A RE-EXAMINATION OF THE LEGAL FRAMEWORK FOR THE PROTECTION OF SHAREHOLDERS' RIGHTS IN NIGERIA

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Abstract

Shareholders remain the lifeblood of corporations, yet the Nigerian regulatory environment continues to tilt in favour of directors, undermining shareholder protection and accountability. This paper re-examines the legal regime of shareholders' rights in Nigeria to determine whether existing corporate governance frameworks adequately safeguard shareholder interests. Using a doctrinal methodology, the study interrogates the provisions of the Companies and Allied Matters Act 2020, the Investment and Securities Act 2025, the Nigerian Code of Corporate Governance 2018, and related regulatory provisions, alongside case law. The paper recommends stronger institutional mechanisms, enhanced whistleblower protections, a specialised corporate affairs tribunal for speedy dispute resolution, and a shift from the current "apply and explain" approach to a "comply or explain with sanctions" regime. By proposing a more robust and enforceable framework, the study contributes to ongoing debates on corporate governance reform and the equitable treatment of shareholders in Nigeria.

Keywords*:* Shareholder rights, Whistleblower protection, Netting, Corporate Governance

1. Introduction

The protection of shareholders lies at the heart of modern corporate governance. Without credible safeguards for shareholder rights, capital markets lose legitimacy, firms struggle to attract sustainable investment, and economic growth is undermined. In Nigeria, recurring corporate scandals, weak disclosure practices, and entrenched managerial opportunism have exposed persistent gaps in investor protection, despite the existence of multiple regulatory instruments. The challenge has not been the absence of laws, but rather their fragmented nature, uneven enforcement, and the ease with which corporate actors evade governance obligations.

In response, Nigeria has undertaken significant reforms in recent years. The Companies and Allied Matters Act 2020 (CAMA 2020) codified directors' fiduciary duties, strengthened disclosure obligations, and sought to improve board independence. The Investments and Securities Act 2025 (ISA 2025) expanded the regulatory mandate of the Securities and Exchange Commission (SEC), criminalised insider trading and market manipulation, and brought digital assets within the regulatory net. The Financial Reporting Council of Nigeria Act (as amended 2023) reinforced the FRC's role in setting and enforcing reporting standards, while the Nigerian Code of Corporate Governance 2018 (NCCG 2018) established principle-based guidelines on board accountability and shareholder engagement. These frameworks have been supplemented by sector-specific governance codes, such as the SEC Guidelines (2020, updated 2025), PenCom's 2025 Revised Guidelines for Licensed Pension Fund Operators, NAICOM's Insurance Governance Guidelines, CBN's banking sector guidelines, and the NCC's 2023 communication sector guidelines, which adapt general principles to industry-specific risks.

Despite these advances, critical questions remain as to whether Nigeria's governance framework adequately protects shareholders in practice. Weak enforcement, regulatory overlap, and cosmetic compliance continue to undermine shareholder confidence. This paper, therefore, re-examines the Nigerian legal regime on shareholders' rights and corporate governance through the lens of shareholder protection, identifying strengths,

weaknesses, and areas for reform. It argues that while Nigeria has established an elaborate architecture of laws and codes, the effectiveness of shareholder protection depends less on formal provisions than on rigorous enforcement, empowered shareholder activism, and a cultural shift towards genuine accountability.

2. Legal Framework on the Protection of Shareholders' Rights

2.1 The Constitution of the Federal Republic of Nigeria, 1999

The foundation for the protection of shareholder rights in Nigeria is rooted in the Constitution of the Federal Republic of Nigeria 1999 (as amended). Section 16(1)(b) provides that the State shall "control the national economy in such manner as to secure the maximum welfare, freedom and happiness of every citizen based on social justice and equality of status and opportunity."[1] Read together with section 16(1)(c), which affirms the right of every citizen to participate in areas of the economy outside those reserved for the State, these provisions form the normative basis for shareholder participation in corporate enterprise. They guarantee not only the freedom to invest but also the right to fair treatment and protection within the economic system.

Although these provisions fall within the Fundamental Objectives and Directive Principles of State Policy (Chapter II of the Constitution) and are generally considered non-justiciable under section 6(6)(c),[2] they nevertheless provide an interpretative framework for legislation such as the Companies and Allied Matters Act 2020 (CAMA 2020) and the Investments and Securities Act 2025 (ISA 2025). In practice, the constitutional mandate imposes a duty on the State, through its agencies such as the Corporate Affairs Commission (CAC), the Securities and Exchange Commission (SEC), and the Financial Reporting Council of Nigeria (FRCN), to enact and enforce rules that protect shareholders from managerial abuse and ensure fair participation in corporate governance.

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[1] Constitution of the Federal Republic of Nigeria 1999 (as amended), s 16(1)(b).
[2] *ibid* s 6(6)(c).

Judicial interpretation has occasionally given constitutional weight to economic rights where linked to other enforceable rights, such as the right to property under section 44 of the Constitution.[3] In this sense, shareholder rights to dividends, participation in general meetings, and fair value in takeovers or compulsory acquisitions may be viewed as constitutionally grounded in the right to property and protected against arbitrary deprivation.

Therefore, the Constitution serves as both a symbolic and normative foundation for shareholder rights. It reflects the principle that participation in the economy must be inclusive, transparent, and fair, and places a corresponding responsibility on the State to design regulatory frameworks that protect shareholders. By anchoring shareholder protection in the broader objectives of social justice and economic participation, the Constitution ensures that statutory regimes such as CAMA, ISA, and the NCCG 2018 are not isolated rules, but extensions of a constitutional mandate to safeguard citizens' participation in and benefit from the corporate economy.

