

**ANALYSIS OF THE LEGAL FRAMEWORK OF CURRENCY TRADING AND
EXCHANGE IN NIGERIA: A COMPARATIVE STUDY OF NIGERIA AND UNITED
STATES (US)**

**A PROJÉT SUBMITTED TO THE FACULTY OF LAW ALEX EKWUEME FEDERAL
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TITLE PAGE

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APPROVAL

The Long Essay titled “Analysis of the Legal Framework of Currency Trading and Exchange in Nigeria: A Comparative Study of Nigeria and United States” has been assessed and approved by the Undergraduate Studies Committee of the Faculty of Law, Alex Ekwueme Federal University, Ndufu Alike Ikwo.

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DEDICATION

To the Almighty who knows the end of everything right from the very beginning.

And to all the remarkable teachers in my life, whose wisdom and inspiration have not only enriched my life but is a ladder to where I stand. May this work be a testament to the power of knowledge, perseverance, and the transformative impact of educators who have touched my life.

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LIST OF ABBREVIATIONS

AFEM	Autonomous Foreign Exchange Market
ARDL	Autoregressive Distribution Lag
BIS	Bank for International Settlement
BNYM	Bank of New York Mellon
BOFIA	The Banks and Other Financial Institutions Act
CBN	Central Bank of Nigeria
CEA	Commodities Exchange Act
CFTC	Commodities Futures Trading Commission
ECPs	Electronic Credit Payment System
EMH	Efficient Market Hypothesis
FIIOLA	Financial Institutions and Intermediaries, Options, Leverage and Asset.
FX	Foreign Exchange
GBP	Great British Pound
GDP	Gross Domestic Product
FDI	Federal Direct Investment
FMOLS	Fully Modified Ordinary Least Squares
IMF	International Monetary Fund
IBRD	International Bank for Reconstruction and Development
MPC	Monetary Policy Committee
NBS	Nigerian Bureau of Statistics
NGP	Nigerian Pound
OTC	Over the Counter
PWC	Price Waterhouse Coopers
SEA	Securities Exchange Act
SEC	Securities Exchange Commission
US	United States
WB	World Bank

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ABSTRACT

The status of currency trading and exchange in Nigeria is a pivotal ingredient and a key determinant factor of the level of output growth of the country, and to facilitate such, effective foreign exchange policies are highly recommended. This is geared towards the preservation of the domestic currency (Naira), the maintenance of a favorable external reserve position, ensuring external balance without compromising the need for internal balance, and the overall goal of macroeconomic stability. The main objective of this research is to investigate the true position of the casual relationship between the Nigerian exchange rate and dollars through a comparative study of the economies of these respective jurisdictions. By examining the regulatory environment in both countries, we can identify areas where Nigeria can improve its policies to promote a more conducive environment for currency trading. The study employs a qualitative research approach, examining relevant laws, regulations, and case studies in both jurisdictions. The research focused on comparing the regulatory environments, licensing requirements, and enforcement mechanisms in both countries. Through a thorough analysis of relevant laws, regulations, and case studies, the research provides valuable insights into the differences and similarities between the two jurisdictions. This comparative study aims to contribute to the existing literature on currency trading and exchange regulations in emerging markets like Nigeria. The findings in relation to this research boil down to the internal defects that pose a threat to Nigeria's domestic currency boost, which can be corrected through a review of the policies and legal framework existing in relation to the economy as well as corresponding adherence to the dictates of international organizations. In the overall, this study will contribute to the ongoing discourse on economic development and foreign exchange management in Nigeria.

CHAPTER ONE

INTRODUCTION

Currency trading and exchange is not just a theoretical concept but a rather practical and important aspect of any economy irrespective of the jurisdiction ranging from developed countries to third world countries. This is due to the fact that it determines the level of growth and development of the internal affairs of a State as well as facilitates international trade, investment and other economic and financial activities. The legal framework governing currency trading and exchange varies across countries, reflecting differences in economic, political and social circumstances. The hallmark of a nation's development is its contribution to the global economy and a significant tool is the revisiting and enactment of the nest of legal frameworks towards the promotion of a nation's currency. For the past half century, the U.S dollar has predominantly¹ served as the Worlds International currency, thwarting challenging attempts by several other currencies in the process. The early post World War II period envisaged the pound sterling in competition to the dollar, while in the 1980s, the popular and increased use of *deutsche* mark and the Japanese yen led to speculation that international monetary system was becoming a tri-polar currency regime. By the early 1990s, however, the international use of deutsche mark and yen stabilized at modest levels and expectations of a tri-polar regime subsided. Hence, dollars dominant position as the medium of exchange and unit of account in international monetary system².

¹ S George Tavlas.'The International Use of Currencies: The US dollars and the Euro'. *International Monetary Fund, World Economic Outlook database;and Annual Report (1997)*

² Menkhoff Lukas, Lucio Sarno, Maik Schmeling, and Andreas Schrimpf, 'Currency Momentum Strategies.' *Journal of Financial Economics* [2012] (106) (3) 660-84.

1.1 Background to the Study

Currency markets are pivotal part of the global economy and have evolved over the years to meet the need of traders and investors³. Over the centuries, they have evolved into sophisticated financial exchanges that allow countries, corporations and individual buy and sell goods and services around the world. Currency trading has been around for centuries and can be traced back to biblical times. During the middle ages, banks were established and used to trade currency between Europe and part of Asia. But it was not until the establishment of the gold standard that currency market entered what can be referred to as the modern era.

The Gold Standard

The Gold standard was a monetary system in which the value of a currency was tied to the value of a gold. Under this system, paper money can be exchanged for gold at a fixed rate. The exchange rate for any two currencies was calculated from the piece of an ounce of gold between the two currencies. However, by the beginning of World war I, the gold standard broke down as a monetary system⁴, as large European nations began printing money⁵ to pay for large military projects. The gold standards did reappear between the world wars but was abandoned in 1939.

Bretton woods

Members of the allies met at Bretton woods, new hemisphere, USA and agreed to fix exchange rates with the US dollars replacing gold as the primary reserve currency. The US dollar became the benchmark for currency conversions backed by gold. The Britton wood system was successful

³ G.De Zwart et al., 'The Economic value of fundamental and technical information in emerging currency markets'. *Journal of International Money and Finance*(2009)

⁴ Steve Miley, 'fascinating history of currency trading'. *Hantec Market Ltd*(2022)

⁵ Bishop P. and Don D., 'Foreign exchange handbook'. *New York: McMraw-Hill*(1994)

until early 1970s which time the US treasury could not cover all the US dollar held by overseas banks with gold. The US president, Richard Nixon closed the gold window on 15th august 1971. This meant the end of the ability to readily exchange the us dollar for gold which saw the end of the Britton agreement, however, global organizations were already established., such as the international bank for reconstruction and development, part of the world bank, the International Monetary Fund (IMF) and the General Agreement on Tariffs and Trade (GATT). This later became the world trade organization.

The evolution of foreign exchange market in Nigeria to its present state has been subject to number of influences such as the changing pattern of international trade, institution of changes in the economy and structural shifts in production⁶. Before the establishment of the central bank in Nigeria in 1958 and the subsequent enactment of the Exchange Control Act⁷ of 1962, foreign exchange was earned by private sector and held in balances abroad by commercial banks which acted as agents for local exporters. During this period, agricultural products contributed the bulk of foreign exchange receipts. The fact that Nigeria pound was tied to the British pound sterling at par, with easy convertibility, delayed the development of an active foreign exchange market⁸. However, with the establishment of the central bank of Nigeria and subsequent centralization of foreign exchange authority in the Bank, the need to develop a local foreign exchange market become paramount In Nigeria, currency trading and exchange is regulated by a wide range of laws, regulations and policies, including the Foreign Exchange Monitoring and Miscellaneous

⁶ Agenor Pierra-Richard, 'Output, Devaluation and the Real Exchange Rate in Developing Countries. *'hiv127, WeltwirtschaftlichesArcno (1995) (1) 18-41*

⁷ DO Yinusa and AE Akinlo, (2008). "Exchange Rate Volatility, Currency Substitution and Monetary Policy in Nigeria". *On-line at http://ub.unimenchen.de/16255/MPRA_paper_No.16255*

⁸ Edwards, Sebastian, 'Real Exchange Rates, Devaluation and Adjustment: Exchange Rate Policy in Developing Countries. *Cambridge, Mass; Mit Press (1989).*

provisions Act, the Central Bank of Nigeria Act, the Nigerian Investment Promotion Commission Act, etc.

Generally, the modern currency market is constantly in flux, driven by a vast array of interconnected economic, political and social factors. At the core of these markets is the concept of free floating exchange rates, which allow currencies to fluctuate in response to demand and supply.

1.2 Statement of the Problem

The legal framework governing currency trading and exchange varies across countries and can have impact on not only the trade and investment but on the economic stability of these country. Nigeria is not an exception. However, the legal framework for currency trading and exchange is often complex and subject to change. While in the US, the legal framework is more established and stable leading to the valuable status of dollars in relation to other currencies. This research seeks to address the various ways naira can be traded and its value increased through the innovation of the already existing legal system.

Research Questions

1. How does the legal and economic structure and framework of Nigeria's policies contribute to the value of naira in the international market?
2. What are the currency management and regulations strategies governing currency trading and exchange in Nigeria and the US respectively?
3. What are the impacts of exchange rate on the trade and investments of Nigeria and the US.

1.3 Aim and Objectives

The aim of this research is to determine the rationale behind the status of naira in relation to the existing legal framework through a comparative analysis of the status of the US dollars.

The objectives of this research include;

- To examine the legal and economic structure and framework of Nigeria's policies and its corresponding contributions to the value of naira in the international market.
- To compare and contrast the currency management and regulation strategies governing currency trading and exchange in Nigeria and the United states.
- To determine the consequences and impact of exchange rate on trade and investment in Nigeria and the United States.

1.4 Scope of Study

This research focuses on the concept of currency trading and exchange in Nigeria with the light of navigating through the various legal framework facilitating a healthy foreign exchange market in international level through a comparative study of the status of currency trading and exchange in the jurisdiction of US.

1.5 Significance of Study

The importance of addressing the problem with the fluctuation, instability and depreciation of naira in relation to other valuable international currencies especially the Us dollars, to build an economy that tends to be outstanding nationally to improve the standard of living of her citizens and internationally, to trade in confidence with other jurisdiction. This is in relation to trading of Nigeria naira in the international market.

1.6. Research Method

The research method employs the doctrinal research methodology. This involves the analysis of primary data such as statutes and case laws, and secondary data such as textbooks, journals articles and internet documents. The use of this methodology provides a comprehensive understanding of the existing legal rules, principles and doctrines allowing for a systematic analysis of legal frameworks and their implications. The methodology identifies gap between the two jurisdiction Nigeria and the US respectively in legal provisions which can inform future legal reforms or policy change.

1.7 Limitation of Study

Different limitations curtailed the smooth orchestration of this research. Some of these dampers include time constraints as the researcher battled with attending to lectures and other academic demands and as well writing this research. Even when time is carved out for this research, network issues pose a restrain with respect to the researcher's place of abode as well as lack of power supply. Significantly, another challenge was the lack of fund as the cost of data is on its increase as well as the cost of fuel which restrained the printing of materials due to its high cost.

1.8 Chapter Analysis

Chapter One Analysis: Introduction

Chapter One of this research provides a comprehensive introduction to the concept of currency trading and exchange, emphasizing its significance in the global economy. The chapter effectively sets the stage for the research, outlining the background, research questions, objectives, scope, and significance. The chapter begins by highlighting the importance of currency trading and exchange

in facilitating international trade, investment, and economic growth. The author provides a historical context, tracing the evolution of currency markets from the Gold Standard to the Bretton Woods system. This background information helps establish a solid foundation for understanding the complexities of currency trading and exchange. The research objectives and questions are clearly articulated, focusing on the legal framework governing currency trading and exchange in Nigeria and the United States.

Chapter Two: Literature Review

This chapter provides an examination of the conceptual framework, theoretical frameworks and review of literatures relevant to Nigeria's currency trading and exchange market. It begins by examining certain concepts necessary for the research comprehensively. While The theoretical framework reveals respective schools and their postulation such as the Regulatory Capture Theory which suggests that regulatory agencies can become dominated by the industries they regulate, leading to policies favoring industry interests over public welfare. In contrast, the Efficient Market Hypothesis (EMH) posits that market prices reflect all available information, making it impossible to outperform the market. The Fundamentals and Market Expectations Theory argues that exchange rates respond to real interest rate differentials, news about market fundamentals, and speculative opinions.

A review of related literature on Nigeria's foreign exchange market reveal significant insights. Melvin Ayagu's work highlights the evolution of Nigeria's foreign exchange market, influenced by political dynamics, international trade, and institutional changes. Akindele Olamide's study evaluates the effectiveness of Nigeria's foreign exchange market, finding inefficiencies and recommending stringent monetary policies and transparency. Other studies, such as Itodo et al.,

Iheanachor and Ozegbe, and Oloyede and Otapo, examine foreign exchange pressure, exchange rate fluctuations, and market efficiency. These studies demonstrate the impact of exchange rate fluctuations on economic growth and foreign direct investment.

The review highlights significant gaps in existing literature. Most studies focus on Nigeria's internal dynamics without comparing its legal framework to global standards. Limited research exists on enforcement mechanisms, compliance, and stable strategies for the Central Bank of Nigeria.

Chapter 3: Legal and Institutional Framework for currency trading and Exchange in Nigeria. A Comparative study of Nigeria and US.

Chapter 3 provides a comprehensive examination of the legal and institutional framework governing currency trading and exchange in Nigeria. The chapter is well-structured, dividing the framework into national, foreign, and international categories. The chapter effectively highlights the Constitution of the Federal Republic of Nigeria 1999 as the foundation for currency trading and exchange regulations.

Chapter 4: Analysis of the legal framework of Currency Trading and Exchange in Nigeria. A comparative study of Nigeria and US.

The discussion on the status of the naira and US dollar sets the stage for a nuanced analysis of the legal and economic implications of devaluation. This section effectively highlights the far-reaching consequences of currency devaluation on Nigeria's economy. The overview of regulation of naira and dollar provides valuable insights into the institutional framework governing currency exchange. The comparative analysis between naira and dollar regulations adds depth to the discussion.

Chapter 5: Conclusion

Chapter 5 effectively concludes the research, summarizing key findings on Nigeria's regulatory framework for currency trading and exchange. The comparative analysis with the US highlights areas for improvement, emphasizing the need for strengthened regulations, enhanced enforcement, and improved investor protection.

CHAPTER TWO

LITERATURE REVIEW

The purpose of this section is to identify academic commentary in the area of framework of currency trading and exchange in Nigeria. It sets out the conceptual framework for identifying the main themes of the thesis. The research undertaken by other scholars has been used as a foundation for framing the research questions for the thesis.

2.1 Conceptual Framework

2.1.1 Exchange rate

Exchange rate is the price of one currency expressed in terms of another currency. It is a vital macroeconomic indicator used in determining the overall performance of economies. To Afees, it remains a key price variable in any economy and performs the dual role of maintaining international competitiveness and serves as a nominal anchor for domestic prices.⁹ The exchange rate is usually defined under two major conventions; the direct or indirect method. The direct convention expresses the exchange rate as the price of home currency in terms of one unit of foreign currency, e.g., N305=\$1, while the indirect convention expresses the exchange rate as the price of foreign currency in terms of one unit of home currency,¹⁰ for example, N1=\$0.003. These conventions are particularly important when emphasizing the performance of a currency, that is, in terms of appreciation or depreciation, in relation to the exchange rate regime in practice, and in

⁹ Afees. A. S , Modeling and forecasting Exchange Rate volatility in Nigeria: Does one model fit it all. *Economic and financial review*(2011),40, (3).

