expressly excludes the application of the FCCPA to the banking industry. The defendant also argued that the account opening terms and conditions, which constitutes an agreement between the parties, enables the defendant to place restrictions on the claimant's account where reports or investigations disclose that the claimant has been engaged in fraudulent activity. By its judgment, the High Court of Lagos State agreed with the defendant and held that the claimant is bound by the account opening terms and conditions and the defendant was right to have placed restrictions on the account. The court further held that the provisions of section 65(1) of BOFIA expressly exclude the application of the FCCPA to the banking industry.[91] However, in the more recent case of *Emeka Nnubia v Honourable Minister of Industry, Trade and Investment et al*[92], the Federal High Court held that s.104 of the FCCPA grants the FCCPA jurisdiction across all sectors and the FCCPC as the primary competition authority, has the powers to collaborate with industry specific regulators for effective enforcement. In that case the Plaintiff, a shareholder of MTN Nigeria Communications Plc ("MTN") instituted the action to challenge the FCCPC's authority to investigate MTN and restrain the FCCPC from further investigating MTN. The Plaintiff argued that MTN was within the sole regulatory purview of the Nigerian Communications Commission (NCC) and the FCCPC did not have the authority to investigate MTN.

Consumer protection relates with financial inclusion which enhances financial stability and contributes to economic growth and financial efficiency, regardless of the social aspect to improve the living conditions of clients. Many countries have included financial inclusion as an objective of their national strategy. These developments pose significant challenges for financial regulators, which consider how to make financial inclusion to be aligned with the strategic objectives including financial stability and consumer protection. In light of the above, the inconsistencies in precedents raise questions on interpretation, especially on these two Acts of the National Assembly; and the true intention of the mindset of the legislature in making the Acts, as to the actual mandate of both enactments. On the one hand, the BOFIA Act explicitly excludes other agencies' (including the

[88] FCCPA 2018, s. 104.

[89] *Ibid*; s.105(2)

[90] Suit No.: LD/6869GCM/2023.

[91] *Ibid*. The researchers are of the view that the court, with due respect, may have acted *per incuriam* in deciding the matter without total consideration of the provisions of s.104 of FCCPA Act.

[92] Suit No. FHC/L/CS/1009/2024. Also, *Wema Bank v FCCPC* (Suit No: FHC/L/CS/450/2021),

FCCPC's authority under the FCCPA) applicability to banking transactions, while the provisions of the FCCPA asserts its over-riding powers and effect in consumer protection matters.[93]

All markets require effective information and interactional institutions between suppliers and consumers for their effective functioning and to avoid market failure, not least financial markets.[94] It must be stressed that financial stability, financial integrity, and financial consumer protection are mutually reinforcing, interdependent and must be simultaneously advanced. A stable financial system is very important because it reinforces trust in the system. It prevents phenomena such as a run-on bank, which can destabilize an economy. A sound financial system signals to the consumer that their money is handled in a way that will not unduly jeopardize it.

4 0 Conclusion and Recommendations

Protecting consumers from abusive practices and enabling them to make well-informed decisions regarding the use of financial products and services is a principal policy goal in and of it-self; but also has implications for the healthy development of the financial sector, financial inclusion, and broader economic growth. Considering the significant potential detriment that financial services can cause to the individual consumer and to the single market, consumer protection policy needs to properly focus on these services. Improved transparency and better-informed transactions resulting from such policy will result in better solutions for consumers and greater market efficiency.

Scholars and various legal writers have voiced the need for the courts to analyze the relevant provisions of the BOFIA Act,[95] considering that consumer complaints arising from banks' transaction may not be based entirely on financial markets. On the other hand, most seem to view that the FCCPA supersedes every other financial legislation.

Most of these complaints may relate primarily to consumer rights violations (which is within the ambit of the FCCPC);[96] and also worthy of thought is whether the FCCPA[97] which asserts supremacy in consumer protection matters can co-exist with the provisions of the BOFIA.

Furthermore, the researchers strongly believe that an effective consumer protection regime is key to ensuring that expanded access to financial services benefits consumers, enabling them to make well-informed decisions on how best to use financial services, building trust in the formal financial sector, and contributing to healthy and competitive financial markets. In addition to the above submission by the scholars, it is pertinent to retrace steps to the source; thus, a review of every aspect of both statutes by the legislature. From the annals of the conflict, it is clear by the provisions of BOFIA, the Central Bank and other banking sectors have a vested interest in the Act.[98] This stems from the fact that the provisions of the FCCPA, being too broad, cannot in real time, cater to the particular regulatory needs of the banking sector to ensure its stability.

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[93] G. Elias; *op cit*. *Wema Bank v FCCPC* (*Supra*).

[94] S.L Sanusi, *op cit*.

[95] BOFIA Act 2020, ss. 65(1) & 29(1).

[96] G. Elias; *ibid*.

[97] FCCPA 2018, ss. 104 & 105(2).

[98] Section 65 of the BOFIA Act which is the Competition clause, expressly ousts the FCCPA in applying any form of financial services operated by any bank or financial institution licensed by the Bank.