2.2. Companies and Allied Matters Act, 2020

The Companies and Allied Matters Act 2020 (CAMA 2020) introduced wide-ranging reforms to strengthen corporate governance and ensure transparent, accountable management of Nigerian companies. Many of these provisions are directly linked to shareholder protection, particularly in enhancing director accountability, preventing conflicts of interest, and empowering shareholders in corporate oversight.

2.2.1 Shareholders' Rights under the Companies and Allied Matters Act, 2020

Section 46(1) of the **Companies and Allied Matters Act 2020** establishes the contractual foundation of membership rights by providing that the memorandum and articles of association, once registered, bind the company and its members as if covenants had been entered into by all parties.[4] This statutory covenant underscores the principle

[3] *ibid* s 44 (right to property).
[4] Companies and Allied Matters Act 2020, s 46(1).

that membership rights are not merely aspirational but legally enforceable against both the company and fellow shareholders.

Shareholders enjoy a wide range of statutory rights, many of which are critical to ensuring corporate accountability and protecting their proprietary and participatory interests. These rights include:

i. **Right to notice, participation, and voting at meetings:** Shareholders are entitled to receive notice of general meetings, attend, contribute to deliberations, and vote on key matters affecting the company. Section 140(1) guarantees at least one vote per share,[5] thereby entrenching shareholder sovereignty in fundamental decisions such as appointment and removal of directors or approval of share transfers.

ii. **Right of transfer and pre-emptive rights:** While shareholders retain the proprietary right to transfer shares, CAMA 2020 introduced statutory pre-emptive rights.[6] Companies must first offer new shares to existing members in proportion to their holdings before allotting them to outsiders. In addition, the Act codified contractual protections such as the right of first offer and tag-along rights, albeit as optional inclusions in private companies' articles. These provisions protect members against dilution and preserve their economic stake.

iii. **Right to information and inspection:** Shareholders are entitled to receive annual reports and audited financial statements[7] and to inspect key records such as registers of members, minutes of meetings, and annual returns.[8] This ensures transparency and reduces information asymmetry between management and owners.

iv. **Right to proprietary enjoyment:** Shares are recognised as personal property,[9] meaning shareholders may deal with them subject to the articles. This right affirms the economic value of shareholding beyond mere participation in governance.

[5] *ibid* s 140(1).
[6] *ibid* ss 142–143.
[7] *ibid* s 374.
[8] *ibid* s 331.
[9] *ibid* s 175.

v. **Investigatory and remedial rights:** Members may apply for an investigation into the company's affairs[10] or for court-ordered meetings where normal procedures are impracticable.[11] Sections 343–346 further empower minority shareholders to seek relief from oppression or mismanagement.[12] This statutory minority protection operates as an exception to the general rule in *Foss v Harbottle*, where the company itself is considered the proper plaintiff to seek redress for wrongs done to it.[13]

vi. **Right to dividends:** Shareholders are entitled to dividends when declared, which then become enforceable debts recoverable within twelve years.[14] This ensures that members enjoy their proportionate return on investment.

vii. **Right to surplus on winding up:** Section 657 secures members' entitlement to participate in the distribution of residual assets after liquidation, subject to statutory priority rules.[15]

Taken together, these rights provide both **participatory safeguards** (through voting, meetings, and information rights) and **economic safeguards** (through dividends, proprietary rights, and winding-up entitlements). Yet, in practice, enforcement challenges persist: weak shareholder activism, information asymmetry, and costly litigation often undermine the effective enjoyment of these rights. The statutory recognition of minority protection is commendable, but access to judicial relief remains hampered by procedural hurdles and delays. Consequently, while CAMA 2020 provides a comprehensive framework, the realization of shareholder rights depends heavily on robust enforcement by regulators and the judiciary.

2.2.2 Directors' Fiduciary Duties

CAMA codifies long-standing common law principles on directors' fiduciary responsibilities. Section 305 provides that "a director of a company stands in a fiduciary

[10] *ibid* s 315.
[11] *ibid* s 247(1).
[12] *ibid* ss 343–346.
[13] *Foss v Harbottle* (1843) 67 ER 189
[14] Companies and Allied Matters Act 2020, s 432.
[15] *ibid* s 657.

relationship towards the company and shall observe utmost good faith towards the company in any transaction with it or on its behalf."[16] This statutory duty reflects the equitable obligation of loyalty and proper purpose recognised in *Foss v Harbottle*,[17] and reinforced by Nigerian courts in *Edokpolo & Co. Ltd v Sem-Edo Wire Industries Ltd*,[18] where directors were held accountable for acting in bad faith. These duties serve to protect shareholders from managerial opportunism and misappropriation of company assets.

2.2.3 Disclosure and Over-boarding

CAMA also strengthens disclosure requirements by mandating directors to declare multiple directorships and age, matters material to effective corporate governance.[19] Section 307 restricts public company directors from serving on more than five boards, thereby curbing over-boarding and ensuring directors dedicate adequate time and expertise to each company.[20] This provision directly protects shareholders by improving board effectiveness and reducing conflicts of interest.

2.2.4 Audit Committee Oversight

Section 404 requires every public company to maintain an audit committee of five members, comprising three shareholders and two non-executive directors.[21] All members must be financially literate, and at least one must belong to a statutory accounting body. By embedding shareholders within the audit process, CAMA ensures that shareholders have a statutory voice in monitoring financial reporting, thus safeguarding them against fraud and misrepresentation.

[16] Companies and Allied Matters Act 2020, s 305.
[17] *Foss v Harbottle* (1843) 67 ER 189.
[18] *Edokpolo & Co. Ltd v Sem-Edo Wire Industries Ltd* (1989) 4 NWLR (Pt 116) 473 (CA).
[19] Companies and Allied Matters Act 2020, s 307(4).
[20] *ibid* s 307(5).
[21] *ibid* s 404.