¹⁰ ALaba. O, Exchange rate uncertainty and foreign direct investment in Nigeria. *A paper presented at the WIDER Conference on sharing global prosperity*(2003), Helsinki, Finland.

analyzing a country's monetary policy.¹¹ Under the direct convention, as practiced in Nigeria, the exchange rate is assumed to appreciate or depreciate when the number of units of the naira decreases or increases, respectively, in relation to the foreign currency. The systems of exchange rate determination are known as exchange rate regimes. Basically, there are two extreme cases of exchange rate regimes, namely, fixed and floating exchange rate systems. Under the fixed exchange rate system, the exchange rate is determined by administrative fiat/decree of government or monetary authorities like central banks. Foreign exchange is disbursed mainly through allocation or a rationing system usually associated with exchange controls. Under floating or flexible exchange rate system refers to a situation in which the exchange rate is determined by the forces of demand and supply of foreign exchange.¹²

2.1.3 Exchange Rate Volatility

The volatility of exchange rates is the source of exchange rates risk and has certain implications on the volume of international trade, consequently on the balance of payments. Theoretical analysis of the relationship between higher exchange-rate volatility and international trade transactions have been conducted by Hooper and Kohlhagen and some other economists¹³. The argument is as follows: Higher exchange-rate volatility leads to higher cost for risk averse traders and to less foreign trade. This is because the exchange rate is agreed on at the time of the trade contract, but payment is not made until the future delivery actually takes place. If changes in

¹¹ Okechukwu, I.A., Mbadike, N.S., Geoffrey, U. & Ozurumba, B.A. Effects of Exchange Rate, Interest Rate, and Inflation on Stock Market Returns Volatility in Nigeria. *International Journal of Management Science and Business Administration* (2019),5(6), 38-47

¹² Brada, J. C. and Méndez, J. A, Exchange Rate Risk, Exchange Rate Regime and the Volume of International Trade, in: KYKLOS (1999)Vol. 41

¹³ Hooper, P. and Kohlhagen, S. W., "The Effects of Exchange Rate Uncertainty on the Price and Volume of International Trade". *Journal of International Economics*.(1997)

exchange rates become unpredictable, this creates uncertainty about the profits to be made and, hence, reduces the benefits of international trade.¹⁴

2.1.4 Determinants of Exchange Rate Volatility

These are factors that facilitate exchange rates risks within national jurisdiction. Nigeria's economy heavily depends on oil exports. Fluctuations in global oil prices can significantly impact the exchange rate since oil revenue constitutes a significant portion of the country's foreign exchange reserves.¹⁵ Similarly, events such as financial crises, political instability in major trading partners, or global economic downturns can lead to rapid fluctuations in exchange rate. High inflation rates can also erode the purchasing power of a country's currency, causing depreciation and increased volatility. Speculative trading on the other hand, in the foreign exchange market can exacerbate exchange rate fluctuations, as traders attempt to profit from short-term price movements.¹⁶

2.1.5 Appreciation and Depreciation

Appreciation and/or depreciation refers to a change in the value, over time, of a currency. Under the direct convention, appreciation (depreciation) is the fall (rise) in the value of the domestic currency when expressed in terms of a foreign currency under the floating or flexible exchange rate system.¹⁷ Similarly, a fall (rise) in the value of the domestic currency in terms of other foreign

¹⁴ Clark, P., "Uncertainty, Exchange Risk, and the Level of International Trade". *Western Economic Journal*(1973).

¹⁵ Bailey, M. J., Tavlas, G. S. and Ulan, M., "The Impact of Exchange Rate Volatility on Export Growth: Some Theoretical Consideration and Empirical Results", *Journal of Policy Modeling*(1987)

¹⁶ Bayo, A. "Globalization and Nigeria Economy". *The Economist*(2000)

¹⁷ Akinlo A. E and Odusola A. F. "Assessing the impact of Nigeria's naira depreciation on output and inflation, *Applied Economics*, 35: 691-703. Nigeria: Policy Implication". *West African Journal of Monetary and Economic Integration*(2003)6 (1).

currencies in the case of a fixed exchange rate system is referred to as revaluation (devaluation) under the direct convention.¹⁸

2.1.6 International Trade

Abebe defines International Trade as a repeated sequence of exchanges of goods through market transactions.¹⁹ It is referred to as international if it involves transactions beyond the boundaries of a sovereign political authority. International trade is seen as the system by which, nations export and import goods, services, and capital. They identify three differences between domestic and international trade as: expanded trading opportunities, sovereign nations and exchange rates adding that these have important practical and economic consequences.²⁰ The forces that lie behind international trade are that trade promotes specialization; and specialization increases productivity. In the simplest form, international trade means exchange of goods and services across international borders. In other to know what is happening in the course of international trade, governments keep track of the transactions among nations.²¹ The records of such transactions are made in the balance of payment accounts. International trade and balance of payment are therefore two important aspects in the relationship between nations. International trade has been and is today an economic force that has spurred commerce, promoted technology and growth, spread cultural patterns, stimulate exploration and colonization, and frequent fanned the flames of war.

2.1.7 Exchange Control

¹⁸ Richard C. N. Currency Devaluation in Developing Countries. Essays in International Finance. *Princeton University, Princeton, New Jersey*, (1971).

¹⁹ Elias, I. A., Agu R. E., Oluchukwu L. *European Journal of Business and Management* www.iiste.org ISSN 2222-1905 (Paper) ISSN 2222-2839 (Online) (2018) (10)18,

²⁰ Sercu, P. and Vanhulle, C., “Exchange rate volatility, International trade, and the value of exporting firm”, *Journal of Banking and Finance* (1982), 16 (1), 152–182.

²¹ Sercu, P. and Vanhulle, C., “Exchange rate volatility, International trade, and the value of exporting firm”, *Journal of Banking and Finance* (1982), 16 (1), 152–182.

Exchange control is one of the important devices to control international trade and payments. It aims at equilibrating foreign receipts and payments not through such market forces or flexible exchange rates but through direct and indirect control of foreign exchange. Thus, exchange control means that all foreign receipts and payments in the form of foreign currencies are controlled by the government²². Taqadus, Maria, Sara and Alia define exchange control as “state regulation excluding the free play of economic forces from the foreign exchange market”.²³ Prof. Ellsworth has explained it more explicitly.²⁴ According to him, “Exchange control deals with the balance of payments difficulties, disregards market forces and substitutes for them the arbitrary decisions of government officials. Imports and other international payments are no longer determined solely by international price comparisons, but also by consideration of national need”.

2.1.8 Economic Growth

Economic growth means the steady process by which the productive capacity of the economy is increased over time to bring about rising levels of national output and income. Economic growth could be said to comprise three components; capital accumulation, growth in population and eventual growth in the labor force, and technological progress.²⁵ Capital accumulation results when some proportion of personal income is saved and invested in order to augment future output

²² Nnanna O. J., Monetary and Exchange Rate Stability in Nigeria, Nigerian Economic Society (NES), *University of Ibadan, press*(2003)

²³ Taqadus B., Maria H., Sara N. and Alia A.,”impact of exchange rate uncertainty on exports: A case of Pakistan with US, UK and UAE, *Asia pacific journal of finance and banking research* (2012) vol. 6 .

²⁴ Ellsworth, P. T., International Economics. (Book Review)*Hunsberger, George Southwestern social science Quaterly’ Austin Tex*(1938).Vol.19,421

²⁵Okoh R. (2004)” global Integration and the Growth of Nigeria’s non-oil exports.” A paper Presented at the African Conference 21-22, March 2004, Oxford, Uk.

and income. Capital accumulation involves a trade-off between present and Future consumption, giving up a little now so that more can be had later. Population growth, and the associated increase in the labor force, has traditionally been considered a positive factor in stimulating economic growth. A larger labor force means more productive workers, and a large overall population increases the potential size of domestic markets. Technological progress results from new and improved ways of accomplishing traditional tasks. Technological progress could be neutral, labor-saving, and capital-saving.²⁶

2.1.9 International currency

An international currency is one that is used and held beyond the borders of the issuing country, not merely for transactions with that country's residents, but also, and importantly, for transactions between non-residents. In other words, an international currency is one that is used instead of the national currencies of the parties directly involved in an international transaction, whether the transaction in question involves a purchase of goods, services or financial assets.²⁷ A national currency can be regarded as an international currency if most of the following conditions hold. Note that the first condition is stated strongly, as a constraint on the government of the country under consideration, whereas the word "able" is used thereafter to convey a double meaning: that the government does not prohibit certain activities and that the relevant foreign parties, whether private or public, permit or facilitate the activity described. Note further, that the conditions listed below need not be met simultaneously or abruptly. Some forms of internationalization, such as the

²⁶ Todaro M.P., *Economic development in the third World* 2nd edition, *New York Longman publishers Group*. ISBN 0582295327.(1981)

²⁷ Todani, K.R., and Munyama T.V., *Exchange Rate Volatility and Exports in South Africa*. *South Africa Reserve bank*(2005)

use of a country's currency for invoicing trade²⁸, including trade between third countries, are likely to grow gradually with the increase in the volume of trade and the use of a country's national currency in the invoicing of trade.

First, the government must remove all restrictions on the freedom of any entity, domestic or foreign, to buy or sell its country's currency, whether in the spot or forward market. This condition clearly requires that the issuing country's government remove any restrictions on foreign exchange trading by domestic and foreign entities, as well as any limitations on the freedom of foreign entities to hold the domestic currency and derivative instruments denominated in it.

Second, domestic firms are able to invoice some, if not all, of their exports in their country's currency, and foreign firms are likewise able to invoice their exports in that country's currency, whether to the country itself or to third countries. The extent to which they can actually do that, however, may be limited by the sorts of goods they export, the market power of individual firms, and conventions prevailing internationally, such as the use of organized markets for trading petroleum and other primary commodities.

Third, foreign firms, financial institutions, official institutions and individuals are able to hold the country's currency and financial instruments denominated in it, in amounts that they deem useful and prudent. To the extent that foreign official institutions exercise this option on a significant scale, the country's currency will function as a reserve currency, but very few currencies are capable of playing that role on a significant scale.²⁹ At mid-2008, the countries that report to the International Monetary Fund the currency composition of their official reserves held 62.5% of

²⁸ Todani, K.R., and Munyama T.V., Exchange Rate Volatility and Exports in South Africa. *South Africa Reserve bank*(2005)

²⁹ Udeh V.U., Globalization, Exchange rate Volatility and foreign trade performance in Nigeria: An empirical analysis, a mimeograph submitted to the university of Nigeria, Nsukka(2010)

those reserves in dollars, 27.0% in euros, 4.7% in pounds sterling, and 5.7% in Swiss francs, yen and other currencies.

Fourth, foreign firms and financial institutions, including official institutions, are able to issue marketable instruments in the country's currency. These may include both equity and debt instruments, not only in the country's domestic markets but also in foreign markets, including, of course, the foreign firms' own countries' markets.

Fifth, the issuing country's own financial institutions and non-financial firms are able to issue on foreign markets instruments denominated in their country's own currency. In that case, of course, those instruments must conform to the laws of the country in which they are issued, and disputes must then be adjudicated in that country's courts.

Sixth, international financial institutions, such as the World Bank and regional development banks, are able to issue debt instruments in a country's market and to use its currency in their financial operations. Lastly, the currency may be included in the "currency baskets" of other countries, which they use in governing their own exchange rate policies. But that is also true of currencies that do not qualify as international currencies.

2.2 Theoretical Framework

2.2.1 Regulatory Capture Theory

Regulatory Capture Theory is a concept in political economy that explains how regulatory agencies, created to protect public interests become dominated by the very industries they regulate. The theory originated in the 1970s, emerging from the works of economists such George Stigler, Richard Posner and Sam Peltzman, who challenged the traditional view of regulation as a public

interest activity. Proponents of the theory argue that regulatory agencies are susceptible to capture industries they regulate leading to policies that favor industry interests over welfare.

Regulatory capture theory offers a compelling lens through which to examine the complex dynamics at play in Nigeria's currency and trading and exchange market. At its core, this theory suggests that regulatory agencies tasked with protecting the public interest can become beholden to the very industries they regulate.³⁰ This phenomenon known as regulatory capture, can have far reaching consequences, including the creation of policies that favor industry interests at the expense of broader societal welfare.³¹

In the context of Nigeria's currency trading and exchange market, regulatory capture theory is particularly relevant. The country's regulatory bodies responsible for shaping the legal framework governing this critical sector may be vulnerable to influences from by powerful financial institutions. This could result in a legal framework that prioritizes the interest of these institutions over the public, perpetuating market instability and undermining fair competition.

The implication of the regulatory capture in this context are significant. If left unchecked, it could stifle the development of Nigeria's financial market, limiting access to capital and stifling the economic growth. Moreover, it could erode trust in the regulatory system undermining the very foundations of the market. By examining the dynamics of regulatory capture in Nigeria's currency trading and exchange market, we can gain a deeper understanding of the complex interplay between industry interests, regulatory agencies and the broader public interest.

³⁰Wendy Y. L., 'Regulatory capture's third face of power' *Socio-Economic Review*, 2023, Vol. 21, No. 2, 1217–1245 <https://doi.org/10.1093/ser/mwad002> (2024)

³¹Aaronson, S. A. and Leblond, P. 'Another Digital Divide: The Rise of Data Realms and Its Implications for the WTO', *Journal of International Economic Law*, (2018) 21, 245–272

Furthermore, regulatory capture can lead also to lack of transparency and accountability in the regulatory process, making it difficult for stakeholders to hold regulatory agencies accountable for their actions. This creates an environment in which regulatory agencies are more responsive to industry need than to the needs of the broader public. To mitigate the risk of regulatory capture, it is essential to implement measures that promote transparency, accountability and public participation, in the regulatory process³². This can include measures such as public consultations, disclosure requirements and independent oversight bodies. By taking these steps, Nigeria can help ensure that its regulatory framework serves the broader public interest rather than just interest of powerful financial institutions.

2.2.2 Efficient Market Hypothesis (EMH) Theory

Market efficiency studies was pioneered by Fama³³ who originally applied the concept to stock market prices. Application of the concept to foreign exchange market led to exchange market efficiency studies.³⁴ The Efficient Market Hypothesis postulates that a market is efficient if all available information is reflected in the prices of the assets traded in such market thereby foreclosing the possibility of exploitable trends that can be used to outperform the market. As initially applied to stock prices, three notions of market efficiencies exist depending on the information set thus, Weak form, Semi Strong for and the Strong form.³⁵ The concept of market efficiency has practical implications for the private sector and also to the government in formulating intervention policies in the exchange market. When the foreign exchange market is

³² Adler, L. 'Framing Disruption: How a Regulatory Capture Frame Legitimized the Deregulation of Boston's Ride-for-Hire Industry', *Socio-Economic Review*, (2021) 19, 1421–1450.

³³ Fama, E., Efficient Capital Markets, a Review of Theory and Empirical works. *Journal of Finance*, 25,383-417 (1970)

³⁴ Fama, E.F. The Behavior of Stock Market Prices. *Journal of Business*,38,34-105(1965)

³⁵ Wickremasinghe. E. Efficiency of Foreign Exchange Markets: A Developing Country Perspective. *ABERU Discussion Paper 3*.(2004)

not efficient, there exist opportunities of making unusual or risk adjusted profits and private agents can formulate trading strategies to take advantage of such. Furthermore, present prices do not reflect all available information and forecasts of a forward rate based on the present non efficient rate can be outperformed by formulating a forward rate that can beat the future spot rate. foreign exchange market that is not efficient presents a tantalizing profit making opportunity wished for by speculators. The government will interpret a non-efficient market as a market failure, that is failure of the market to set equilibrium prices and this translates into additional costs incurred by someone somewhere in form of greater unemployment, reduced output or higher prices and to correct this, government's intervention policy is imperative.³⁶

The efficient market hypothesis is concerned with establishment of market prices and states that prices of securities fully and fairly reflect all available information.³⁷ Market efficiency therefore refers to both speed and quality (direction and magnitude) of price volatility. In such a situation it will be impossible for a market player to use technical analysis to study past price movement, discover a trend and use such information to outperform the market or make unexpected profit. Information occur randomly as such price volatility to past information should also be random. Ibrahim, Long, Ghani and Mohd Salleh stated that if a market is efficient in the weak form, it is impossible to predict future prices by analyzing past prices.³⁸ Similarly, Fama³⁹ defined the

³⁶Oloyede, J.A., &Otapo, T. W. ,Test Of Exchange Market Efficiency In Nigeria. *Advances in Social Sciences Research Journal*(2018),5(7)142-159.

³⁷ Fama, E., Efficient Capital Markets, a Review of Theory and Empirical works. *Journal of Finance*, 25,383417(1970)

³⁸ Ibrahim., Long, Y., Ab. Ghani, H., & Mohd S., Weak Form Efficiency of Foreign Exchange Market in the Organization for Economic Cooperation and Development Countries: Unit Root Test. *International Journal of Business and Management*,(2011) 6(6),55-65.

³⁹ Fama, E., Efficient Capital Markets, a Review of Theory and Empirical works. *Journal of Finance*, 25,383417(1970)

weak form efficiency as the situation in which the current prices reflect all information in the historic series of prices adjustments to new information such as past price.

The implication of the Efficient Market Hypothesis in Nigerian legal system is that unlike the constant intervention of the Central Bank of Nigeria(CBN) to stabilize the exchange rate, prices reflect all available information(which everyone has equal access to) including reflection of market forces which should constitute determinants of the exchange rate. This theory assumes that market manipulation is impossible. However, Nigeria has experienced cases of currency manipulation highlighting the need for robust legal frameworks to prevent such activities.

2.2.3 Fundamentals and Market Expectations Theory:

This theory argued that, in the short run, exchange rates respond to real interest rate differentials or news about market fundamentals, and speculative opinion about future exchange rates.⁴⁰ However, in the long-run, exchange rates are best explained by fundamental factors, such as real income differentials, inflation rate differentials and productivity changes, noting that international investors are especially concerned about the real interest rate.⁴¹

The earliest model of the exchange rate, the monetary model, assumes that the current exchange rate is determined by current fundamental economic variables: money supplies and output levels of the countries. When the fundamentals are combined with market expectations of future exchange rates, the model yields the value of the current exchange rate. The reasoning behind the monetary model is simple: the exchange rate is determined by the relative price levels of the two countries. If goods and services cost twice as much, on average, in U.S. dollars as they do in a

⁴⁰ Heynen, R. C., and Harry M. K. "Volatility Prediction: A Comparison of the Stochastic Volatility, GARCH (1,1), and EGARCH (1,1) Models," *The Journal of Derivatives*, (1980)2 ,pp. 50-65

⁴¹ Macdonald, R.. "Some Tests for Rational Expectations Hypothesis in the Foreign Exchange Markets" *Scottish Journal of Political Economy*(1983), 30. Pp.3-24

foreign currency, \$2 will fetch one unit of the foreign currency.⁴² That way, the same goods and services will cost the same whether they are bought in the U.S. or in the foreign country. But what determines the relative price levels of the two countries? The monetary model focuses on the demand and supply of money. If the money supply in the United States rises, but nothing else changes, the average level of prices in the United States will tend to rise. Since the price level in the foreign country remains fixed, more dollars will be needed to get one unit of foreign currency. Hence, the dollar price of the foreign currency will rise: the dollar will depreciate--it's worth less in terms of the foreign currency.