2.2.5 Independent Directors

Public companies must appoint at least three independent directors, and section 275(3) provides qualifications for independence.[22] This is intended to balance board influence and limit the dominance of controlling shareholders. However, the criteria remain less rigorous than those in Principle 7 of the Nigerian Code of Corporate Governance 2018, which imposes stricter independence thresholds.[23] The weaker standards under CAMA raise concerns about captured independence, where nominally independent directors maintain ties to management or majority shareholders and/or management, undermining minority shareholder protection.

2.2.6 Enforcement Challenges

While the provisions of CAMA 2020 represent a significant step towards strengthening shareholder protection, enforcement in practice remains problematic. The Corporate Affairs Commission (CAC), which is statutorily responsible for monitoring compliance, continues to function largely as a revenue-collecting body, focusing on the filing of annual returns rather than substantive oversight of governance obligations. This limited institutional capacity allows many companies to submit incomplete or inaccurate returns without consequence, thereby undermining transparency.

Weaknesses are also evident in the operation of the audit committee under Section 404 CAMA 2020, which requires the participation of shareholder representatives. While this mechanism is intended to embed shareholder oversight in financial reporting, its effectiveness is compromised by poor financial literacy among retail shareholders and the dominance of controlling blocs, who often manipulate the nomination process. Consequently, the audit committee often functions more as a formality than a genuine safeguard for shareholders.

Judicial enforcement also presents obstacles. Although sections 305 and 349 CAMA 2020 provide for directors' fiduciary duties and shareholder remedies through derivative actions, procedural hurdles, high litigation costs, and the slow pace of commercial

[22] *ibid* s 275(3).
[23] Nigerian Code of Corporate Governance 2018, Principle 7.

adjudication in Nigerian courts limit the utility of these remedies. The deterrent value of judicial enforcement is therefore significantly weakened.

Finally, enforcement is complicated by the existence of overlapping regulatory regimes. CAMA operates alongside the **Nigerian Code of Corporate Governance 2018,** the **Investments and Securities Act 2025**, and sector-specific codes issued by regulators such as the SEC, CBN, NAICOM, and PenCom. This regulatory fragmentation creates arbitrage opportunities, as companies often comply selectively or exploit gaps between regulators. Added to this is the structural weakness of shareholder activism in Nigeria as minority shareholders are frequently disorganised, under-resourced, or compromised by associations with management, which prevents them from fully exercising the statutory protections afforded by CAMA.

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2.3. Investment and Securities Act, 2025

The Investments and Securities Act 2025 (ISA 2025) repeals the ISA 2007 and introduces comprehensive reforms designed to strengthen Nigeria's capital markets. At its core, the Act seeks to safeguard shareholders by enhancing market transparency, curbing abuse, and aligning Nigerian practice with international standards.

2.3.1 Expanded Regulatory Powers of Securities and Exchange Commission (SEC)

ISA 2025 consolidates the Securities and Exchange Commission (SEC) as the principal market regulator, granting it authority to register, monitor, and sanction capital market

operators.[24] Under section 36, SEC may suspend or prohibit trading in particular securities where shareholder interests are at risk.[25] SEC also now has express powers to appoint independent directors, place directors on probation, and remove officers implicated in misconduct.[26] These provisions secure shareholder protection by ensuring prompt intervention in cases of governance failure.

2.3.2 Public Offers and Disclosure

Sections 95–111 codify the framework for public offers, requiring issuers to submit prospectuses with full and accurate disclosures vetted by SEC.[27] Civil and criminal liability for misstatements under sections 113–114 protects shareholders from fraudulent or misleading offerings.[28] The Act further mandates that securities transactions be dematerialised and tied to Legal Entity Identifiers (LEIs), thereby increasing traceability and reducing risks of fraud.[29]

2.3.3. Internal Controls and Auditor Duties

Sections 88–92 strengthen corporate responsibility for financial integrity. Public companies must maintain effective internal control systems, with boards required to attest to their adequacy in annual reports.[30] Auditors, who must be registered with SEC, are obliged to confirm the existence and effectiveness of such controls, subject to penalties for failure.[31] These safeguards address information asymmetry by ensuring that shareholders receive reliable financial statements.

2.3.4 Market Conduct and Abuse Prevention

ISA 2025 introduces stricter prohibitions on false trading, market rigging, inducements, and dissemination of illegal information.[32] Insider dealing remains criminalised under

[24] Investments and Securities Act 2025, ss 26–28.
[25] *ibid* s 36.
[26] *ibid* s 3(4)(b)–(d).
[27] *ibid* ss 95–111.
[28] *ibid* ss 113–114.
[29] *ibid* ss 121–123.
[30] *ibid* ss 88–89.
[31] *ibid* ss 90–92.
[32] *ibid* ss 132–136.

sections 137–138, while section 139 empowers SEC to reward whistle-blowers who expose misconduct.[33] These provisions directly protect shareholders from unfair practices that distort markets and erode confidence.

2.3.5 Digital Assets and Investment Schemes

For the first time, ISA 2025 recognises digital and virtual assets as securities, bringing digital asset service providers, operators, and exchanges under SEC oversight.[34] Collective Investment Schemes (CIS) now include private equity and venture capital funds, unless exempted, expanding the scope of regulated investment products.[35]Section 196 expressly outlaws Ponzi and pyramid schemes, empowering SEC to shut them down and freeze promoters' assets.[36] These reforms respond to contemporary threats, ensuring shareholders are protected across both traditional and emerging markets.

2.3.6 Systemic Risk Oversight and Dispute Resolution

ISA 2025 empowers SEC to monitor systemic risks, issue directives for market stability, and regulate financial market infrastructures such as clearing houses and central counterparties.[37] The Act also expands the jurisdiction of the Investments and Securities Tribunal (IST) to include disputes over digital assets and SEC enforcement actions, providing shareholders with faster access to justice.[38]

2.3.7 Enforcement Challenges and Practical Limitations

The Investments and Securities Act 2025 (ISA 2025) marks a substantial improvement over its predecessor, the ISA 2007, particularly in strengthening the statutory foundation for shareholder protection. By expanding the regulatory mandate of the Securities and Exchange Commission (SEC), criminalising market abuse, institutionalising whistle-

[33] *ibid* ss 137–139.
[34] *ibid* s 3(3)(i); s 215.
[35] *ibid* s 230.
[36] *ibid* s 196.
[37] *ibid* ss 82–85; ss 400–415.
[38] *ibid* ss 450–452.

blower protections, and recognising digital assets as securities, the Act aligns Nigeria more closely with international standards of investor confidence and market integrity. The provisions on public offers, disclosures, and internal controls directly address long-standing problems of information asymmetry in the Nigerian capital market, thereby empowering shareholders to make better-informed decisions.

However, despite these advances, the Act faces several structural and enforcement challenges that threaten to dilute its impact. First, the SEC, while granted broader powers under ISA 2025, continues to struggle with limited institutional capacity and occasional political interference. Enforcement in Nigeria has often been inconsistent, with regulators more inclined to impose administrative penalties than to pursue rigorous prosecution of market abuse. Without consistent enforcement, provisions on insider trading, whistleblowing, and Ponzi scheme prohibition risk becoming largely symbolic.

Second, although the Act mandates extensive disclosure obligations, the culture of cosmetic compliance persists. Many issuers meet the formality of disclosure while omitting substantive details or presenting information in inaccessible formats. This undermines the ability of retail shareholders, who form the majority in Nigeria, to effectively exercise their rights.[39] Similarly, while auditors are legally bound to verify the adequacy of internal controls, past scandals, such as those involving Cadbury Nigeria and Oando Plc, demonstrate that professional gatekeepers sometimes collude with management to conceal irregularities, raising doubts about the robustness of audit-based protections.[40]

Third, the Act's recognition of digital assets as securities is a progressive step, but it also raises practical challenges. Regulatory clarity is still evolving, and the SEC may lack the technological expertise and resources to effectively monitor digital asset markets, leaving shareholders vulnerable to cyber fraud, unlicensed exchanges, and cross-border scams.

[39] O Akinola, 'Corporate Governance and Enforcement Challenges in Nigeria' (2021) 10 *Nigerian Journal of Commercial Law* 45.

[40] *Cadbury Nigeria Plc: False Accounting Case* (Reuters, 11 December 2006) https://www.reuters.com/article/business/nigeria-fines-cadbury-unit-for-false-accounting-idUSL11811588/ accessed 14 October 2025; Securities and Exchange Commission, Press Release on the Investigation of Oando Plc (SEC Nigeria, 31 May 2019) https://sec.gov.ng/press-release-on-investigation-of-oando-plc/ accessed 14 October 2025.

Moreover, the blanket inclusion of digital assets within securities law risks stifling innovation if regulation is applied in a manner that is overly rigid or duplicative.

Finally, the Investments and Securities Tribunal (IST), though granted wider jurisdiction under the 2025 Act, remains plagued by procedural delays and limited accessibility for ordinary shareholders. The promise of swift dispute resolution is undermined by the reality of case backlogs and underfunded judicial infrastructure, limiting the Tribunal's capacity to serve as an effective mechanism of shareholder protection.

In summary, while ISA 2025 strengthens the legislative foundation for shareholder protection through provisions on disclosure, market integrity, and systemic risk management, its effectiveness depends on three factors: regulatory capacity, professional accountability, and judicial efficiency. Without reforms in these areas, the Act risks reinforcing the pattern of Nigeria's corporate governance regime—strong on paper, but weak in practice.

2.4. Financial Reporting Council of Nigeria Act, 2011 (as amended in 2023)

The Financial Reporting Council of Nigeria (FRCN), established under the FRC Act 2011, plays a pivotal role in strengthening shareholder confidence through reliable financial reporting and corporate governance oversight. The 2023 amendment further consolidated these functions, granting the Council wider regulatory powers to enforce transparency and accountability in corporate Nigeria.

2.4.1 Corporate Governance Oversight

Sections 11(c) and 51(c) of the Act empower the FRCN to issue codes of corporate governance and guidelines applicable across sectors.[41] This authority gave rise to the Nigerian Code of Corporate Governance (NCCG) 2018, which institutionalises principles of board independence, accountability, and disclosure.[42] By providing a unified governance benchmark, the Act helps reduce regulatory arbitrage and enhances consistency, thereby protecting shareholders across diverse industries.

[41] Financial Reporting Council of Nigeria Act 2011 (as amended 2023), ss 11(c), 51(c).
[42] Nigerian Code of Corporate Governance 2018 (issued by FRCN pursuant to the Act).

2.4.2 Accounting, Auditing, and Reporting Standards

The FRCN is vested with the responsibility to adopt, monitor, and enforce accounting and auditing standards, aligning them with International Financial Reporting Standards (IFRS) and standards issued by the International Auditing and Assurance Standards Board (IAASB).[43] This harmonisation ensures that Nigerian financial statements meet global comparability standards, which reduces information asymmetry and allows shareholders to make informed decisions.

2.4.3 Enforcement and Sanctions

The 2023 amendment strengthened the Council's enforcement powers, including the ability to impose sanctions for non-compliance with financial reporting standards and governance requirements.[44] This shift from a purely advisory role to a quasi-enforcement model ensures that failures in financial disclosure and governance carry consequences, thereby deterring misconduct that could harm shareholders.