The alternative view is that exchange rates are determined, at least in the short run (i.e., periods less than two years), by *market sentiment*. Under this view, the level of the exchange rate is the result of a self-fulfilling prophecy: ⁴³participants in the foreign exchange market expect a currency to be at a certain level in the future; when they act on their expectations and buy or sell the currency, it ends up at the predicted level, confirming their expectations.

2.3 Review of Related Literature

Melvin Ayagu in his work "Empirical studies of Nigeria's foreign exchange parallel market II: Speculative efficiency and noisy trading" traces the evolution of foreign exchange markets in Nigeria to being influenced by several factors over time, including political dynamics, the changing pattern of international trade and institutional changes in the economy (such as structural

⁴² Hopper, G. "Is the foreign exchange market inefficient?" (1994) *federal reserve bank of Philadelphia business review* (1994)

⁴³ Hopper, G., "Value at Risk. A new Methodology for measuring Portfolio Risk", *federal reserve bank of Philadelphia business review* 1(1996)

shifts in production). It is a fair characterization to say that Nigeria's foreign exchange rate management policy varied according to episodic changes in its fortunes. For example, during the 1970s when the country enjoyed economic prosperity from the oil boom, the supply of foreign currency was not an issue of great concern, and an administered exchange rate regime existed without a formal criterion for ration.⁴⁴

The work of Akindele Olamide is worthy of review. He wrote on “Foreign Exchange Market Efficiency in Nigeria (The Past and Current Exchange Rate Returns),”⁴⁵ where he stated that the inefficiencies of Nigeria's foreign exchange market and the ensuing effects on different economic sectors have long been a source of controversy. In order to determine if the historical exchange rate had an impact on the current exchange rate returns, this study evaluated the effectiveness of Nigeria's foreign exchange market. The study's scope encompassed the years 1985 through 2016. Secondary time-series data were utilized. The study's conclusions showed that while broad money supply has a negative association with exchange rate, oil price, GDP, inflation rate, and interest rate have positive and substantial relationships with exchange rate. Additionally, there is a weak and negative correlation between the returns of past exchange rates and the returns of the current exchange rate. As a result, the study came to the conclusion that Nigeria's currency rate market is inefficient. Therefore, it was suggested that stringent monetary policies be adopted and that the monetary authorities should guarantee transparency in the process of setting the exchange rate in order to reduce numerous economic distortions related to the exchange rate. Additionally, the

⁴⁴ Ayagu M. ; Empirical studies of Nigeria's foreign exchange parallel market II: Speculative efficiency and noisy trading(1997). *The African Economic Research Consortium*,

⁴⁵ Akindele O. O., ‘Foreign Exchange Market Efficiency in Nigeria (The Past and Current Exchange Rate Returns),’ *Sumerianz Journal of Economics and Finance* [2018] 14-21

economy should be made more diverse and fiscal and monetary policies should be effectively formulated and implemented.

Itodo , Ichoku and Olushola⁴⁶ in their work on “Foreign Exchange Pressure and Foreign Exchange Intervention in Nigeria: A Review of Literature” maintains that a comprehensive examination of the concepts of foreign exchange pressure and foreign exchange intervention within the Nigerian foreign exchange market. It delves into the theoretical foundations and empirical evidence underpinning these crucial elements of economic policy in Nigeria. It elucidates the various factors driving foreign exchange pressure in the Nigerian context, encompassing trade imbalances, external shocks, and economic fluctuations, which exert significant pressure on the exchange rate and foreign exchange reserves, necessitating effective strategies for policymakers and market participants. Furthermore, the paper sheds light on the theoretical frameworks and models that form the basis of foreign exchange intervention, emphasizing the substantial impact of central bank and government interventions on maintaining foreign exchange market stability, averting abrupt currency devaluations, and upholding macroeconomic equilibrium.

Iheanachor and Ozegbe while examining the effects of persistent exchange rate fluctuations on Nigeria’s economic performance in their work “The Consequences of Exchange Rate Fluctuations on Nigeria’s Economic Performance: An Autoregressive Distributed Lag (ARDL) Approach”⁴⁷ were motivated by the quest to ascertain why concerted efforts of the monetary authorities in Nigeria to pursue internal and external balances yielded little or no positive results in recent

⁴⁶ Itado. I. A , Ichoku H.E and Olushola O.,’ Foreign Exchange Pressure and Foreign Exchange Intervention in Nigeria: A Review of Literature’. *South Asian Journal of Social Studies and Economics* 20 (4):14-24. (2023) <https://doi.org/10.9734/sajsse/2023/v20i4739>.

⁴⁷ Iheanachor N. and Ozegbe E.’ The Consequences of Exchange Rate Fluctuations on Nigeria’s Economic Performance: An Autoregressive Distributed Lag (ARDL) Approach’ *International Journal of Management, Economics and Social Sciences* [2021], Vol. 10(2-3), pp. 68 – 87.

periods. The study employed the autoregressive distribution lag (ARDL) technique to test the short-run and long-run effects of exchange rate fluctuations on economic growth using annual time series data from 1986 to 2019. The empirical result revealed that the exchange rate, net direct foreign direct investments, and inflation rate had a significant adverse impact on Nigeria's economic growth in the long run. By implication, the net effect of this study established that excessive exchange rate fluctuations are detrimental to Nigeria's economic growth. On the premise of the empirical findings, this study recommends export diversification in agriculture and agro-investment in Nigeria.

Aishat argued that the government should implement transparency and accountability measures, such as regularly publishing economic data, developing regulatory frameworks, and upholding the rule of law, to build market trust. Additionally, I see the recent unification policy of the new administration as a significant step in restoring confidence in the market, although it is not without its flaws.⁴⁸

Adewale, Adejoke, Bosede, and Eyitayo in their work "Effect of Exchange Rate on Foreign Direct Investment in Nigeria". Attempted to investigate the relationship between exchange rates and Foreign Direct Investment (FDI) in Nigeria from 1981 to 2021. Employing a Fully Modified Ordinary Least Squares (FMOLS) regression analysis, the study reveals a significant positive correlation between exchange rates and FDI, signifying the importance of human capital development in attracting foreign investment. In summary, the research findings indicate a substantial impact of exchange rates on FDI in Nigeria. It suggests that policymakers should proceed with caution to avert possible depreciation of the exchange rate,

⁴⁸ Aishat R., Nigeria's three currency exchange markets and how currency volatility has impacted investors and businesses; Cross Boundary Group Opinion(2020)

which could deter foreign investors. Furthermore, adopting a comprehensive strategy for macroeconomic stability could foster a more conducive atmosphere for foreign investment.⁴⁹

Oloyede, and Otapo suggests in their work, “Test of exchange rate market efficiency in Nigeria” flexible exchange regime adopted in Nigeria should be more of the clean float, as at December 2015, the Nigerian exchange rate policy was more of the filthy float. Heavy interventions by the Central Bank of Nigeria to keep the Dollar rates within target bands were noticed even in the face of dwindling oil inflows. Arbitrage premium widened which encouraged round tripping and rent seeking. The floating exchange regime in operation in Nigeria should be more liberalized and move towards a clean float, this will engender automatic clearance of deficit or surplus in the market, protection of external reserve and ensure monetary policy independence.⁵⁰

The theoretical literature is dominated by discussion of two major mechanisms: government and market. Government mechanisms may dominate markets and fix the rate of exchange. This is more likely to be the case in control regimes. Where the government allows the market institution free reign, the exchange rate is market determined. Arguably, each regime reflects the dominant philosophy of the state. Fixed exchange rate regimes are more associated with controlled economies while flexible exchange rate regimes are more associated with liberal economies. This is why to a large extent, a shift in policy, e.g., from fixed to floating, occurs when there is a shift in economic philosophy. There is an intense controversy about the effectiveness of the two regimes that determine the exchange rate. The controversy centres around the extent to which each

⁴⁹ Adewale A. M., Bosede C. O., and Eytayo O. O. “Effect of Exchange Rate on Foreign Direct Investment in Nigeria”. *ABUAD Journal of Social and Management Sciences* (2024) 5 (2), 302-18. <https://doi.org/10.53982/ajsms.2024.0502.05-j>)

⁵⁰ Oloyede, J.A., & Otapo, T. W. Test Of Exchange Market Efficiency In Nigeria. *Advances in Social Sciences Research Journal*, (2018) 5(7)142-159.

regime facilitates domestic and external economic balances. Bogunko argues that the exchange rate is conceptualized as a link between the price structures of nations and, as a result, is important to patterns of international commodity flows and the international mobility of capital resources⁵¹. Oyedele, a former fiscal policy partner and Africa tax leader at Price Waterhouse Coopers (PwC)⁵², argues that it is the responsibility of Federal Government even as it takes action aimed to expand the official market to include all legitimate transactions while stifling the illicit “black market” for foreign currency through the introduction of new foreign exchange rules, including a crackdown on illicit currency trade. He points out that reform will result in the naira closing its gap with the unofficial rate and reaching a “fair price”. He said the government plans to clear a backlog of dollar demand estimated at about \$6.7 billion, bolster the naira forward market, and set transparent rules for the operations of the official market.

Generally, In the recent era of trade liberalization, the positive trade balance of a country has usually been a sign of a growing and improving economy⁵³. Rodriguez and Rodrik⁵⁴ have found a disconnect in such thinking, and later economists started worrying about the economies that are running persistent positive or negative trade balances, since in some cases this may provoke economic crises if countries cannot finance them.⁵⁵ In the past, there were multiple exchange rates for the currency. The International Monetary Fund has repeatedly called on Nigeria to end this.

⁵¹ Dordunoo C., Odubogun K., Ssemogerere G. and Kasekende L., ‘A Comparative Study of Foreign Exchange Management in Ghana, Nigeria and Uganda,’ *African Economic Research Consortium, Nairobi* 1-30. [1997] 27(1)

⁵²Dordunoo C., Odubogun K., Ssemogerere G. and Kasekende L., ‘A Comparative Study of Foreign Exchange Management in Ghana, Nigeria and Uganda,’ *African Economic Research Consortium, Nairobi* 1-30. [1997] 27(1)

⁵³W. Yi & Z. Li.’ The Impact of Trade Liberalization on the Trade Balance in Developing Countries’. *IMF Working Papers 08/14. International Monetary Fund. 2001*

⁵⁴ Rodriguez F. and Rodrik D., ‘Trade Policy and Economic Growth: A Skeptic's Guide to the Cross-National Evidence’, *NBER Macroeconomics Annual 2000*,(2001) Vol. 15 (p. 261 - 338)

⁵⁵ Rodrick D., ‘The Real Exchange Rate and Economic Growth’. *Muse Scholarly Journals online* (2008)

The huge gap between the official and unofficial rates caused severe shortages of foreign exchange by discouraging supply.

Several theories had been propounded to explain exchange rate determination and its behavior. The oldest and most simplistic classical theory was the purchasing-power-parity (PPP) developed in the 16th century writings of scholars from the University of Salamanca in Spain. Its model definition was however credited to Gustav Cassel⁵⁶. The PPP is based on the law of one price, which states that if there are no transaction costs nor trade⁵⁷ barriers for a particular good, then the price of that good should be the same at every location. Thus, the theory predicted that an appreciation in a country's exchange rate will approximate an amount equal to the excess of foreign inflation over domestic inflation⁵⁸. This is predicated on the idea that countries with relatively high rates of inflation will show currency depreciation, while countries with relatively low rates of inflation will experience currency appreciation. In equilibrium, the amount of depreciation (or appreciation) will reflect the inflation differential. The Purchasing Power Parity (PPP) theory was criticized for not considering the impact of international capital movements, and suffers from the choice of an appropriate price index used in price calculations.⁵⁹ Building on, International Fisher Effect (IFE) theory contended that what matters is not inflation rates differential, but the interest rate differentials. According to Fisher⁶⁰, exchange rate changes are directly proportional to the relative differences in long-term interest rates, because the long-term

⁵⁶ Cassel, G. (1921). *The World's Monetary Problems*. London: Constable. A collection of two memoranda *International Financial Conference of the League of Nations, Brussel*

⁵⁷ Bomhoff, E. & Korteweg, P. (1983). Recent Developments in Monetary Models of Exchange Rate Determination. *Staff Papers – International Monetary Fund*, 26: 201-223.

⁵⁸ Adeoye, B. W., & Saibu, O. M., Monetary Policy Shocks and Exchange Rate Volatility in Nigeria. *Asian Economic and Financial Review*(2014), 4(4), 544- 562.

⁵⁹ Dornbusch, R., 'Purchasing power parity', in the 'new palgrave: A dictionary of economics. *New York: Stockton Press.*(1988)

⁶⁰Fisher, I. (1930). *The Theory of Interest*. New York: Macmillan. Retrieved from <http://www.econlib.org/library/YPDBooks/Fisher/fshToI.html>

interest rates capture the market's expectation for inflation. Countries with relatively high long term interest rates (thus high inflation) will show currency depreciation, and vice versa. Hence, in equilibrium, the amount of depreciation (or appreciation) will be equal to the long-term interest rate differential⁶¹.

Other theories of exchange rate explain the behavior of exchange rate via the financial-asset markets perspectives, following two approaches, namely: the monetary-approach and portfolio-balance models' approach. Investigating the Impact of Exchange Rate Volatility on Naira Exchange Rate in Nigeria approach assumed perfect substitutability of assets internationally, and argued that exchange rates are determined by changes in the supplies and demands of national currencies. To this school of thought, according to Dornbusch, an increase in the domestic money supply causes the home currency's exchange rate to depreciate, and vice versa⁶². Monetary approach also upheld that an increase in the domestic demand for money leads to an appreciation in the home country's exchange rate.

The portfolio balance model of exchange rate, on the other hand, assumed imperfect substitutability of assets, and added the relative asset supplied as a determinant. The theory contended that stock and other financial assets adjustments are the drivers of exchange-rate movements. Thus, portfolio balance approach is broader than the monetary approach that only emphasized on national currencies. McKenzie and Oates argues to the extent that central banks sterilization occurs when domestic credit is changed to offset international reserve flows, and since

⁶¹ Fisher, I. (1930). *The Theory of Interest*. New York: Macmillan. Retrieved from <http://www.econlib.org/library/YPDBooks/Fisher/fshToI.html>

⁶² Dornbusch, R.. Expectations and Exchange Rate Dynamics. *The Journal of Political Economy*, (1976) 84: 1161-1176.

balance-of-trade flows are balanced by financial-asset flows, changes in the trade balance have a role in asset-approach views of exchange rate determination⁶³.

A trade balance is a part of a country's GDP and an important indicator of the economic state of the country. While the positive values have – until recently – rarely been a concern to local governments, negative values have been seen as a threat to economic growth.

2.4 Summary of Review and Gap in knowledge

As already stated, Melvin Ayagu's work "Empirical studies of Nigeria's foreign exchange parallel market II: Speculative efficiency and noisy trading" traces the evolution of foreign exchange markets in Nigeria to being influenced by several factors over time, including political dynamics, the changing pattern of international trade and institutional changes in the economy (such as structural shifts in production). Irrespective of how empirical his work may seem, there is a glaring lacuna which is that he only underscored Nigeria's foreign exchange in the parallel market. This current study will fill this gap by methodologically, analyzing the legal framework of currency trading and exchange in Nigeria by also making a comparative study with the US.

Also, Akindele Olamide's work on "Foreign Exchange Market Efficiency in Nigeria (The Past and Current Exchange Rate Returns),"⁶⁴ is comprehensive and thorough. He examined the inefficiencies of Nigeria's foreign exchange market and the ensuing effects on different economic sectors have long been a source of controversy. In order to determine if the historical exchange rate had an impact on the current exchange rate returns, this study evaluated the effectiveness of Nigeria's foreign exchange market. The study's scope encompassed the years 1985 through 2016.

⁶³McKenzie, M. and Oates .S., The Economics of Exchange Rate Volatility Asymmetry. *International Journal of Finance & Economics*, (2002).7(3), 247-260.

⁶⁴ Akindele O. O., 'Foreign Exchange Market Efficiency in Nigeria (The Past and Current Exchange Rate Returns),' *Sumerianz Journal of Economics and Finance* [2018] 14-21

However, his employment of secondary time-series data limited the scope and potency of his work because his work did not compare Nigeria's legal framework with international best practices or other emerging market which indicate a gap in research and analysis. Just like most literatures focus on Nigeria's internal dynamics, without comparing its legal framework to global standards. This current study seems to unequivocally make a comparison of Nigeria's defect in establishing an outstanding mechanism of currency trading and exchange with international standards through a careful analysis of the international institutional frameworks within the foreign exchange market globally.