2.4.4 Shareholder Protection Significance

By mandating transparent financial reporting, setting governance standards, and empowering the FRCN to sanction non-compliance, the Act serves as a critical safeguard for shareholders. Reliable disclosures enhance market confidence, ensure fair valuation of securities, and reduce the risks of corporate scandals, as seen in past failures such as *Cadbury Nigeria Plc v Securities and Exchange Commission*, where weak financial controls had eroded shareholder value.[45]

Although the Financial Reporting Council of Nigeria Act (as amended 2023) enhances shareholder protection by mandating transparent financial reporting and empowering the Council to sanction non-compliance, its practical effectiveness remains questionable. The Council's role overlaps with other regulators such as the SEC and CBN, creating regulatory fragmentation that companies often exploit to evade accountability. Moreover, while the Act aligns reporting standards with IFRS to reduce information asymmetry,

[43] FRCN Act 2011 (as amended 2023), s 8(1)(d).
[44] *ibid* s 52.
[45] *Cadbury Nigeria Plc v Securities and Exchange Commission* (2008) 13 NWLR (Pt 1103) 375.

enforcement has been inconsistent, with auditors and preparers of accounts frequently escaping liability for misleading disclosures. Past scandals, notably Cadbury Nigeria Plc, highlight how weak financial oversight directly erodes shareholder value. In practice, therefore, the FRCN has yet to translate its statutory powers into a credible deterrent against misconduct. Without stronger inter-agency coordination, greater independence from political interference, and a culture of rigorous sanctions, the Act risks remaining more symbolic than substantive in protecting shareholder rights.

2.5 Nigerian Code of Corporate Governance, 2018

Prior to 2016, Nigeria lacked a codified national corporate governance regime, relying instead on sector-specific codes. To harmonise these frameworks, the Financial Reporting Council of Nigeria (FRCN) issued the National Code of Corporate Governance 2016, which was revised as the Nigerian Code of Corporate Governance 2018 (NCCG 2018).[46] The Code derives its authority from s 7(2)(a) of the Financial Reporting Council of Nigeria Act 2011, which empowers the Council to enforce corporate governance standards.[47]

Code Philosophy

The NCCG 2018 adopts an "Apply and Explain" approach, requiring companies to implement its principles and provide explanations where variations occur. Unlike a strict rules-based model, this principle-based framework entrusts boards with discretion to adapt governance standards while still ensuring accountability to regulators and shareholders.[48] This mechanism is intended to reduce information asymmetry and strengthen shareholder confidence through transparency.

[46] Nigerian Code of Corporate Governance 2018 (NCCG 2018), issued by the Financial Reporting Council of Nigeria.
[47] Financial Reporting Council of Nigeria Act 2011, s 7(2)(a).
[48] NCCG 2018, Preamble (Apply and Explain).

2.5.1 Board Composition and Independence

Principle 2 requires boards to maintain a balanced mix of skills, experience, independence, and diversity, ensuring effective oversight.[49]

2.5.2 Board Meetings

Principle 10 prescribes quarterly meetings and the timely circulation of minutes to enhance accountability and transparency.[50]

2.5.3 Risk Management

Principle 11 mandates the establishment of a Risk Management Committee, including oversight of IT governance, to mitigate risks that could harm shareholders.[51] The Oando case exemplifies the risks associated with inadequate risk management, as shareholders have alleged governance failures and financial mismanagement.[52]

2.5.4 Board and Director Evaluation

Principle 14 requires annual evaluation of the board, committees, and individual directors, with an independent review every three years.[53] This promotes accountability and continuous improvement in governance.

2.5.5 Corporate Governance Evaluation

Principle 15 provides for regular assessment of the company's governance framework, with summaries disclosed in annual reports and shareholder portals, thereby reinforcing shareholder oversight.[54]

[49] *ibid* Principle 2.
[50] *ibid* Principle 10.
[51] *Ibid* Principle 11.
[52] See *Securities and Exchange Commission v Oando Plc* (2017, petitions by shareholders alleging governance lapses and mismanagement)
[53] NCCG 2018, Principle 14.
[54] *ibid* Principle 15.

2.5.6 General Meetings

Principle 21 emphasises general meetings as platforms for direct engagement between boards and shareholders, recommending the presence of committee chairmen to respond to shareholder concerns.[55]

The Nigerian Code of Corporate Governance 2018 (NCCG 2018) represents a significant milestone in Nigeria's governance landscape by institutionalising principles of board independence, risk oversight, board evaluations, and shareholder engagement. Its "Apply and Explain" philosophy was intended to reduce information asymmetry and improve transparency, compelling boards to demonstrate not only that they have adopted the Code but also how its provisions are applied in practice.[56]

However, while conceptually progressive, the NCCG has been criticised for being more persuasive than coercive.[57] Unlike a rules-based framework with enforceable sanctions, the Code relies heavily on voluntary compliance and the quality of board explanations.[58] In practice, this creates room for superficial or "boilerplate" disclosures, where companies formally comply but fail to substantively improve governance practices. The resulting gap weakens the Code's ability to deliver on shareholder protection. Furthermore, certain provisions, such as those relating to board independence, remain vulnerable to manipulation. Companies frequently appoint "independent" directors who are closely aligned with controlling shareholders or management, thereby undermining the very oversight the Code was meant to guarantee.[59] Similarly, while the Code promotes shareholder engagement through general meetings, the reality of weak institutional shareholder activism and limited minority shareholder capacity means that boards are rarely held to account in practice.

[55] *ibid* Principle 21.
[56] Nigerian Code of Corporate Governance 2018, Preamble (Apply and Explain).
[57] U Uche and C Oguche, 'Corporate Governance in Nigeria: Challenges and Reforms' (2020) 12 *Journal of Corporate Law Studies* 113.
[58] *ibid*, Principle 28 (reporting and disclosures).
[59] U Uche and C Oguche, 'Corporate Governance in Nigeria: Challenges and Reforms' (2020) 12 *Journal of Corporate Law Studies* 113.

Ultimately, while the NCCG 2018 provides an important framework for balancing managerial discretion with shareholder rights, its effectiveness hinges on credible enforcement by regulators (such as the SEC and FRCN) and greater shareholder assertiveness. Without these complementary mechanisms, the Code risks becoming a symbolic benchmark rather than a substantive instrument of shareholder protection.

2.6 Securities and Exchange Commission Corporate Governance Framework

The Securities and Exchange Commission (SEC), in line with its statutory mandate under the Investments and Securities Act 2025 (ISA 2025) to protect shareholders and promote a transparent capital market, has consistently issued governance instruments to raise standards of accountability. Following the enactment of the Nigerian Code of Corporate Governance 2018 (NCCG 2018) by the Financial Reporting Council of Nigeria (FRCN), the SEC released its Corporate Governance Guidelines 2020 to provide additional recommended practices for public companies.[60] These Guidelines, derived largely from the 2011 SEC Code of Corporate Governance, were designed to strengthen transparency, accountability, and shareholder confidence while encouraging enterprise and innovation. The 2020 Guidelines required boards of companies to have a minimum of five directors, prohibited cross-membership where such would lead to conflicts of interest, and mandated the appointment of at least one independent director.[61] Independence was narrowly defined: an individual who, within the previous three financial years, had served as a partner or executive in the company's audit, internal audit, or consulting firms with material ties was ineligible.[62] Further protections included disclosure of conflicts of interest by prospective directors, including interlocking directorships,[63] and strengthened shareholder oversight of executive remuneration,[64] requiring boards to approve each executive director's pay on an individual basis, thereby curbing excessive compensation that could undermine shareholder value. The Guidelines also required a risk-based

[60] Securities and Exchange Commission, Corporate Governance Guidelines (2020).
[61] *ibid* Guideline 2.
[62] *ibid* Guideline 4.
[63] *ibid* Guideline 8.
[64] *ibid* Guideline 10.2.

internal audit process and imposed duties of anti-corruption and enhanced disclosure beyond those mandated under CAMA 2020.[65]

In June 2025, the SEC issued new directives to address persistent governance risks and align Nigerian standards with international best practices. Pursuant to ISA 2025 section 355(r)(iv), the SEC introduced tenure limits for directors: a maximum of 10 consecutive years in the same company, and 12 years across a group structure.[66] It further imposed a "cool-off" period of three years before a former CEO or executive director may assume the position of board chairman, with the additional restriction that a chairman may serve for only four years.[67] Most notably, the directive prohibits the transmutation of Independent Non-Executive Directors (INEDs) into executive roles within the same company or group, recognising that such movement compromises independence and diminishes board oversight.[68]

These developments reinforce the SEC's overarching duty to protect shareholders by ensuring boards remain independent, transparent, and effective. By limiting entrenched directorships, prohibiting compromised independence, and tightening remuneration and audit controls, the 2020 Guidelines as updated by the 2025 directives enhance shareholders' ability to monitor management and reduce risks of abuse, thereby strengthening trust in Nigeria's capital markets.

While the SEC's Guidelines and the 2025 directives represent important advances in curbing entrenched boards and strengthening independence, their effectiveness will depend heavily on consistent enforcement and cultural change within companies. Nigerian corporate practice has shown that tenure limits and independence requirements are often undermined by weak monitoring and regulatory forbearance.[69] The prohibition on the transmutation of Independent Non-Executive Directors (INEDs) into executive roles is laudable, but without rigorous disclosure obligations and credible sanctions,

[65] *ibid* Guidelines 11, 13–14.
[66] Investments and Securities Act 2025, s 355(r)(iv).
[67] Securities and Exchange Commission, Circular to all Public Companies and Capital Market Operators on the Transmutation of Independent Non-Executive Directors and Tenure of Directors (19 June 2025) para 1.
[68] *ibid.*
[69] E Uche and A Oguche, 'Corporate Governance in Nigeria: Challenges and Reforms' (2021) *13 Journal of Corporate Law Studies* 201.

companies may still exploit loopholes through group structures or informal affiliations. Similarly, while restrictions on remuneration are designed to curb excesses, shareholders in Nigeria, particularly minority shareholders, often lack the capacity to challenge opaque pay practices in general meetings.[70] The SEC's reforms therefore, signal a stronger commitment to shareholder protection, but they risk becoming formalistic unless regulators adopt a more proactive supervisory approach and shareholders themselves embrace more assertive activism.

2.7 SEC's Code of Conduct for Shareholders' Associations

In a bid to promote good governance and give a clear understanding of the principles of business conduct and ethics that are expected of shareholders during general meetings of public companies as well as their relationships with the companies outside general meetings, a code of conduct for shareholders' association was released in 2016 by SEC. The code of conduct was to ensure that association members uphold high ethical standards and make positive contributions to ensuring that the affairs of public companies are run ethically and transparently.

3. Regulatory Guidelines on Corporate Governance

Sequel to the NCCG 2018, several regulatory bodies have issued industry-specific regulations and circulars on corporate governance, which not only amplify the provisions of the Code but also adapt its principles to address sectorial risks and shareholder-protection concerns.