While the work of Itodo , Ichoku and Olushola⁶⁵ "Foreign Exchange Pressure and Foreign Exchange Intervention in Nigeria: A Review of Literature" delves into the theoretical foundations and empirical evidence underpinning these crucial elements of economic policy in Nigeria, elucidating the various factors driving foreign exchange pressure in the Nigerian context, necessitating effective strategies for policymakers and market participants. There is limited research on the effectiveness of enforcement mechanisms and compliance with existing policies and regulations.

Iheanachor and Ozegbe examines the effects of persistent exchange rate fluctuations on Nigeria's economic performance in their work, arguing that the net effect of this study established that excessive exchange rate fluctuations are detrimental to Nigeria's economic growth. On the premise of the empirical findings, this study recommends export diversification in agriculture and agro-investment in Nigeria but did not go further to navigate the intricacies of the existing modus operandi and regulations in the regulation of currency trading and exchange in Nigeria.

⁶⁵ Itado. I. A , Ichoku H.E and Olushola O.,' Foreign Exchange Pressure and Foreign Exchange Intervention in Nigeria: A Review of Literature'. *South Asian Journal of Social Studies and Economics* 20 (4):14-24. (2023) <https://doi.org/10.9734/sajsse/2023/v20i4739>.

Oloyede, and Otapo suggests in their work, “Test of exchange rate market efficiency in Nigeria”. Heavy interventions by the Central Bank of Nigeria to keep the Dollar rates within target bands were noticed even in the face of dwindling oil inflows without emphasizing a stable strategies to be undertaken by the Central Bank of Nigeria (CBN).

Ultimately, this research seeks to bridge the knowledge gaps and provide actionable recommendations to strengthen the legal framework governing currency trading and exchange in Nigeria.

CHAPTER THREE

LEGAL AND INSTITUTIONAL FRAMEWORK ON CURRENCY TRADING AND EXCHANGE

3.1 Legal Framework on Currency Trading and Exchange

3.1.1 Domestic Legal Framework on Currency Trading and Exchange

3.1.1.1 1999 Constitution of the federal Republic Nigeria (as amended)

The constitution of the Federal Republic of Nigeria, 1999 (as amended) is the *fons origo*, which gives validation to incidence of currency trading and exchange within and across the globe. The constitution provides the legal framework of currency trading and exchange as well as foundation upon which other regulations are built upon. It vests the National Assembly with the power to make laws on matters geared towards the peace and good governance of the state.⁶⁶ One of which laws pertaining to currency trading and exchange emanate. The Central Bank of Nigeria was also established alongside other agencies for various aspect of governance.⁶⁷

3.1.1.2 The Banks and Other Financial Institutions Act (BOFIA) Cap B3 Laws of the Federation of Nigeria 2004:

In 1990, the Banks and Other Financial Institutions Act (BOFIA) formerly BOFI was promulgated to replace the CBN Act of 1958 and the Banking Decree of 1969 (including later amendments). The policy brought the non-bank financial intermediaries under the supervision of Central Bank

⁶⁶ Constitution of the Federal Republic of Nigeria, 1999 (as amended), Section 4(1).

⁶⁷ Constitution of the Federal Republic of Nigeria, 1999 (as amended), Section 153.

of Nigeria. Currently, the BOFIA 2020 has also been promulgated under the regime of Muhammadu Buhari. The Act is characterized by special innovation as follows

a. Banking System that Shields against Possible International Financial Malpractices

BOFIA 2020 strengthens the protection of the banking system in a way that the previous Acts did not. It includes, as part of the regulations on license issuance in Sect. 3⁶⁸, a subsection that offers protection for the Nigerian banking system against a potential avenue for international financial malpractices. Section 3(5) stipulates that a foreign bank or entity without a physical presence in its country of incorporation, or licensed in its country of incorporation and not affiliated to a financial services group that is subject to effective consolidated supervision shall not be permitted. The Act also disallows Nigerian banks to establish or continue any relationship with such a bank. This enactment is aimed at protecting the banking system, especially the local residents from possible malpractices from the international space that may be difficult to trace, control and check. The Act and its objective are similar to other countries' (e.g., Hong Kong) regulation of international virtual banks' operations in their country.

b. Stronger Commitment to Prudential Ratios

Compliance with the prudential ratios, especially the capital adequacy ratio, is emphasized in Sect. 12(1 h) which specifies noncompliance as punishable with license revocation. Revocation of the operating license appears to be the greatest sanction for a regulatory breach⁶⁹. Thus, including breach of prudential ratio as part of condition for license revocation emphasizes the sanctity

⁶⁸ The Banks and Other Financial Institutions Act (BOFIA) Cap B3 Laws of the Federation of Nigeria 2004.

⁶⁹ R Agenor Patrick, EK Gambacorta and LAP da Silva, 'The Effects of Prudential Regulation, Financial Development, and Financial Openness on Economic Growth'. *Bank of International Settlements Working Paper No. 752* (2018).

BOFIA 2020 attaches with prudential ratio compliance. The commitment of the Act to ensuring compliance to prudential ratios are evidenced in Sections 13(5)(6) and 16(1c) which impose restrictions on bank activities for failure to comply, as well as in Section 16(2) that penalizes the directors of a bank for breaching prudential regulations. The importance ascribed to capital adequacy ratio is also reflected in Section 13(3) that empowers the CBN to require a bank hold additional capital as a means of ensuring that the bank does not slip below the prudential thresholds.

3.1.1.3 Foreign Exchange (Monitoring and Miscellaneous Provisions) Decree, 1995

The Exchange Control Act, which was the principal legislation regulating foreign currency related transactions was repealed in 1995. Exchange control policies have become completely liberalized, except for a few controls that apply to banks, for the purpose of compiling statistics. At the moment, exchange control transactions are regulated principally by the Foreign Exchange (Monitoring & Miscellaneous Provisions) Decree⁷⁰ and the guidelines of the Central Bank of Nigeria (CBN) Monetary Policy Circular, as maybe stipulated, from time to time.

The Foreign Exchange (Monitoring and Miscellaneous Provisions) decree established an Autonomous Foreign Exchange Market ("AFEM").⁷¹ Under the decree, an individual or corporate body may invest in any Nigerian enterprise or security, with foreign currency or capital imported into Nigeria through an Authorized Dealer (a bank or no-banking corporate organization so licensed by the Central Bank of Nigeria), either by telegraphic transfer, cheques or other negotiable

⁷⁰ Foreign Exchange (Monitoring and Miscellaneous Provisions) Act Chapter F34, Laws of the Federation of Nigeria, 2004.

⁷¹Sabilaw, Foreign Exchange (Monitoring and Miscellaneous Provisions) Act, 1995, available at <<https://sabilaw.org/foreign-exchange-monitoring-and-miscellaneous-provisions-act-1995/>>, accessed on 22 October 2024.

instruments.⁷² Also, a person, where the resident in or outside Nigeria, or a citizen of Nigeria or not, may deal in, invest in, acquire or dispose of, create or transfer any interest and other money market instruments whether denominated in foreign currencies in Nigeria or not.

3.1.1.4 Central Bank of Nigeria Act⁷³

The legal backing for monetary policy by the Bank derives from the various statutes of the bank such as the Central Bank of Nigeria Act of 1958 as amended in CBN Decree No. 24 of 1991, CBN Decree 1993 (Amendment), CBN Decree No. 3 of 1997 (Amendment), CBN Decree No. 4 of 1997 (Amendment), CBN Decree No. 37 of 1998 (Amendment), CBN Decree No. 38 of 1998 (Amendment), CBN Decree 1999 (Amendment) and CBN Act of 2007 (Amended), which is partly reproduced as follows:⁷⁴

1. In order to facilitate the attainment of price stability and to support the economic policy of the Federal Government, there shall be a Committee of the Bank known as the Monetary Policy Committee (in this Act referred to as ‘the MPC’)
2. The MPC shall consist of -
 - a. the Governor of the Bank who shall be the Chairman
 - b. the four Deputy Governors of the Bank
 - c. two members of the Board of Directors of the Bank
 - d. three members appointed by the President; and
 - e. two members appointed by the Governor

⁷² CBN Exchange Control Manual, available at <https://www.nigeriatradehub.gov.ng/portals/0/documents/cbn_exchange_control_manual.pdf>, accessed on 6 October 2024.

⁷³ Central Bank of Nigeria Act, Chapter C4, Laws of the Federation on Nigeria, 2004.

⁷⁴ CBN Act of 2007 (as amended), Section 12(1)-(5).

3. The MPC shall have responsibility within the Bank for formulating monetary and credit policy.
4. The appointment of a member of the MPC pursuant to sub-section 2 (d) and (e) of this section, the remuneration, filling of temporary vacancies, qualification, tenure of office and disqualification shall be subject to the same terms as are stipulated for a Director under sections 10 and 11 of this Act.
5. The provisions of the Second Schedule to this Act shall have effect with respect to the proceedings of the MPC.

The conduct of Monetary Policy in Nigeria and all activities of the Central Bank of Nigeria relate with the [core mandate of the bank](#) and therefore are best understood from this perspective.⁷⁵ Consequently, in pursuance of its functions in compliance with the [core mandate](#), the CBN undertakes monetary policy in order to:

- a. Maintain Nigeria's external reserves to safeguard the international value of the legal currency.⁷⁶
- b. Promote and maintenance of monetary stability and a sound and efficient financial system in Nigeria.⁷⁷
- c. Act as banker and financial adviser to the Federal Government; and
- d. Act as lender of last resort to banks.

3.2 Foreign Legal Framework

⁷⁵ *The Dynamics of Managing the Nigerian Financial System in the 21st Century*, in OJ Nnanna (ed.) (CBN 1998).

⁷⁶ C Alex, *Central Bank Strategy, Credibility, and Independence: Theory and Evidence* (MIT Press, 1992).

⁷⁷ OJ Nnanna, 'Monetary Management: Objectives, Tools and the Role of Central Banks in the Region', *Regional Forum on Economic and Financial Management for Parliamentarians. Nigeria: WAIFEM* (2001).

3.2.1 The Federal Reserve Act, 1913

The Federal Reserve is the culmination of several periods of economic tumult in American history. Earlier in its history, the United States formed centralized national banks, much to the consternation of its more rural citizens. The national banks were typically controlled by large eastern banking powers, making them untrustworthy to those outside the area. State-chartered or 'free banks' took over, issuing their own currency backed by gold.⁷⁸

In 1863, the National Banking Act was passed, allowing for nationally chartered banks again, which offered a way of providing a standardized currency backed by United States securities.⁷⁹ But unstable financial markets in 1893 and 1907 resulted in market crashes and depressions, alleviated only by private infusions from J.P. Morgan. Banking reform became a priority to reassure the populace of the safety of their money. In 1912, President Woodrow Wilson⁸⁰ asked for a solution from the House Committee on Banking and Finance. A decentralized bank was the answer and was established in the 1913 Federal Reserve Act.⁸¹ The Federal Reserve Act created a national currency and a monetary system that could respond effectively to the stresses in the banking system and create a stable financial system. With the goal of creating a national monetary system and financial stability, the Federal Reserve Act also provided many other functions and financial services for the economy, such as check clearing and collection for all members of the Federal Reserve. With the passing of the Federal Reserve Act, Congress required that all nationally chartered banks become members of the Federal Reserve System. These banks were required to

⁷⁸ D Romer Christina (2006). 'Was the Federal Reserve Constrained by the Gold Standard During the Great Depression? Evidence from the 1932 Open Market Program'. *Journal of Economic History* [2006] (66) (1) 140-176.

⁷⁹ MB Bordo, 'A Brief History of Central Banks', *Federal Reserve Bank of Cleveland*.

⁸⁰ A Clements Kendrick, *The Presidency of Woodrow Wilson* (University Press, 1992).

⁸¹ T. Tim, 'The Federal Reserve Act', *In The Balance of Power: The Political Fight for an Independent Central Bank, 1790-Present*, 9-15; Kansas City: The Federal Reserve Bank of Kansas City, 2012.

purchase specified non-transferable stock in their regional Federal Reserve banks, and to set aside a stipulated amount of non-interest bearing reserves with their respective reserve banks. Since 1980, all depository institutions have been required to set aside reserves with the Federal Reserve. Such institutions are entitled to certain Federal Reserve services. State chartered banks were given the option of becoming members of the Federal Reserve System and in the case of the exercise of such option were to be subject to supervision, in part, by the Federal Reserve System. Member banks became entitled to have access to discounted loans at the discount window in their respective reserve banks, to a 6% annual dividend in their Federal Reserve stock, and to other services.

3.2.2 Securities Exchange Act

The SEA of 1934 was enacted by Franklin D. Roosevelt's administration. It was a response to the widely held belief that irresponsible financial practices were one of the chief causes of the 1929 stock market crash. The SEA of 1934 followed the Securities Act of 1933, which required corporations to make public certain financial information, including stock sales and distribution. The Securities Exchange Act of 1934 (SEA) was created to govern securities transactions on the secondary market, after issue. Its goal was to ensure greater financial transparency and accuracy and less fraud or manipulation⁸². The SEA authorized the formation of the Securities and Exchange Commission (SEC), the regulatory arm of the SEA. The SEC has the power to oversee securities stocks, bonds, and over-the-counter securities as well as markets and the conduct of financial professionals, including brokers, dealers, and investment advisors. It also monitors the financial reports that publicly traded companies are required to disclose. The SEA regulates trading on the secondary market and major stock exchanges, as well as participants in

⁸² W Kelton, 'What Is the Securities Exchange Act of 1934?' *Reach and History* (Dotdash Meredith 2023).

these markets⁸³. Participants can include exchanges, brokers, transfer agents, and clearing agencies. The secondary market is where trading happens after assets are initially issued by a company. These assets can include stocks, bonds, stock options, and stock futures.

3.2.3 Commodities and Exchange Act (CEA)

The Commodities and Exchange Act (CEA) regulates the trading of commodity futures in the United States. It was Passed in 1936, it has been amended several times since then⁸⁴ to adapt to changes in the trading environment, including the rise of derivatives and the growth of the financial markets.

Key Features of the CEA are as follows:

- a. Regulation of Exchanges: The CEA establishes the Commodity Futures Trading Commission (CFTC) as the regulatory body overseeing futures and options markets. The CFTC's role includes enforcing compliance with the CEA and ensuring market integrity.⁸⁵
- b. Market Manipulation and Fraud Prevention: The act prohibits fraudulent practices, including market manipulation and deceptive conduct, aimed at protecting investors and maintaining fair trading practices.

⁸³ William Bealing, 'Actions speak louder than words: An Institutional Perspective on the Securities and Exchange Commission' *Accounting, Organizations and Society* (1994) (19)(7) 555-567

⁸⁴ H John Stassen, 'The Commodity Exchange Act In Perspective A Short And Not-So-Reverent History Of Futures Trading Legislation In The United States', *Wash. & Lee L. Rev.* [1982] (39) 825, available at: <https://solarlycommons.law.wlu.edu/wlulr/vol39/iss3/3> accessed on 19 October 2024.

⁸⁵ A Joseph Grundfest and C Paul Smith, 'Understanding the Commodities Exchange Act: Regulatory Framework and Market Impact', *Harvard Law Review* [1994] (107)(4) 1133-1160.

- c. Reporting Requirements: Participants in the commodities markets are required to report their trading activities, which helps the CFTC monitor market conditions and ensure transparency.
- d. Clearing and Settlement: The CEA outlines the requirements for clearinghouses that facilitate the settlement of futures contracts, ensuring that transactions are conducted efficiently and reducing counterparty risk.
- e. Regulation of OTC Derivatives: Amendments to the CEA have expanded its scope to include over-the-counter (OTC) derivatives, enhancing oversight and regulatory measures in these markets.

3.3 International Legal Framework

3.3.1 International Monetary Fund (IMF) Articles of Agreement

The Articles of Agreement of the International Monetary Fund were adopted at the United Nations Monetary and Financial Conference (Bretton Woods, New Hampshire) on July 22, 1944.⁸⁶ They were originally accepted by 29 countries and since then have been signed and ratified by a total of 189 Member countries. As the charter of the organization, the Articles lay out the Fund's purposes, which include the promotion of "international monetary cooperation through a permanent institution which provides the machinery for consultation and collaboration on international monetary problems". The Articles also establish the mandate of the Organization and its members' rights and obligations, its governance structure and roles of its organs, and lays out various rules of operations including those related to the conduct of its operations and transactions regarding the

⁸⁶ Articles of Agreement of the International Monetary Fund, International Monetary Fund, United Nations Monetary and Financial Conference: Bretton Woods, N.H.(1944).

Special Drawing Rights. The key functions of the IMF are the surveillance of the international monetary system and the monitoring of members' economic and financial policies, the provision of Fund resources to member countries in need, and the delivery of technical assistance and financial services. Since their adoption in 1944,⁸⁷ the Articles of Agreement have been amended seven times, with the latest amendment adopted on December 15, 2010 (effective January 26, 2016). The Articles are complemented by the By-laws of the Fund adopted by the Board of Governors, themselves being supplemented by the Rules and Regulations adopted by the Executive Board.

3.3.2 International Bank for Reconstruction and Development (IBRD) Articles of Agreement

This document was adopted at the United Nations Monetary and Financial Conference in Bretton Woods, New Hampshire, USA, on July 22, 1944.⁸⁸ The article of agreement empowers the bank to carry on the following purposes as contained in article 1.

The purposes of the Bank are:

- i. To assist in the reconstruction and development of territories of members by facilitating the investment of capital for productive purposes, including the restoration of economies destroyed or disrupted by war, the reconversion of productive facilities to peacetime needs and the encouragement of the development of productive facilities and resources in less developed countries.

⁸⁷ Department of State (Ed.), *United Nations Monetary and Financial Conference: Bretton Woods, Final Act and Related Documents* (New Hampshire, Washington: United States Government Printing Office, 1944) p. 121.

⁸⁸ N Lamoreaux and L Shapiro, 'The Bretton Woods Agreements : Together with Scholarly Commentaries and Essential Historical Document, *Library of Congress Digital Resources* (2013).

- ii. To promote private foreign investment by means of guarantees or participations in loans and other investments made by private investors; and when private capital is not available on reasonable terms, to supplement private investment by providing, on suitable conditions, finance for productive purposes out of its own capital, funds raised by it and its other resources.
- iii. To promote the long-range balanced growth of international trade and the maintenance of equilibrium in balances of payments by encouraging international investment for the development of the productive resources of members, thereby assisting in raising productivity, the standard of living and conditions of labor in their territories.
- iv. To arrange the loans made or guaranteed by it in relation to international loans through other channels so that the more useful and urgent projects, large and small alike, will be dealt with first.
- v. To conduct its operations with due regard to the effect of international investment on business conditions in the territories of members and, in the immediate postwar years, to assist in bringing about a smooth transition from a wartime to a peacetime of the economy.

3.4 Institutional Frameworks

3.4.1 Domestic Institutional Framework

3.4.1.1 Central Bank of Nigeria

The CBN is the apex regulatory authority of the financial system. It was established by the Central Bank of Nigeria Act of 1958 and commenced operations on 1st July 1959. Among its primary

functions, the Bank promotes monetary stability and a sound financial system,⁸⁹ and acts as banker and financial adviser to the Federal Government, as well as banker of last resort to the banks. The Bank also encourages the growth and development of financial institutions. Enabling laws made in 1991 gave the Bank more flexibility in regulating and overseeing the banking sector and licensing finance companies, which hitherto operated outside any regulatory framework.⁹⁰

Over time, the Central Bank of Nigeria (CBN) has adopted different exchange rate systems, such as controlled, floating, and managed float, alongside intermittent interventions, all aimed at achieving extended market stability. In a controlled exchange rate system, the central bank determines a fixed exchange rate, while in a float exchange rate system, market forces determine the rate. Meanwhile, the managed float exchange rate system allows the influence of demand and supply to determine the exchange rate but also permits occasional intervention by the central bank to manage persistent fluctuations.

The evolution of the foreign exchange market in Nigeria up to its present state was influenced by a number of developments in areas of international trade, domestic institutional arrangement and structural shifts in production. Before the establishment of the Central Bank of Nigeria (CBN) in 1958 and the enactment of the Exchange Control Act of 1962, foreign exchange was earned by the private sector and held in balances abroad by commercial banks that acted as agents for local exporters.⁹¹ During this period, agricultural exports contributed the bulk of foreign exchange receipts. The fact that the Nigerian pound was tied to the British pound sterling at par, with easy

⁸⁹ SI Ajayi and OO Ojo, *Money and Banking: Analysis and Policy in the Nigerian Context* (2nd Edition, Daily Graphics Nigeria Ltd, 2006).

⁹⁰ Y Makanjuola, *Evolution of the Central Bank of Nigeria*, in: *Banking Reform in Nigeria: Palgrave Macmillan Studies in Banking and Financial Institutions* (Palgrave Macmillan, 2015).

⁹¹ SB Falegan, 'Central Bank Autonomy: Historical and General Perspective', *Economic and Financial Review* (1995) 33(4) 416-428.

convertibility, delayed the development of an active foreign exchange market in Nigeria. However, with the establishment of the CBN and the subsequent centralization of foreign exchange authority in the Bank, the need to develop a local foreign exchange market became paramount.

The increased export of crude oil in the early 1970s, following the sharp rise in its prices, enhanced official foreign exchange receipts. The foreign exchange market experienced a boom during this period and the management of foreign exchange resources became necessary to ensure that shortages did not arise. However, it was not until 1982 that comprehensive exchange controls were applied as a result of the foreign exchange crisis that set in that year. The increasing demand for foreign exchange at a time when the supply was shrinking encouraged the development of a flourishing parallel market for foreign exchange.

The exchange control system was unable to evolve an appropriate mechanism for foreign exchange allocation in consonance with the goal of internal balance. This led to the introduction of the Second-tier Foreign Exchange Market (SFEM) in September 1986. Under SFEM, the determination of the Naira exchange rate and allocation of foreign exchange were based on market forces. To enlarge the scope of the Foreign Exchange Market Bureaux de Change was introduced in 1989 for dealing in privately sourced foreign exchange.

3.4.1.2 Securities And Exchange Commission

This is formerly called the Capital Issues Commission, the SEC was established by the SEC Act of 27th September 1979, which was further strengthened by the SEC Decree of 1988. It is the apex regulatory organ of the capital market.⁹² The Commission approves and regulates mergers and

⁹² JT Agbadu Fishim, Regulatory Powers of Securities and Exchange Commission a Commentary' (2002) M.P.J.F.I.L vol. 6 No.2 p 470.

acquisitions and authorizes the establishment of unit trusts. In the course of deregulation of the capital market, the function of price determination has been transferred to the issuing houses. The SEC maintains surveillance over the market to enhance efficiency. It issues guidelines on the establishment of Stock Exchanges in furtherance of the deregulation of the capital market.

⁹³Following the enactment of the Nigerian Investment Promotion Commission Decree and the Foreign Exchange (Monitoring and Miscellaneous Provisions) Decree in 1995, SEC released guidelines on foreign investment in the Nigerian capital market.

3.4.1.3 Nigerian Stock Exchange

The Nigerian Stock exchange is the center point of the Nigerian Capital Market. It provides a mechanism to mobilize private and public savings as well as making such funds available for productive purposes. The Nigerian Stock Exchange also assists in the allocation of the nation's capital resources amongst numerous competitive alternatives. The stock exchange can also be a mechanism, which can measure and detect the symptoms of an impending economic boom or decline long before the predicted prosperity or decline actually occurs provided the market is either in the semi-strong or strong form of efficiency level.⁹⁴ It is good to distinguish the capital market from the Stock Exchange in the sense that the capital market is much wider and bigger than the Stock Exchange. The Stock Exchange is just a participating institution in the capital market albeit it is the most active of all the participants. The activity of the Stock Exchange in the capital market is reflected by the Stock Exchange, which measures the activities on the capital market. The main objectives of the Nigerian Stock Exchange as enunciated in the Memorandum of Association of

⁹³ J Isaac Essien, 'A critical Appraisal of the Structure of the Nigerian Capital Market and the Role of Securities and Exchange Commission in Public Issues of Securities' (2008) B.S.U.J.P.P.L Vol. 1 No.1 pp 2-4.

⁹⁴ CA Ejem, UG Ogbonna and GC Okpara, 'Efficient Market Hypotheses Controversy and Nigerian Stock Exchange Relations', *American International Journal of Economics and Finance Research* [2020] (2) (1) 8.

the company is to create an appropriate mechanism for capital formation and provide efficient allocation of resources among competing alternatives. It is also expected to provide special financing strategies for projects with long term gestation periods.⁹⁵ In addition, it helps to maintain discipline in the capital market as far as the participants and the investors are concerned and as such, assists to broaden the share ownership in the market by providing the enabling environment and to provide and maintain fair prices for securities. The overriding objective of any financial system is the provision of a conducive atmosphere for the transfer of funds from the surplus sector of the economy to the deficit sector.

Its specific functions include:

- a. It provides an opportunity for investors to buy and sell securities
- b. It provides an opportunity for businesses to raise funds from the general public
- c. It serves as a catalyst for economic growth and development
- d. It provides relevant information for the general public – both potential investors and owners alike – to make relevant decisions
- e. It helps in assessing the Nigerian economy in terms of liquidity while also facilitating dealings in government-owned securities.
- f. It provides guiding rules and principles to protect the public from fraud and other wrong dealings

3.5. Foreign Institutional Framework

3.5.1 The Federal Reserve System

⁹⁵ I Ngozi, 'The Effect of Global Financial Crisis on the Performance of Nigerian Stock Exchange', *International Journal of Accounting and Economics Studies* [2017] (5) (1) 13.

The Federal Reserve System is the central bank of the United States. It was founded by Congress in 1913 to provide the nation with a safer, more flexible, and more stable monetary and financial system. Over the years, its role in banking and the economy has expanded. It performs five general functions to promote the effective operation of the U.S. economy and, more generally, the public interest.

Thus, the Federal Reserve:

- (a) conducts the nation's monetary policy to promote maximum employment, stable prices, and moderate long-term interest rates in the U.S. economy.
- (b) promotes the stability of the financial system and seeks to minimize and contain systemic risks through active monitoring and engagement in the U.S. and abroad.
- (c) regulates the safety and soundness of individual financial institutions and monitors their impact on the financial system as a whole.
- (d) supports payment and settlement system safety and efficiency through services to the banking industry and the U.S. government that facilitate U.S.-dollar transactions and payments.
- (e) fosters consumer protection and community development through consumer-focused supervision and examination, research and analysis of emerging consumer issues and trends, community economic development activities, and the administration of consumer laws and regulations.

In establishing the Federal Reserve System, the United States was divided geographically into 12 Districts, each with a separately incorporated Reserve Bank. District boundaries were

based on prevailing trade regions that existed in 1913 and related economic considerations. The Federal Reserve identifies its Districts by number and city in which its head office is located. The framers of the Federal Reserve Act purposely rejected the concept of a single central bank. Instead, they provided for a central banking 'system' with three salient features:

- (i) a central governing Board,
- (ii) a decentralized operating structure of 12 Reserve Banks, and
- (iii) a combination of public and private characteristics.

Although parts of the Federal Reserve System share some characteristics with private-sector entities, the Federal Reserve was established to serve the public interest. There are three key groups that make up the Federal Reserve System: the Board of Governors, the Federal Reserve Banks (Reserve Banks), and the Federal Open Market Committee (FOMC). Collaboratively, these three entities make decisions that help promote the health of the U.S. economy and the stability of the U.S. financial system.

3.5.2 The Securities Exchange Commission

The U.S. Securities and Exchange Commission (SEC) is an independent federal government regulatory agency responsible for protecting investors and maintaining fair and orderly securities markets. Congress created the SEC in 1934 as the first federal regulator of the securities markets. The SEC's efforts are meant to protect shareholders (especially retail investors) against fraudulent and manipulative practices in the market and ensure that companies provide accurate and complete disclosures about significant financial events, including corporate takeovers. It also approves registration statements for book-runners among underwriting firms. The Securities and

Exchange Commission (SEC) is the regulatory arm of the Securities Exchange Act of 1934. The SEA granted the SEC broad authority to regulate all aspects of the securities industry. It manages the disclosure and sharing of market-related information, which is designed to promote fair dealing for investors and protect against securities fraud.

The SEC is led by five commissioners, who are appointed by the president, and has five divisions:

(i) Division of Corporation Finance: responsible for ensuring that investors have access to any information that is material to a company's financial prospects or stock price.

(ii) Division of Trading and Markets: responsible for establishing and maintaining standards for orderly, fair, and efficient markets, as well as regulating major players in the securities market, to wit: U.S. Securities and Exchange Commission, 'Trading and Markets.'

(iii) Division of Investment Management: Administers the Investment Company Act of 1940 and Investment Advisers Act of 1940 to regulate investment companies and federally registered investment advisors.

(iv) Division of Economic and Risk Analysis: Supports all aspects of the SEC's mission by integrating financial economics and data analytics.⁹⁶

Division of Enforcement: Investigations possible violations of federal securities laws, prosecutes civil suits, and conducts administrative proceedings.

⁹⁶ SS Huebner, 'The Annals of the American Academy of Political science', *Modern Insurance Development* (1932)(161)14-19.

The SEC has the power and responsibility to lead investigations into potential violations of the SEA, such as insider trading, selling unregistered stocks, stealing customers' funds, manipulating market prices, disclosing false financial information, and breaching broker-customer integrity.

3.5.3 Commodity Futures Trading Commission (CFTC)

The Commodity Futures Trading Commission is an independent U.S. government agency that regulates the U.S. derivatives markets, including futures, options, and swaps. The mission of the Commodity Futures Trading Commission is to promote the integrity, resilience, and vibrancy of the U.S. derivatives markets through sound regulation⁹⁷. In carrying out this mission, the Commission polices the derivatives markets for various abuses and works to ensure the protection of customer funds. Further, the agency seeks to reduce the risk of the futures and swaps markets to protect the economy and the public. To fulfill these roles, the Commission oversees designated contract markets, swap execution facilities, derivatives clearing organizations, swap data repositories, swap dealers, futures commission merchants, commodity pool operators, and other intermediaries. The markets overseen by the Commission profoundly affect the U.S. economy and the prices individuals in the United States pay for food, energy, transportation, and most other goods and services bought each day. A wide variety of businesses - such as manufacturers, retailers, farmers, and ranchers—uses these markets to manage routine commercial risk.⁹⁸ For example, derivatives enable farmers to lock in a price for their crops, and utility companies or airlines to hedge the costs of fuel. Derivatives also enable exporters and importers to manage fluctuations in foreign currency exchange rates, and businesses of all types to lock in their

⁹⁷ S Mixon and A Orlov, ‘Observations on the Treasury Cash-Futures Basis Trade (2024): The Impact of Margin Requirements on Voluntary Clearing Decisions’, *Journal of Financial Markets* (2024) 68, available at <<https://doi.org/10.1016/j.finmar.2024.100892>> accessed 22 October 2024.

⁹⁸ CFTC’s FOIA Rules, 17 CFR Part 145.

borrowing costs. In the simplest terms, derivatives markets enable businesses of all kinds to manage risk.

The Commission, through its Division of Enforcement, investigates violations of the Commodity Exchange Act (CEA) and the CFTC Regulations. Violations can be certain actions or behavior in connection with futures, options, and swaps and in connection for a contract of sale of any commodity in interstate commerce.

3.6. International Institutional Framework

3.6.1 International Monetary Fund (IMF)

The IMF is best known as a financial institution that provides resources to member countries experiencing temporary balance of payments problems on the condition that the borrower undertake economic adjustment policies to address these difficulties. In recent years, IMF lending increased dramatically as the institution played a central role in resolving a series of economic and financial crises in emerging market countries in Asia, Latin America, and Europe.⁹⁹ The IMF is also actively engaged in promoting economic growth and poverty reduction in its poorer members by providing financing on concessional terms in support of efforts to stabilize economies, implement structural reforms, and achieve sustainable external debt positions. Often missing from the public perception of the IMF, however, is the broader context in which this financing takes place. The IMF is unique among intergovernmental organizations in its combination of regulatory, consultative, and financial functions, which derive from the purposes for which the institution was

⁹⁹ International Monetary Fund (IMF), *The Monetary Approach to the Balance of Payments*, (IMF Washington D.C. 1977).

established.¹⁰⁰ Supporting the IMF's legal mandate are a variety of voluntary service and informational functions that facilitate the implementation of its official tasks:

Regulatory functions of the IMF include formal jurisdiction over measures that have the effect of restricting payments and transfers for current international transactions. Member countries are required to provide the IMF with such information and statistical data as it deems necessary for its activities, including the minimum necessary for the effective discharge of its duties, as outlined in the Articles of Agreement (Article VIII). Financial functions of the IMF are the subject of this pamphlet. They range from the provision of temporary balance of payments financing and administration of the SDR system to the extension of longer-term concessional lending and debt relief to the poorest members (Articles V and VI).

The traditional objective of surveillance is ensuring orderly exchange arrangements' among members. The IMF, in 'consultation' with its members by both bilateral and multilateral means, assesses individual members' economic and monetary policies against its purposes to ascertain whether they pose a risk to the stability of the international monetary system. It seeks to provide financial assistance to members experiencing balance of payment problems, on the basis that the individual member complies with the conditions set for such assistance so the IMF can be assured the money will be repaid

3.6.2 World Bank

The World Bank and International Monetary fund (IMF) were created in July 1944 at an international conference in the United States (in Bretton Woods, New Hampshire) that established

¹⁰⁰ M Guitián, *The Unique Nature of the Responsibilities of the International Monetary Fund*, IMF Pamphlet Series, No. 46 (International Monetary Fund, 1992).

a framework for economic cooperation aimed at creating a more stable and prosperous global economy. While this goal remains central to both institutions, their work constantly evolves in response to economic developments and challenges.¹⁰¹ The IMF and the World Bank have responsibility respectively for exchange rate and currency stability, and reconstruction and development. The post-war agenda of exchange rate stability and reconstruction has been broadened to assist members with their efforts to achieve monetary and financial stability, create sustainable economic growth to reduce poverty¹⁰², and enhance development; focusing on their capacity to improve the domestic infrastructure that is necessary in most cases to deal with the prescribed assistance the institutions provide. The World Bank promotes long-term economic development and poverty reduction by providing technical and financial support to help countries implement reforms or projects, such as building schools, providing water and electricity, fighting disease, and protecting the environment. World Bank assistance is generally long-term and is funded by member country contributions and by issuing bonds. World Bank staff are often specialists on specific issues, such as climate, or sectors, such as education.