3.1 National Pension Commission's Circular on Corporate Governance

The National Pension Commission (PenCom), acting under its statutory authority in the Pension Reform Act 2014, issued the Revised Guidelines on Corporate Governance for Licensed Pension Fund Operators (LPFOs) in September 2025.[71] These Guidelines update and strengthen the corporate governance regime for pension fund administrators

[70] I Omoregie, 'Minority Shareholder Rights and Corporate Accountability in Nigeria' (2022) 40 *Journal of African Law* 78.

[71] Pension Reform Act 2014, s 23; National Pension Commission, Revised Guidelines on Corporate Governance for Licensed Pension Fund Operators (22 September 2025).

and custodians, with particular emphasis on safeguarding contributors' (shareholders') funds.

3.1.3 Board Independence and Tenure

The Guidelines mandate that boards of LPFOs comprise at least 30 per cent Independent Non-Executive Directors (INEDs) or three INEDs, whichever is higher, thereby securing effective oversight.[72] They impose strict tenure limits: managing directors/CEOs may serve a maximum of 10 years, executive and non-executive directors 15 years, and INEDs 9 years.[73] Cooling-off rules prevent immediate transitions that could compromise independence.

3.1.2 Control Functions and Risk Oversight

Key control functions are institutionalised: risk management committees must be chaired by INEDs; compliance officers must be approved by PenCom; and internal audit functions cannot be outsourced, with mandatory external reviews every three years.[74] The Guidelines also require robust whistleblowing mechanisms, protecting from retaliation and remedies where harm occurs.[75] External auditors owe a duty not only to the LPFO but also directly to PenCom to report any imminent threat of financial collapse or material fund loss.[76]

3.1.3 Shareholder (Contributor) Rights

Shareholder rights are reinforced through provisions requiring 21-day notice for general meetings, accessible venues for all shareholders (including those with disabilities), and clear shareholder agreements defining rights and obligations.[77] These measures align pension sector governance with the NCCG 2018 principles on transparency and shareholder engagement.

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[72] *ibid* pt II, para 2.2.
[73] *ibid* pt II, para 2.7.
[74] *ibid* pt III, paras 3.1–3.5.
[75] *ibid* pt III, para 3.6.
[76] *ibid* pt III, para 3.7.
[77] *ibid* pt IV, paras 4.1–4.3.

3.1.4 Ethics, Conflicts of Interest, and Disclosure

The Guidelines prohibit conflicts of interest with service providers and mandate prompt disclosure of related-party transactions.[78] Restrictions on post-employment of PenCom officials in LPFOs mitigate regulatory capture.[79] Disclosure standards have been expanded: annual reports (including audited accounts) must be filed within four months of year-end, detailing governance practices, board composition, risk controls, and evaluation outcomes.[80]

3.1.5. Sanctions

A significant improvement over earlier circulars is the inclusion of explicit sanctions for non-compliance. The Guidelines incorporate PenCom's sanctions regime, empowering the Commission to impose administrative penalties on LPFOs or directors that violate governance provisions.[81] This closes the lacuna in the earlier framework, ensuring enforceability and bolstering shareholder confidence.

3.2 National Insurance Commission Corporate Governance Guidelines.

The National Insurance Commission (NAICOM) issued Corporate Governance Guidelines to strengthen oversight in the insurance industry and amplify the NCCG 2018 principles.[82] The Guidelines address board structure, tenure, remuneration, and disclosure obligations, thereby safeguarding policyholders and shareholders. Notably, Guideline 11.0 protects whistle-blowers by allowing them to lodge complaints with NAICOM if subjected to detriment, an important mechanism for uncovering misconduct in the insurance sector.[83]

The Guidelines also prescribe compliance thresholds for insurance institutions and explicitly provide that failure to comply with the NCCG 2018 or the Guidelines

[78] *ibid* pt V, para 5.1.
[79] *ibid* pt V, para 5.3.
[80] *ibid* pt VI, paras 6.1–6.3.
[81] *ibid* pt VII, para 7.1.
[82] National Insurance Commission, Corporate Governance Guidelines for Insurance Institutions (2021).
[83] ibid Guideline 11.0.

constitutes a violation of s 49(1)(b) of the NAICOM Act 1997.[84] This enforcement mechanism strengthens shareholder protection by ensuring accountability and deterring governance failures.

3.3 CBN Corporate Governance Guidelines for Commercial, Merchant, Non-Interest, and Payment Service Banks

The Central Bank of Nigeria (CBN) issued Corporate Governance Guidelines for the banking sector, recognising the systemic importance of banks to financial stability and shareholder confidence.[85] The Guidelines encourage accessibility of general meetings, rotation of meeting venues, and the use of virtual platforms where necessary, thereby enabling wider shareholder participation.[86]

They also vest responsibility on boards to ensure that institutional shareholders act responsibly, that banks comply with the SEC Code of Conduct for Shareholders' Associations, and that shareholder associations operate transparently.[87] This promotes shareholder activism as a mechanism of shareholder protection.

Further, Guideline 20.2 prohibits any individual, group, proxy, or entity from owning a controlling interest in more than one bank without CBN's prior approval. It also requires CBN's "No Objection" for any acquisition of 5% or more of a bank's shares.[88] These provisions prevent undue concentration of ownership and protect against systemic risks that could jeopardise shareholder funds and market integrity.