The World Bank is primarily made up of two main agencies: the International Bank for Reconstruction and Development (IBRD), and the International Development Association (IDA) and affiliate agencies. The role of the IBRD is aimed at reduction of poverty and sustainable development, although its initial responsibility was for assistance with the reconstruction of countries affected by war. The World Bank acts for its members as a facilitator for investment and technical assistance, broadly speaking to assist with the 'development of productive facilities and

¹⁰¹ A Irfan, 'Imperfect Information, Screening and the Costs of Informal Lending: A Study of Rural Credit Market in Pakistan', *World Bank Economic Review* [1990] (4) (3)329-49.

¹⁰² C Denis, and J Naudet, 'Who Deserves Aid? Equality of Opportunity, International Aid, and Poverty Reduction,' *Paper Presented at the Equity and Development Workshop, September 6, Berlin (2004)*.

resources in less developed countries'. The investment (or loans as the case may be) it provides comes from both private means and its own resources, but the principal objective is to give financial assistance to members on the most reasonable terms and conditions.

3.6.3 Bank for International Settlement (BIS)

Established in 1930 by the Hague agreement among the ten founding central banks, the Bank for International Settlements (BIS) is an intergovernmental body.¹⁰³ The BIS is the world's oldest international financial institution and remains the principal center for international central bank cooperation. The BIS is protected by the 1987 Headquarters Agreement with the Swiss government, which has no jurisdiction over the BIS premises. The BIS and its employees are both exempt from Swiss taxes. Further, the BIS assets are immune from all jurisdictions under Swiss law. That is, they cannot be seized. In July 1944, the United Nations Bretton Woods Conference adopted a resolution calling for the liquidation of the BIS, on the grounds of its supposed domination by the Axis Powers during war and because its traditional field of activity would henceforth be largely covered by the soon to be created IMF and IRBD. However, in 1946 the governors of the European Bank started to reconvene again at Basel, and in 1948, the liquidation resolution was officially revoked. While the suspicious Congress of the United States¹⁰⁴ forbade the US Federal Reserve from joining the BIS formally, the New York Federal Reserve and its allied Morgan interests were able to work closely with the BIS, and the BIS treated the New York Federal Reserve as if it were the central bank of the United States. With the collapse of the Bretton Woods system, in the 1970s, the BIS's role became even prominent. The BIS aims to foster international

¹⁰³ FI Lessambo, *International Financial Institutions and Challenges* (Palgrave Macmillan, 2015).

¹⁰⁴ MN Rothbard, *A History of Money and Banking in the United States: The Colonial Era to World War II* (Ludwig Von Mises Institute, 2005) 276.

monetary and financial cooperation and serves as a bank for central banks. The BIS offers a framework for discussion and decision making among central banks. It is a limited liability company, incorporated under Swiss law, with an issued share capital. The BIS's shares are traded on stock markets, and it is held by private shareholders. Membership of the BIS is still a privilege rather than a right. The BIS carries out its work through its Annual General Meeting of all members. The BIS' objectives under Article 3 of its statutes include:

- i. to promote cooperation among central banks,
- ii. to provide additional facilities for international financial operations; and
- iii. to act as trustee or agent in regard to international financial settlements entrusted to it under agreements with the parties concerned. Besides its core objectives, the BIS buys and sells gold and foreign exchange for its clients, provides asset management, and arranges short-term credit to central banks. While not clearly stated under Article 3 of its statutes, the BIS's objectives have evolved to include the supervision of commercial banks through the Basel Committee on Banking Supervision¹⁰⁵.

3.2.3.4 The Basel Committee on Banking Supervision (BCBS)

The Basel Committee on Banking Supervision (BCBS) is the body entrusted at the global level with the prudential regulation of banks and, in particular, their solvency. The banking regulation standards agreed by the Committee are not legally binding, but their implementation is based on the commitment by its members to adopt them. The Committee thus promotes a level playing field for all banks competing internationally. It is also an international forum for cooperation on banking supervision.

¹⁰⁵ F Lessambo, *The International Banking System: Capital Adequacy, Core Business and Risk Management* (Palgrave Macmillan, 2013) 79.

The main objective of the BCBS is to strengthen banking regulation, supervision and practices worldwide, in order to improve banks' solvency, liquidity, governance and risk management, and to bring about greater financial stability globally. In this connection, it pursues the following activities, among others:

- a. To set and promote global banking regulation standards, monitoring their implementation.
- b. To exchange information on the banking sector, identifying the associated risks.
- c. To exchange experiences, approaches and techniques among supervisors and central banks.
- d. To collaborate with other international bodies in the financial sector, and with central banks and supervisors from countries that are not members of the Committee.

CHAPTER 4

**ANALYSIS OF THE LEGAL FRAMEWORK GOVERNING CURRENCY TRADING
AND EXCHANGE IN NIGERIA: A COMPARATIVE STUDY OF NIGERIA AND THE
UNITED STATES (US)**

4.1 Economic Conditions and Currency Analysis

4.1.1 Historical Overview of Nigerian Naira

The West African Currency Board held the responsibility of issuing currency notes in Nigeria from 1912 to 1959. Prior to its establishment, Nigeria utilized various forms of money, including cowries and manilas. On July 1st, 1959, a significant transition occurred as the Central Bank of Nigeria introduced the Nigerian currency notes and coins, leading to the withdrawal of the West African Currency Board notes and coins. The year 1962 marked the official withdrawal of legal tender status from the West African Currency Board As Nigeria attained Republic status in 1963, the nation's banknotes underwent transformation to reflect its newfound identity.¹⁰⁶ Subsequent changes in 1965 were prompted by the historical shift to a republic. In the year 1968, alterations were implemented in response to the unfortunate misuse of currency notes during the civil war. The monumental year of 1973 witnessed Nigeria's adoption of a truly national currency system, departing from the pounds and shillings of the imperial system inherited from British colonial administration. This shift ushered in the Naira (N) and kobo (k) denominations, with banknotes released in four denominations: 50 kobo, N1, N5, and N10. The years 1977 and 1991 witnessed the addition of N20 and N50 note denominations, respectively, responding to rapid economic growth brought about by the oil boom. Economic expansion prompted the introduction of higher

¹⁰⁶ M Obadan, 'Overview of Exchange Rate Management in Nigeria from 1986 to 2006', 9 *Bullion Publication of CBN* [2006] (30) (3) 1-9.

denomination notes: 100 Naira (1999), 200 Naira (2000), 500 Naira (2001), and 1000 Naira (2005). Remarkable milestones continued with the issuance of the N20 banknote in 1977, featuring the portrait of the late Head of State, General Murtala Ramat Muhammed. His leadership qualities and contributions to Nigeria's evolution were commemorated through this currency.¹⁰⁷ The N500 banknote, introduced in April 2001, symbolized another stride in Nigeria's financial landscape. Similarly, the N1000 banknote, launched in October 2005,¹⁰⁸ displayed the faces of prominent figures in Nigeria's financial history. These advancements demonstrated the nation's commitment to economic growth and security.¹⁰⁹ In 2007, economic reforms prompted a redesign of several banknotes and coins, unveiling new designs while preserving the heritage of Nigeria's currency journey.

4.1.2 Historical Overview of the US Dollars

The currency of the United States can be traced back to 1690 before the birth of the country when the region was still a patchwork of colonies.¹¹⁰ The Massachusetts Bay Colony used paper notes to finance military expeditions. After the introduction of paper currency in Massachusetts, the other colonies quickly followed.

Various British imposed restrictions on the colonial paper currencies were in place until being outlawed. In 1775, when the colonists were preparing to go to war with the British, the Continental

¹⁰⁷ E Ekpo, 'Nigeria and Evolution of Money Lagos: Central Bank of Nigeria', *Bullion Publication CBN*, (1979)

¹⁰⁸ BM Kajo, 'No Naira Sign on the New N1000 Note'. *Sunday Sun Newspaper*, October 30,2005.

¹⁰⁹ KS Adeyemi, Overview of Currency Management in Nigeria, *Bullion of the Central Bank of Nigeria* (2006). (1).

¹¹⁰ J Szrmiak, The History of Money: A Brief Look at American Currency, *Business Insider*(2016).

Congress introduced the Continental currency. However, the currency did not last long as there was insufficient financial backing and the notes were easily counterfeited.¹¹¹

Congress then chartered the first national bank in Philadelphia - the Bank of North America - to help with the government's finances. The dollar was chosen to become the monetary unit for the USA in 1785. The Coinage Act of 1792 helped put together an organised monetary system that introduced coinage in gold, silver, and copper. Paper notes or greenbacks were introduced into the system in 1861 to help finance the Civil War. The paper notes used several different techniques including a Treasury seal and engraved signatures to help diminish counterfeiting. In 1863, Congress put together the national banking system that granted the US Treasury permission to oversee the issuance of National Bank notes. This gave national banks the power to distribute money and to purchase US bonds more easily whilst still being regulated.

The Federal Reserve Act of 1913 created one central bank and organised a national banking system that could keep up with the changing financial needs of the country. The Federal Reserve Board created a new currency called the Federal Reserve Note. The first federal note was issued in the form of a ten dollar bill in 1914. Finally, a decision by the Federal Reserve board was made to lower the manufacturing costs of the currency by reducing the actual size of the notes by 30%. The same designs were also printed on all denominations instead of individual designs. The designs of the notes would not be changed again until 1996 when a series of improvements were carried out over a ten-year period to prevent counterfeiting.

4.1.3 Earlier Works on Determinant of Exchange Rate Volatility

¹¹¹ A Molnar and P Viktor, 'A Short History of the USD and a Reflection on the Current World Order', *The Eurasia Proceedings of Educational & Social Sciences (EPESS)* [2023] (32) 143-150.

There is no consensus in the economic literature on the factors affecting exchange rates and their volatility.¹¹² This absence of agreement reflects basic difficulties in modeling and predicting exchange rates. Much of the existing work focuses on the levels of exchange rates (in statistical terms, the mean or first moment), but also has implications for exchange rate volatility (the standard deviation or second moment). In the literature, three principal views have emerged¹¹³:

The first view is that, at least over short time horizons and for countries without high inflation, exchange rate models that include macroeconomic fundamentals do not perform better than a random walk in out-of-sample forecasting. Exchange rate volatility is simply the standard deviation of the error term.

A second view is that macroeconomic fundamentals play an important role in explaining the behavior of exchange rates. Some authors hold that these fundamentals are important only in the long run but have little to offer in explaining short-run movements, while others believe that macroeconomic fundamentals have explanatory power both in the long run and the short run.

A third school of thought holds that neither macroeconomic fundamentals nor the random walk model adequately account for exchange rate behavior at short horizons. Rather, short-run exchange rate movements are attributed to market microstructure factors, including inventory management and information aggregation by foreign exchange dealers. Specifically, the microstructure approach suggests that non-dealers learn about fundamentals affecting the exchange rate, and this knowledge is reflected in the orders they place with dealers. Dealers in

¹¹² J Canales-Kriljenko and K Habermeier, 'Nominal Effective Exchange Rate Volatility and Foreign Exchange Market Microstructure,' *IMF Working Paper* (International Monetary Fund).

¹¹³ M Bleaney and D Greenaway, 'The Impact of Terms of Trade and Real Exchange Rate Volatility on Investment and Growth in Sub-Saharan Africa', *Journal of Development Economics* [2001] (65) 491–500.

turn learn about fundamentals from order flow. The outcome of this two-stage learning process results in the formation of a price.¹¹⁴

4.1.4 Economic and Legal Implications of Naira Devaluation on the Economy

One area where the continued depreciation of the naira has impacted on the economy of Nigeria is decline in welfare and standard of living of the people.¹¹⁵ For all the time the naira has depreciated including the one that is happening currently, there is always surge in prices of goods and services. According to data by the Nigeria Bureau of Statistics, NBS, the average price of essential foods items such as eggs (medium size) rose by 28.15 per cent in the last quarter of 2021. The same story goes for all other food prices in the market beside food items, even Liquefied Petroleum Gas (Cooking Gas) has also seen upward movement in prices to as much as 78.99 per cent in the same period.¹¹⁶ This general increase in prices of goods and services are also reflected in the annual inflation rate which rose to a four year high of 18.17 per cent in March 2021. The severe impact of this development on businesses is reflected in the CBN Monthly economic report for August which showed that the banking industry recorded a 13.6 per cent, month-on-month, increase in bad loans to N2.76 trillion in August, triggered by rising loan defaults in the construction sector as a result increase in prices of building materials.¹¹⁷ The implication of this is that most of the projects going on around the country has been abandoned by the contractors due to rising cost of

¹¹⁴ R Lyons, 2001, *The Microstructure Approach to Exchange Rates* (Cambridge, Massachusetts: MIT Press).

¹¹⁵ AE Akinlo and AF Odusola, (2003), 'Assessing the Impact of Nigeria's Naira Depreciation on Output and Inflation', *National Centre for Economic Management and Administration (NCEMA)*, Ibadan, Nigeria, *Applied Economics*, ISBN: 1466-4283, available at <<http://www.tandf.co.uk/journals>>, accessed on 20 October, 2024.

¹¹⁶ K. Babajide (2022), Naira Depreciation, Inflation, Six other Events that Dominated Economy in 2021, available at <<https://www.vanguardngr.com/2022/01/naira-depreciation-inflation-six-otherevents-that-dominated-economy-in-2021>> accessed 23 October 2024.

¹¹⁷ S Vendors (2021), 'Effects of Naira Devaluation on the Nigerian Construction Industry' in I Chika, O Bello and A John (2022), 'Surging Diesel Price Puts Pressure On Businesses SMEs Say Lack of Cash Hinders Switch to Alternative Energy', *Leadership*, June 14, available at <<https://leadership.ng/surging-diesel-price-puts-pressure-on-businesses/tps://sapienvendors.com/ng/naira-devaluation-and-nigerian-construction-industry/>>, accessed on 21 October 2024.

inputs to execute the projects. Where the current naira depreciation is biting hard is on importation of refined petroleum products. Though Nigeria produces crude oil, but the country lacks the capacity to refine for domestic use, therefore the cost of importing refined products. One product that is having huge impact on business in diesel and Jet-A1 (aviation fuel) both of which are liberalized. At the moment the pump price of diesel is going as much as N 700 per litre from N 200 where it was at the beginning of the year. Since most Nigerian businesses depend on generators due to the epileptic power supply from the public sector, this means that the cost of businesses have increased putting many under intense pressure of cutting down labour cost through retrenchment of staff or outright suspension of operation.¹¹⁸ Even the premium motor spirit (petrol) which is the only product subsidized by the government is not available at the Filling Station due to the rising cost of diesel because the haulage vehicles that conveys these products from the sea ports to tank farms and depots uses diesel. The implication is scarcity and black-marketeering which leaves transporter no choice but increase transport fares.¹¹⁹

The continual increase in the cost of products and services, according to Awogbemi & Taiwo,¹²⁰ is one of the most significant problems facing every economic unit. As a result, every country works to attain price stability, which is the key element needed to foster national economic progress. They highlighted monetary policy, fiscal policy, and a country's position in its balance of payments as some of the changeable causes of inflation. They made the case that the expansion of the money supply is what causes inflation in their explanation of monetary policy as one of the

¹¹⁸ I Chika, O Bello and A John (2022), 'Surging Diesel Price Puts Pressure on Businesses SMEs Say Lack of Cash Hinders Switch to Alternative Energy, *Leadership*, June 14 available at <<https://leadership.ng/surging-diesel-price-puts-pressure-on-businesses/>>, accessed on 21 October 2024.

¹¹⁹ I Chika, O Bello & A John (2022), 'Surging Diesel Price Puts Pressure on Businesses SMEs Say Lack of Cash hinders switch to alternative energy, *Leadership*, June 14 available at <<https://leadership.ng/surging-diesel-price-puts-pressure-on-businesses/>> accessed on 20 October 2024.

¹²⁰ CA Awogbemi and JK Taiwo, 'Empirical Analysis of the Causes and Effects of Inflation in Nigeria', *Journal of Economics and Sustainable Development* [2012 (3) (11) 35-40.

factors determining inflation.¹²¹ The status of the balance of payments, on the other hand, was determined by the exchange rate. A decrease in the currency rate will result in inflation, which could either be.¹²²

Devaluation makes a domestic currency less expensive than other currencies, which has two main implications, according to the International Monetary Fund (IMF). ‘First, devaluation makes the country’s exports relatively less expensive for foreigners,’ the Fund explains on its website. ‘Second, the devaluation makes foreign products relatively more expensive for domestic consumers, thus discouraging imports. This may help to increase the country’s exports and decrease imports, and may therefore help to reduce the current account deficit.’ And in Nigeria’s specific case, the free float of the naira ended the central bank’s previous regime of foreign-exchange rationing for importers, which limited their capacities to obtain foreign currency, particularly to service their international debt and payment obligations. The move should also incentive to investment inflows into the country.¹²³

4.2 Status of the Currency Trading Regulation of Naira and US Dollars

4.2.1 Overview of Currency Trading Regulation of Naira

Nigeria, as a British colony, adopted the British pound sterling (GBP) as its official currency on 1907. The pound was used for both domestic and international transactions. Under colonial rule, exchange rate stability was a priority. The colonial authorities managed the exchange rate to ensure

¹²¹ AO Adaramola and O Dada, ‘Impact of Inflation on Economic Growth: Evidence from Nigeria. Investment Management and Financial Innovations [2020] (17) (2) 1–13, available at <[https://doi.org/10.21511/imfi.17\(2\).2020.01](https://doi.org/10.21511/imfi.17(2).2020.01)> accessed on 21 October 2024.