3.4 Nigerian Communications Commission's Guidelines on Corporate Governance for the Communications Sector, 2023

The Nigerian Communications Commission (NCC) issued the Guidelines on Corporate Governance for the Communications Sector 2023 to promote transparency,

[84] National Insurance Commission Act 1997, s 49(1)(b).
[85] Central Bank of Nigeria, Corporate Governance Guidelines for Commercial, Merchant, Non-Interest and Payment Service Banks in Nigeria (2022).
[86] *ibid* Guideline 2.4.
[87] *ibid* Guideline 15.1.
[88] *ibid* Guideline 20.2.

accountability, and ethical practices in Nigeria's communications industry.[89] The Guidelines are designed to protect not only licensees and consumers but also shareholders by ensuring that corporate governance standards in the sector align with global best practice. The Guidelines aim to guarantee higher levels of transparency, due process, and accountability without hindering enterprise or innovation.[90] By strengthening governance practices, they provide shareholders with greater confidence in the sustainability and integrity of businesses operating in the communications industry. Key provisions include requirements on the composition and structuring of boards of directors, with emphasis on independence, diversity, and efficiency.[91] These measures are particularly relevant to shareholder protection, as they ensure balanced oversight, reduce risks of managerial entrenchment, and enhance long-term shareholder value.

4.1 Conclusion

The evolution of Nigeria's corporate governance framework demonstrates a deliberate attempt to embed investor protection within statutory law, regulatory codes, and sector-specific guidelines. The Companies and Allied Matters Act 2020 codify directors' fiduciary duties, enhances disclosure, and institutionalises independent directors, thereby providing baseline safeguards against managerial abuse. The Investments and Securities Act 2025 extend this protection to capital markets by strengthening SEC's regulatory authority, criminalising market manipulation, integrating digital assets, and empowering whistle-blowers. Similarly, the FRC Act 2011 (as amended 2023) underscores transparency through financial reporting and corporate governance enforcement, while the Nigerian Code of Corporate Governance 2018 offers principle-based standards aimed at fostering board accountability, risk oversight, and shareholder engagement.

Yet, these frameworks remain only as effective as their enforcement. The SEC Guidelines of 2020, supplemented by the 2025 directives, mark a significant step in addressing entrenched boards, compromised independence, and excessive remuneration

[89]Nigerian Communications Commission, Guidelines on Corporate Governance for the Communications Sector (December 2023).
[90] *ibid* para 1.1.
[91] *ibid* pt II, paras 2.1–2.4.

practices. Sector-specific regulations, such as PenCom's 2025 Revised Guidelines for LPFOs, NAICOM's corporate governance rules for insurers, CBN's provisions for banks, and NCC's communication sector guidelines, further amplify protections by tailoring governance expectations to the unique risks of each industry. Collectively, these measures reflect an architecture designed to reduce information asymmetry, deter managerial opportunism, and reinforce investor confidence in Nigeria's corporate system.

Nevertheless, persistent challenges remain as compliance often veers towards form over substance. For Nigeria's corporate governance regime to move from aspirational to transformative, three priorities are clear:

i. Regulators must adopt credible and consistent enforcement mechanisms that go beyond issuing codes to imposing real consequences for non-compliance.
ii. Shareholder activism, especially by institutional investors, must be strengthened to complement regulatory oversight.
iii. Judicial interpretation of directors' duties and investor rights must continue to evolve towards a more protective, shareholder-centred orientation.

Only through this triangulation of statutory reform, regulatory enforcement, and shareholder assertiveness can investor protection shift from being a policy goal to a lived reality in Nigeria's corporate environment.

5.1 Recommendations

The foregoing analysis reveals that while Nigeria has developed an increasingly robust legal and regulatory framework for corporate governance, significant gaps persist in the implementation and enforcement of these provisions. Shareholder protection, though central to the Companies and Allied Matters Act 2020, the Investments and Securities Act 2025, and sector-specific codes, remains weakened by inconsistent compliance, limited regulatory capacity, and inadequate sanctions in some areas. To transform the legal regime from one that is largely aspirational to one that delivers practical protection for shareholders, it is essential to adopt targeted reforms. The recommendations that follow focus on strengthening enforcement mechanisms, enhancing shareholder

remedies, deepening disclosure standards, and fostering a culture of accountability across corporate and regulatory institutions.

5.1.1 Strengthen CAC Oversight and Capacity

The Corporate Affairs Commission (CAC) should enhance its regulatory and financial oversight, particularly regarding the filing of annual returns and financial statements. Beyond serving as a revenue-generating function, the CAC must actively review financial disclosures for inconsistencies. This requires targeted investment in staff training and capacity-building to improve the quality of regulatory supervision.

5.1.2 Enhance Whistleblower Protection

The Companies and Allied Matters Act (CAMA) and the Investment and Securities Act (ISA) should be amended to guarantee stronger anonymity and statutory protection for whistleblowers. Regulators must move beyond the formal letter of the law to deliberately cultivate a culture of whistleblowing as a tool for corporate accountability and transparency.

5.1.3 Institutionalise Complaints and Enforcement Units

Dedicated complaints monitoring and enforcement units should be established under CAMA, the Securities and Exchange Commission (SEC), and the Financial Reporting Council of Nigeria (FRCN). These units should collaborate with anti-corruption agencies such as the EFCC and ICPC, replicating their enforcement strategies to strengthen shareholder confidence, rebuild public trust, and reduce shareholder apathy.

5.1.4 Adopt a Sanction-Based Governance Regime

Nigeria should resist wholesale transplantation of self-regulatory corporate governance models from Western jurisdictions. Instead, the Nigerian Code of Corporate Governance (NCCG) should be amended to revert from the “apply and explain” approach to a “comply or explain with sanctions” regime. This would restore shareholder supremacy and ensure that directors’ actions remain subject to meaningful review and accountability.

5.1.5 Establish a Corporate Affairs Tribunal

The government should create a specialised corporate affairs tribunal with jurisdiction to promptly and effectively adjudicate violations of CAMA. The current system, where violators merely pay fines yet continue operations, lacks deterrent value. A tribunal would ensure timely justice, stronger compliance, and a culture of corporate responsibility.