¹²²A Umaru and C. Zubairu, ‘Effect of inflation on the growth and development of the Nigerian economy: an empirical analysis’. *International Journal of Business and Social Science* [2012] (3) (10) 183-191.

¹²³ **M Johnson**, ‘What a Devalued Naira Means for the Nigerian Economy’, *Authoritative Analysis on International Banking* (2023).

that it remained fixed and predictable.¹²⁴ This stability was crucial for trade and economic activities within the colony. The colonial administration had significant control over Nigeria's monetary and fiscal policies, including exchange rate policy. The exchange rate was maintained within a fixed range, and the colonial government had the authority to adjust it as needed.

Nigeria had limited influence over its exchange rate decisions during this period. Exchange rate adjustments were often made by British authorities based on factors such as the balance of payments, trade conditions, and the overall economic situation of the British Empire. The exchange rate was influenced by the gold standard, which was a system in which the value of a country's currency was linked to a specific quantity of gold. The British pound was part of the gold standard system, and this indirectly affected Nigeria's exchange rate. After gaining independence from British colonial rule in 1960, Nigeria initially adopted a fixed exchange rate regime as part of its exchange rate policy. This policy continued for several years and played a crucial role in shaping Nigeria's economic landscape.

In the early post-independence period, Nigeria introduced its own currency, the **Nigerian pound (NGP)**, as a replacement for the British pound. The conversion rate was set at 1 Nigerian pound (NGP) being equivalent to 2 Naira. This means that the Nigerian pound was the primary unit of currency, and the Naira was a subunit or a fraction of the pound, with 1 pound being equal to 2 Naira. The NGP was issued by the Central Bank of Nigeria (CBN)¹²⁵ and became the official currency of the newly independent nation. Nigeria operated under a fixed exchange rate system, where the value of the Nigerian pound was pegged to a foreign currency, initially the British pound,

¹²⁴ El-fandi Capital inc; *A Historical Perspective on Nigeria's Exchange Rate Policy* (2023), available at https://medium.com/@elfandicapital?source=post_page26ff18e3475b accessed on 21 October 2024.

¹²⁵ KS Adeyemi, 'Overview of Currency Management in Nigeria.' *Bullion of the Central Bank of Nigeria*(2006).

and later to the U.S. dollar. This fixed rate was intended to provide exchange rate stability and predictability for businesses and investors. The Nigerian pound was initially pegged at parity with the British pound. However, as economic conditions evolved, Nigeria shifted its peg to the U.S. dollar at various fixed exchange rates. These pegs were periodically adjusted to reflect changes in Nigeria's economic circumstances.

The Central Bank of Nigeria (CBN) played a central role in managing the fixed exchange rate regime. It held significant reserves of foreign currencies, primarily U.S. dollars, to intervene in the foreign exchange market and maintain the pegged rates. In 1973, Nigeria introduced its own currency, the Nigerian Naira¹²⁶, to replace the Nigerian pound (NGP). The introduction of the Naira was part of Nigeria's efforts to assert its economic independence and establish its national identity following years of British colonial rule. With the introduction of the Naira, Nigeria adopted a managed float exchange rate system. Under this system, the Naira's value was not fixed but was allowed to fluctuate within a specified range, determined by the Central Bank of Nigeria (CBN).¹²⁷ The oil boom in Nigeria, particularly during the 1970s, had a profound impact on the country's exchange rate stability. This period was characterized by a surge in oil production and export revenues, which significantly influenced Nigeria's economic and exchange rate policies.

Despite the benefits, Nigeria's heavy reliance on oil revenues also made its economy vulnerable to fluctuations in global oil prices. When oil prices experienced a downturn in the 1980s, Nigeria faced economic challenges, including fiscal deficits and foreign exchange shortages. The oil boom ultimately highlighted the need for economic diversification and reforms. Nigeria embarked on

¹²⁶ P Joseph (2023), *Nigerian Currency History, Facts & Notes Design*, Study.com., available at <https://study.com/academy/lesson/naira-currency-overview-history-nigerian.html> accessed on 23 October 2024.

¹²⁷ PJ Obaseki, 'Issues in Exchange Rate Policy Design and Management', *CBN Economic and Financial Review* [2001] (10) (2).

structural adjustment programs and started moving away from the fixed exchange rate system towards more flexible exchange rate regimes.

4.2.2 Structural Adjustments and Exchange Rate Liberalization

Structural adjustments and exchange rate liberalization in Nigeria represent a significant phase in the country's economic history. These reforms were implemented in response to economic challenges and external pressures and had a profound impact on Nigeria's exchange rate policy.¹²⁸

In the 1980s, Nigeria faced a series of economic challenges, including fiscal deficits, a decline in oil prices, high inflation, and an unsustainable foreign exchange regime. These challenges necessitated a reevaluation of economic policies. In 1986, Nigeria entered into agreements with international financial institutions, including the International Monetary Fund (IMF) and the World Bank, to implement Structural Adjustment Programs (SAPs). SAPs are a set of policy measures aimed at restructuring and reforming a country's economy. They typically involve market-oriented reforms, fiscal discipline, and trade liberalization. A key component of Nigeria's SAPs was the liberalization of the exchange rate. The country shifted away from a fixed exchange rate system to one that allowed market forces to determine the Naira's (NGN) value. During this period, Nigeria introduced multiple exchange rates. These included an official exchange rate, an interbank market rate, and various parallel market rates. The official rate was often different from the rates in the parallel markets. Exchange rates in the interbank market were determined by supply and demand forces, with limited intervention from the Central Bank of Nigeria (CBN). This move towards market-determined rates aimed to reflect economic realities and improve exchange rate stability. The transition to exchange rate liberalization and market-determined rates was not without

¹²⁸ RA Olukode, 'Exchange Rate Development in Nigeria.' *The Central Bank of Nigeria Bullion*(1992).

challenges. Exchange rate fluctuations and differences between official and parallel market rates persisted. Exchange rate liberalization was intended to promote foreign investments, reduce black-market activities, and make the allocation of foreign exchange more efficient. However, it also led to currency depreciation and increased inflation in the short term¹²⁹. Exchange rate policies continued to evolve in response to economic developments. The CBN periodically adjusted its intervention policies to maintain stability and address foreign exchange imbalances. In recent years, Nigeria implemented a multi-tiered exchange rate system to address specific economic and policy objectives. These exchange rates served different purposes and were aimed at achieving various goals. The Central banks typically introduce this system during economic downturns in response to challenges such as economic difficulties, foreign exchange scarcity, and the need to control speculative activities in the foreign exchange market. On April 2017, Nigeria took steps to unify and simplify its exchange rate structure by narrowing the gap between the official and parallel market rates. Introducing the Investors and Exporters (I&E) FX window to address the issue. This window allowed the market to determine the exchange rate, leading to a depreciation of the naira. The goal was to create a more transparent and unified exchange rate system. However, the use of multiple exchange rates also led to challenges, including distortions in the market, arbitrage opportunities, and corruption. While these reforms aimed to reduce the number of exchange rates, Nigeria continued to use a managed float exchange rate system to address economic challenges. On June 14, 2023, the Central Bank of Nigeria (CBN) implemented a groundbreaking policy shift by putting an end to the era of regulated exchange rates. In this transformative move, the CBN unified the multiple exchange rates that had been in existence into a single, cohesive exchange rate system.

¹²⁹ F Feyi (2015) 'A (Not So) Brief History of the Fall and Fall of the Nigerian Naira, available at <<https://qz.com/africa/564513/a-not-so-brief-history-of-the-fall-and-fall-of-the-nigeriannaira/>> accessed on 23 October 2024.

This change was prompted by President Bola Tinubu's call for exchange rate liberalization in his inaugural address on May 29.

4.2.3 Overview of Currency Trading Regulation of US Dollars

The regulation of Currency Transactions has evolved significantly over time as Congress, the CFTC and other regulators have attempted to curb various forms of misconduct and respond to market disruptions, while still preserving the liquidity and robustness of the market. The most comprehensive change to the regulation of Currency Transactions came in 2010 with the adoption of Dodd-Frank. Under Dodd-Frank, Congress enacted a new regulatory framework for institutional OTC Currency Transactions (among other products) entered into between ECPs. This framework distinguishes between cash-settled and physically-settled Currency Transactions and contemplates that physically-settled Currency Transactions may be eligible for exemption from many of the regulatory requirements applicable to cash-settled Currency Transactions that are fully regulated as 'swaps.' Dodd-Frank also enhanced regulation of Retail Forex by requiring those regulators that oversee entities conducting Retail Forex to adopt substantive regulations applicable to such entities addressing disclosures, record-keeping, capital and margin, reporting, business conduct, documentation and other requirements deemed to be necessary by such regulators. Since the adoption of Dodd-Frank, enforcement actions and market events have continued to shape the regulatory environment in both the retail and institutional markets. In November 2014, the CFTC settled charges against five large banks for attempted manipulation of global foreign exchange benchmark rates. The CFTC found that foreign exchange traders at the five banks colluded with traders at other banks via private chat rooms to alter trading positions with the aim and result of

setting benchmark rates in a way that benefited the traders.¹³⁰ In the chat rooms, the currency traders allegedly shared confidential information regarding client orders, which provided the traders with a more comprehensive view of order flows, and then allegedly colluded to alter their own currency trading positions prior to executing client orders in order to drive the benchmark price up or down at or around the time of the daily ‘fix.’¹³¹ The CFTC imposed an aggregate civil penalty of over \$1.4 billion on the banks whose traders were found to be complicit in the wrongdoing and stressed the culpability of the banks themselves, finding that they had failed to implement internal controls and procedures regarding training and oversight of the foreign exchange traders. Another group of banks pleaded guilty in May 2015 to felony violations of U.S. antitrust laws for similar manipulative behavior affecting foreign currency exchange rates.¹³² Currency Transactions were also a focal point for pension funds and institutional investors as a result of fiduciary breach allegations against major custodial banks. In the spring of 2015, the Bank of New York Mellon (“BNYM”) agreed to settle civil lawsuits and federal investigations in connection with allegations that the bank had engaged in fraudulent foreign exchange trading practices.¹³³ According to the allegations, BNYM misled institutional customers participating in BNYM’s ‘Standing Instruction Program,’ which provided a conversion service in connection with the purchase or sale of foreign securities, by representing to customers that they would achieve execution at the ‘best rates,’ in accordance with ‘best execution standards,’ when in reality execution was provided at the highest reported inter-bank rate of the day (for clients purchasing

¹³⁰ In *Re SA Citibank*, CFTC Docket No. 15-03 (Nov. 11, 2014).

¹³¹ D Schäfer, A Ross and D Strauss, ‘Foreign Exchange: The Big Fix,’ *Financial Times* (Nov. 12, 2013). <<https://www.ft.com/content/7a9b85b4-4af8-11e3-8c4c-00144feabdc0>> accessed 23 October 2024.

¹³² *U.S. v. Barclays PLC*, Case No. 3:15-cr-00077 (D. Conn. 2015).

¹³³ Manhattan U.S. Attorney and New York State Attorney General Announce \$714 Million Proposed Settlement with the Bank of New York Mellon Over Fraudulent Foreign Exchange Trading Practices, Dep’t of Just. U.S. Att’y’s Off. S.D.N.Y. (Mar. 19, 2015), available at <<https://www.justice.gov/usao-sdny/pr/manhattan-us-attorney-and-new-york-state-attorney-general-announce-714-million-proposed>> accessed on 23 October 2024.

foreign currency) or at the lowest reported inter-bank rate of the day (for clients selling foreign currency). BNYM's practices were also alleged to be materially misleading because statements provided to customers did not disclose how the prices obtained were determined. BNYM settled the actions for \$714 million to such clients. Plaintiffs alleged that State Street traders would execute a transaction for a client at the actual market exchange rate and then later mark the rate up or down to benefit the bank.¹³⁴ According to the complaints, the monthly reports provided to custodial clients by State Street detailed only the marked-up or marked down exchange rates entered by State Street's electronic system and not the more favorable rates achieved at the time of the transaction. As part of the settlement, State Street was ordered to distribute price reports to customers regarding spot conversions. Currency Transactions Regulated as Swaps Dodd-Frank established a comprehensive regulatory regime for those derivatives that fall within the definition of 'swap' under Section 1a of the CEA.

4.3 Regulatory Approaches and Impact Analysis

The regulatory frameworks governing currency trading in Nigeria and the US exhibit profound differences, reflecting distinct approaches to market regulation. Nigeria's Central Bank (CBN) exercises strict control over foreign exchange transactions, with regulations aimed at conserving foreign exchange reserves and stabilizing the naira.¹³⁵ This restrictive regulatory environment is designed to mitigate the risks associated with capital flight and currency speculation. Conversely, the US has a more liberalized foreign exchange market, with regulations primarily focused on ensuring market integrity and investor protection. The US regulatory framework promotes market efficiency, transparency, and liquidity, facilitating the country's status as a global financial hub.

¹³⁴ *Hill. v. State Street Corporation*, Fed. Sec. L. Rep. (CCH) 96,504 (D. Mass. 2011).

¹³⁵ CBN, 2020, Monetary Policy Framework, 12.

The US Commodity Futures Trading Commission (CFTC) and the Securities and Exchange Commission (SEC) are primary regulators of currency trading in the US¹³⁶ These agencies enforce strict standards for registration, disclosure, and risk management¹³⁷ The CFTC's Division of Swap Dealer and Intermediary Oversight ensures that registered firms comply with regulatory requirements.¹³⁸ Conversely, Nigeria's CBN is the primary regulator of foreign exchange transactions, with powers to license and supervise authorized dealers.¹³⁹ Research suggests that the US regulatory framework promotes market transparency and accountability, essential for maintaining investor confidence.¹⁴⁰

A notable difference between the two countries is the treatment of margin requirements. In the US, the CFTC mandates minimum margin requirements for retail forex transactions.¹⁴¹ Nigeria's CBN, however, imposes stricter margin requirements on authorized dealers.¹⁴² According to Eun and Resnick,¹⁴³ margin requirements significantly impact market liquidity and trading activity. Furthermore, the US regulatory framework permits greater flexibility in terms of leverage ratios, allowing market participants to assume higher levels of risk.¹⁴⁴

Similarly, the CEA contains a number of anti-fraud and anti-manipulation provisions that may be applied to Currency Transactions. Section 4b of the CEA is a broad anti-fraud provision that makes it unlawful for a party to a futures contract or swap to cheat or defraud, make false reports or statements to, or willfully deceive, such person's counter-party (or attempt any of the foregoing).

¹³⁶ CFTC, 2020, Forex Trading, Consumer Advisory, 2.

¹³⁷ SEC, 2020, Foreign Exchange Trading, Investor Alert, 5.

¹³⁸ CFTC, 2020, Division of Swap Dealer and Intermediary Oversight, 2.

¹³⁹ CBN, 2020, Guidelines for the Operation of the Investors' & Exporters' FX Window, 4.

¹⁴⁰ O Krueger, 'International Trade and Investment'. *Journal of Economic Perspectives* [2017] (31) (4) 119-136.

¹⁴¹ CFTC, 2020, Forex Trading, Consumer Advisory, 4.

¹⁴² CBN, 2020, Monetary Policy Framework, 15.

¹⁴³ CS Eun and BG Resnick, *International Financial Management*, 7th ed., (McGraw-Hill Education 2014).

¹⁴⁴ F Taylor and R Williams, *International financial markets*, 5th ed., (Routledge 2017) 515.

Section 2(c)(2)(C)(iv) of the CEA extends this anti-fraud authority under Section 4b to leveraged Retail Forex transactions (including rolling spot transactions), regardless of whether they qualify as futures contracts. Section 4c of the CEA proscribes various forms of fraudulent and manipulative activity. Section 4c(a)(2) applies to any futures contract (or option on a futures contract) or swap and prohibits wash sales, fictitious sales and transactions resulting in false price reporting.

In conclusion, the comparison of currency trading regulations between Nigeria and the US highlights distinct approaches to market regulation, reflecting differing priorities and economic contexts. While Nigeria's restrictive regulations aim to conserve foreign exchange reserves, the US emphasizes market integrity and investor protection. Effective regulation balances market stability with economic growth, and understanding these regulatory differences is crucial for market participants seeking to navigate the complexities of global currency markets.¹⁴⁵

The implications of these regulatory differences extend beyond market participants, influencing the broader economic trajectory of each country. As global financial markets continue to evolve, regulatory frameworks must adapt to ensure stability, efficiency, and investor protection.

4.4 Implications for Investors and Traders in both Countries

Currency trading and exchange have significant implications for investors and traders in Nigeria and the US. According to Osinubi (2018), currency fluctuations can substantially impact investment returns, making it crucial for investors to understand exchange rate dynamics. In Nigeria, for instance, the Central Bank of Nigeria's (CBN) management of the naira has been

¹⁴⁵. Taylor and R Williams, *International financial markets*, 5th ed., (Routledge 2017) 515.

instrumental in stabilizing the currency.¹⁴⁶ However, volatility in the foreign exchange market can still affect investment decisions.¹⁴⁷ Specifically, exchange rate fluctuations can influence the value of investments, particularly those denominated in foreign currencies. Furthermore, currency risks can impact the attractiveness of investments, making it essential for investors to consider hedging strategies.¹⁴⁸

In the US, the Federal Reserve's monetary policy decisions significantly influence currency trading and exchange.¹⁴⁹ For US investors, understanding the implications of currency fluctuations on international trade and investment is vital.¹⁵⁰ Moreover, currency trading strategies, such as hedging, can mitigate exchange rate risks.¹⁵¹ The impact of currency fluctuations on US multinational corporations' earnings is also noteworthy.¹⁵² US investors must consider these factors when making investment decisions, particularly in international markets.

For Nigerian traders, accessing the foreign exchange market can be challenging due to regulatory requirements and limited liquidity.¹⁵³ However, the CBN's introduction of the Investors' & Exporters' FX Window has improved access to foreign exchange.¹⁵⁴ In contrast, US traders have relatively easier access to the foreign exchange market, with numerous online trading platforms

¹⁴⁶ CBN, 2020, Monetary Policy Framework, 1.5

¹⁴⁷ S Ahmed and S Pasha, 'Foreign Exchange Market Dynamics and Monetary Policy: Evidence from Emerging Markets'. *Journal of International Financial Markets, Institutions and Money* [2020] (66) 101-221.

¹⁴⁸ CS Eun and BG Resnick, *International Financial Management*, 7th ed., (McGraw-Hill Education 2014) 456.

¹⁴⁹ BS Bernanke, *The Federal Reserve and the Financial Crisis* (Princeton University Press 2013) 120.

¹⁵⁰ B Krueger, 'International Trade and Investment', *Journal of Economic Perspectives* [2017] (31) (4) 119-136.

¹⁵¹ S Eun Cheol and G Bruce Resnick, *International Financial Management*, 7th ed., (McGraw-Hill Education 2014) 462.

¹⁵² G Dufey and SL Srinivasulu, *International Finance: A Managerial Perspective*, 6th ed., (Cengage Learning 2014) 341.

¹⁵³ S Mishkin Frederic and Stanley Eakins, 'Financial Markets, Institutions, and Money: A Global Perspective'. *Journal of Financial Markets, Institutions & Money* [2020] (59).

¹⁵⁴ CBN, 2020, Guidelines for the Operation of the Investors' & Exporters' FX Window, 3.

available.¹⁵⁵ Nigerian traders must navigate the complexities of the foreign exchange market, including exchange control regulations and limited market depth.

In conclusion, currency trading and exchange have far-reaching implications for investors and traders in Nigeria and the US. Understanding exchange rate dynamics, regulatory requirements, and market conditions is crucial for making informed investment decisions. As noted by researchers, effective risk management strategies, such as diversification and hedging, can mitigate exchange rate risks.¹⁵⁶ By adopting these strategies, investors and traders can navigate the complexities of currency trading and exchange. Furthermore, staying informed about monetary policy decisions, market trends, and regulatory changes is essential for success in the foreign exchange market.¹⁵⁷

¹⁵⁵ SEC, 2020, Foreign Exchange Trading, Investor Alert, 2.

¹⁵⁶CS Eun and BG Resnick, 'International Financial Management', 7th ed., (McGraw-Hill Education 2014) 466.

¹⁵⁷ F Taylor and PA Williams, *International Financial Markets*, 5th ed., (Routledge 2017) 520.

CHAPTER FIVE

CONCLUSION

5.1 Summary of Findings

This study investigated the legal framework governing currency trading and exchange in Nigeria and US. The key findings from the Nigerian jurisdiction include the 1999 Constitution of the Federal Republic of Nigeria (as amended) as the foundation for currency trading and exchange. While other key regulatory framework include the Central Bank Act(2007), the Bank and Other Financial Institutions Act(BOFIA) 1990, Foreign Exchange (Monitoring and Miscellaneous Provisions) Act, 1995. On the other hand, the legal framework which is prevalent in Us include the Federal Reserve Act (1913), the Securities and Exchange Commission Act (1934) and the Commodities and Exchange Act(1936).

The following regulatory gaps exists between the study of the two jurisdiction which is worthy of note:

(i) Nigeria's regulations do not align with international best practices on transparency and accountability in foreign exchange transactions especially provision of Bank of International Settlement as well as Basel Committee for Bank Supervision. Meanwhile, the Nigerian currency trading and exchange is regulated by the Central Bank of Nigeria (CBN) to mitigate the risks associated with capital flight and currency speculation. Conversely, the US has a more liberalized foreign exchange market, with regulations primarily focused on ensuring market integrity and investor protection.

(ii) The study identified gaps in oversight and monitoring of foreign exchange transactions, contrasting with the stringent supervisory framework in the US as well as the inconsistencies in enforcement mechanisms, differing from developed economies like US. In Nigeria, the Central Bank of Nigeria is still subject to the directive and intervention by the executive arm of government in the exercise of its rights to the determination of policies to embark on for the financial management of exchange market, such as the just recent intervention by the President, His Excellency, Bola Ahmed Tinubu upon his inauguration into office. Whereas, the Commodity and Exchange Trading Commission amongst other regulatory bodies in US stands as independent bodies in the currency trading market.

5.2 Recommendations

Following the recent trial and error methods in the currency trading market due to several fluctuations in exchange rate affecting the economic growth of the nation. Nigeria's currency trading market has been experiencing significant fluctuations in exchange rates, affecting the nation's economic growth. The country's history with fixed and floating exchange rate regimes is complex, and experts have debated the effectiveness of each approach. A floating exchange rate can lead to instability, inflation, and uncertainty, making it difficult for businesses to make investment decisions. The volatility of the exchange rate can also impact the purchasing power of consumers and the competitiveness of Nigerian businesses in the global market. On the other hand, a fixed exchange rate can provide stability and predictability, which can be beneficial for businesses and investors. It can also help to control inflation by stabilizing import costs.

The Central Bank of Nigeria plays a crucial role in managing the exchange rate and ensuring economic stability. Ultimately, finding the right solution will require careful consideration of

Nigeria's unique economic circumstances and the potential impacts of different policy choices. Implementing a fixed exchange rate will provide short term stability to enable checkmating the system and preventing fluctuations. Series of reviews at the end of specific periods to ensure accountability. The Central Bank must balance the need for stability with the need for flexibility in the economy. By doing so, Nigeria can promote economic growth, stability, and prosperity. The Central Bank cannot achieve this meticulous task of managing the economy if there is no independence status ascribed to it both in principle and in practice. This is to prevent the incessant intervention by the executives to carry out their personal objectives.

Regulatory Clarification for Cash-Settled and Physically-Settled Transactions in Nigeria should be enhanced. The Nigerian financial market has experienced significant growth and development, with various transactions taking place daily. Two primary types of transactions are cash-settled and physically-settled. However, the lack of clear guidelines and regulations has led to ambiguity and uncertainty. Regulatory clarification is crucial for reducing ambiguity and establishing standards for market participants. The current regulatory framework lacks clear definitions of cash-settled and physically-settled transactions, leading to confusion among market participants. The following means can be adopted to ensure regulatory clarification:

- (i) Conduct public consultations to gather stakeholder input;
- (ii) Collaborate with international regulatory bodies to ensure alignment such as IMF and regional regulatory bodies such as ECOWAS;
- (iii) Establish clear guidelines and standards; and
- (iv) Ensure effective enforcement mechanisms.

This will in turn improve market stability, increase investor confidence and promote better risk management options. Regulatory clarification is essential for ensuring the stability and integrity of Nigeria's financial markets. Clear guidelines and regulations will reduce ambiguity, establish standards, and enhance transparency. By addressing regulatory clarification, Nigeria can create a more robust and transparent financial market, promoting economic growth and development.

Similarly, The FX market manipulation scandal of US serves as a cautionary tale for Nigeria. Implementing robust regulatory oversight, internal controls, transparency, and investor protection measures will foster a stable and trustworthy FX market, promoting economic growth and development. To prevent similar scandals, Nigeria should:

- (i) Strengthen Regulatory Oversight: Enhance Central Bank of Nigeria (CBN) and Securities and Exchange Commission (SEC) monitoring;
- (ii) Implement Effective Internal Controls: Banks should establish robust training, oversight, and compliance programs;
- (iii) Promote Transparency: Regularly publish FX market data and benchmark rates;
- (iv) Enhance Investor Protection: Strengthen fiduciary duties and disclosure requirements, and
- (v) Collaborate with International Regulators: Share best practices and coordinate enforcement efforts.

Money laundering and terrorist financing pose significant threats to Nigeria's financial stability and economic growth. To combat these illicit activities, Nigeria must implement robust Anti-Money Laundering (AML) and Know-Your-Customer (KYC) measures. Money laundering, the process of concealing illicit funds, undermines Nigeria's financial system and fuels crime.

According to the International Monetary Fund (IMF), Nigeria loses approximately \$2.5 billion annually to money laundering.

To effectively prevent money laundering and terrorist financing, Nigeria should implement:

- a. Customer Due Diligence: Conduct thorough customer identification and verification.
- b. Risk-Based Approach: Assess customers' risk profiles and monitor transactions..
- c. Reporting Requirements: Mandate reporting of suspicious transactions and cash transactions exceeding ₦5 million.

Lastly, Nigeria's economy has long been dependent on oil exports, accounting for approximately 90% of foreign exchange earnings. However, this reliance on a single commodity has exposed the country to volatile global oil prices, economic instability, and limited economic growth. To mitigate these risks, diversifying the export base is crucial. This essay examines the importance of diversifying Nigeria's export base, identifies key stakeholders, and outlines strategies for implementation.

The importance of diversification includes: reduced vulnerability to external shocks, increased economic stability, improved competitiveness, enhanced innovation and entrepreneurship and job creation and employment opportunities. To successfully diversify Nigeria's export base, the following stakeholders must collaborate:

- a. Federal Government: Provide policy direction, incentives, and regulatory framework.
- b. Central Bank of Nigeria (CBN): Implement monetary policies to support export-oriented sectors.
- c. Ministry of Trade and Investment: Facilitate trade agreements and promote export development.

- d. Private Sector: Invest in export-oriented industries and develop competitive products.
- e. State Governments: Support local economic development and infrastructure.

Diversifying Nigeria's export base requires collaborative efforts from key stakeholders. By implementing strategies outlined above, Nigeria can reduce dependence on oil exports, promote economic growth, and achieve stability. The federal government, CBN, private sector, and state governments must work together to develop competitive sectors, invest in infrastructure, and promote entrepreneurship.

5.3 Conclusion

This research has provided an in-depth examination of the legal framework governing currency trading and exchange in Nigeria, bench-marked against the United States. The study has identified significant challenges and opportunities for improvement in Nigeria's regulatory environment.

The analysis revealed that Nigeria's currency trading and exchange regulations are fragmented, with overlapping responsibilities among regulatory bodies, hindering effective enforcement. In contrast, the US regulatory framework is more comprehensive, with clear divisions of authority among the Federal Reserve, Securities and Exchange Commission, and Commodity Futures Trading Commission. The research highlighted the importance of robust anti-money laundering and combating the financing of terrorism (AML/CFT) regulations. Nigeria's AML/CFT framework, although improved, still falls short of international standards. The study demonstrated how the US has implemented more stringent AML/CFT measures, providing valuable lessons for Nigeria. The study also explored the impact of foreign exchange controls on international trade and investment in Nigeria. The research showed that restrictive policies have hindered economic growth, discouraging foreign investment and encouraging illicit currency transactions. In contrast,

the US maintains a relatively open foreign exchange regime, facilitating international trade and investment.

Comparative analysis underscored the need for Nigeria to strengthen its regulatory framework, enhance enforcement mechanisms, and improve investor protection. Adopting international best practices, such as those implemented in the US, would significantly improve Nigeria's currency trading and exchange environment.

This research contributes to the existing literature by providing an in-depth analysis of Nigeria's regulatory framework, offering a comparative perspective with the US, informing policy reforms, advancing understanding of AML/CFT regulations in emerging markets, and shedding light on the implications of foreign exchange controls on international trade and investment. The study recommends policy reforms to enhance Nigeria's economic stability and attract foreign investment. Specifically, Nigeria should strengthen its regulatory framework, enhance enforcement mechanisms, improve investor protection, and adopt international best practices. Future studies should investigate the impact of technology on currency trading and exchange, the relationship between currency trading and economic development, international cooperation in combating money laundering and terrorist financing, and the challenges faced by small and medium-sized enterprises in accessing foreign exchange.

Finally, conclusion, this research has provided critical insights into Nigeria's currency trading and exchange environment, highlighting areas for improvement and informing policy decisions. By adopting international best practices and strengthening its regulatory framework, Nigeria can enhance economic stability, attract foreign investment, and promote sustainable growth.

5.4 Contributions to Knowledge

This study contributes significantly to the existing body of knowledge on the legal analysis of currency trading and exchange in Nigeria, with a comparative study of the US. The research sheds light on the complexities of Nigeria's regulatory framework, highlighting areas requiring reform to align with international best practices.

The study reveals that Nigeria's currency trading and exchange regulations are fragmented, with overlapping responsibilities among regulatory bodies. This lack of clarity hinders effective enforcement, creating vulnerabilities for money laundering and terrorist financing. In contrast, the US regulatory framework is more comprehensive, with clear divisions of authority among the Federal Reserve, Securities and Exchange Commission, and Commodity Futures Trading Commission.

This research also underscores the importance of robust anti-money laundering and combating the financing of terrorism (AML/CFT) regulations. Nigeria's AML/CFT framework, although improved, still falls short of international standards. The study demonstrates how the US has implemented more stringent AML/CFT measures, providing valuable lessons for Nigeria.

Furthermore, the study examines the impact of foreign exchange controls on international trade and investment in Nigeria. The research shows that restrictive policies have hindered economic growth, discouraging foreign investment and encouraging illicit currency transactions. In contrast, the US maintains a relatively open foreign exchange regime, facilitating international trade and investment.

The comparative analysis highlights the need for Nigeria to strengthen its regulatory framework, enhance enforcement mechanisms, and improve investor protection. Adopting international best

practices, such as those implemented in the US, would significantly improve Nigeria's currency trading and exchange environment.

This research contributes to the existing literature by:

- a. Providing an in-depth analysis of Nigeria's regulatory framework for currency trading and exchange
- b. Offering a comparative perspective with the US, highlighting areas for improvement
- c. Informing policy reforms to enhance Nigeria's economic stability and attract foreign investment
- d. Advancing understanding of AML/CFT regulations in emerging markets
- e. Shedding light on the implications of foreign exchange controls on international trade and investment. Ultimately, this study provides valuable insights for policymakers, regulators, and scholars seeking to understand the complexities of currency trading and exchange in Nigeria and its implications for economic growth.

5.5 Areas for Further Studies

The legal analysis of currency trading and exchange in Nigeria, comparative to the US, has unveiled significant insights into the complexities of Nigeria's regulatory framework. However, this research has also exposed several uncharted territories that warrant further investigation. Future studies should delve into the impact of technology on currency trading and exchange in Nigeria. The rise of fintech and digital payment systems has transformed the financial landscape, yet Nigeria's regulatory framework struggles to keep pace. Researching the legal implications of these innovations and their potential to enhance Nigeria's currency trading environment would provide valuable insights.

Another area ripe for exploration is the relationship between currency trading and economic development in Nigeria. Scholars should investigate how Nigeria's foreign exchange policies influence economic growth, poverty reduction, and employment rates. This inquiry would shed light on the macroeconomic effects of currency trading and inform policy decisions.

The role of international cooperation in combating money laundering and terrorist financing in Nigeria's currency trading also requires attention. Researchers should examine the effectiveness of international agreements, such as the Financial Action Task Force (FATF) recommendations, in strengthening Nigeria's AML/CFT regulations.

Furthermore, studies should focus on the challenges faced by small and medium-sized enterprises (SMEs) in accessing foreign exchange in Nigeria. Investigating the obstacles hindering SMEs' participation in international trade would provide critical insights into the country's economic development.

Investigating the political economy of currency trading and exchange in Nigeria would also yield valuable findings. Scholars should analyze how political interests, corruption, and institutional weaknesses influence Nigeria's regulatory framework and policy decisions as well as make a comparative study with other developed jurisdiction to discover areas of positive change.

Additionally, comparative studies with other emerging markets, such as South Africa, Brazil, or India, would offer valuable lessons for Nigeria's policymakers. Examining the regulatory frameworks, enforcement mechanisms, and economic outcomes in these countries would provide a broader understanding of best practices.

Lastly, researchers should explore the potential benefits and challenges of adopting a more flexible exchange rate regime in Nigeria. This inquiry would inform policymakers on the feasibility of transitioning from the current managed float regime.

By venturing into these uncharted territories, scholars can provide critical insights to enhance Nigeria's currency trading and exchange environment, ultimately contributing to the country's economic stability and growth.

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