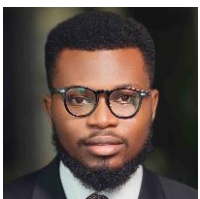


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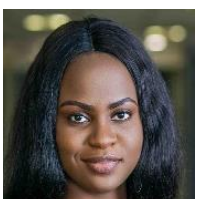
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TEMPLARS ThoughtLab

Enhancing Corporate Governance in Nigeria Using Artificial Intelligence

Introduction

Artificial intelligence (AI) and technology have significantly influenced various aspects of business operations over the years, creating a substantial impact on how businesses operate, strategize, and make decisions. Some key areas where this influence is most evident are: automation of business processes; data analysis and decision making; cybersecurity; etc. The growing influence of AI and technology has resulted in a shift in the business landscape, creating new opportunities and challenges. It has made businesses more efficient and competitive, but it has also raised questions about job displacement due to automation and ethical considerations in AI use.

This newsletter explores the intersection of emerging technologies, such as artificial intelligence (AI), and corporate governance practices; and how the former might develop the latter.

Corporate Governance and Its Challenges

Fundamental principles of corporate governance

Corporate governance refers to the system of principles, practices, and processes by which a company is directed and controlled. The Nigerian Code of Corporate Governance 2018 (the "Code"), which contains acceptable corporate governance standards to be followed by companies in Nigeria, seeks to institutionalize corporate governance best practices in Nigerian companies. The Code is also to promote public awareness of essential corporate values and ethical practices that will enhance the integrity of the business environment. Salient principles of corporate governance as enshrined in the Code include:

1. **Board Oversight:** The members of the board of directors are responsible for overseeing the company's management and business strategies. The board needs to ensure that the company is run in a way that enhances shareholder value. It is also responsible for hiring and evaluating the CEO, approving budgets, and setting the company's strategic direction.
2. **Shareholder Rights:** Shareholders, as company owners, should have a say in significant company decisions. This typically includes voting on the board of directors and other major corporate decisions. Shareholders should also have the right to receive accurate, timely, and transparent information about the company's performance and prospects.
3. **Accountability and Transparency:** Companies should be accountable to their shareholders and other stakeholders and should provide clear and timely information about their operations, finances, and risks. This includes financial reports, risk management activities, and corporate governance practices.
4. **Risk Management:** The board and management should identify and manage risks that could threaten the company's operations and goals. This includes financial risks, operational risks, and strategic risks.
5. **Ethical Behavior:** Companies should operate ethically, following laws and regulations, respecting human rights, and acting in good faith with all stakeholders. This includes having a code of conduct and other policies that promote ethical behavior.
6. **Stakeholder Interests:** Good corporate governance requires acknowledging and respecting the interests of all stakeholders. Companies should consider the impacts of their decisions on employees, customers, suppliers, the community, and the environment.
7. **Independence:** The board should have an adequate number of independent directors who are free from any business or other relationship that could interfere with their independent judgment.
8. **Performance Evaluation:** Boards should regularly review and evaluate their performance. This includes assessing the performance of the board, individual directors, and board committees. The evaluation should consider the balance of skills, experience, independence, and knowledge on the board.

These principles serve to guide corporations in achieving a balance of control and interest among diverse stakeholder groups, ensuring that corporations are managed in a manner that is transparent, accountable, and sustainable over the long term.

The Companies and Allied Matters Act 2020 (CAMA 2020), as amended by the Business Facilitation (Miscellaneous Provisions) Act 2022 (Business Facilitation Act), represents the most recent legislative framework governing corporate governance within Nigeria. This comprehensive legislation, comprising CAMA 2020 and the Business Facilitation Act, has significantly reshaped corporate governance practices within the Nigerian landscape.

Among the notable provisions introduced by CAMA 2020 and the Business Facilitation Act are the following advancements in corporate governance:

Single Shareholder/Single Director Companies¹: A pivotal shift in corporate structuring, private companies are now empowered to operate with a single shareholder, while small companies may operate with a single shareholder and a single director². Small companies, as defined within the legislation, are those entities which (amongst other things), have a turnover not exceeding N120,000,000 (One Hundred and Twenty Million

¹ Section 18 (2), CAMA 2020

² Section 271 (1), CAMA 2020

Naira) annually and net assets not exceeding N60,000,000 (Sixty Million Naira)³. While private companies can operate with a sole shareholder, it's important to note that all companies (except small companies) must maintain a minimum of two directors. Additionally, and as an expansion of flexibility in corporate structuring, companies with foreign non-resident shareholders are also permitted to operate as private companies with a sole shareholder.

Electronic Meetings and Record-Keeping: Embracing technological advancements, CAMA 2020 and the Business Facilitation Act endorse the conduct of electronic meetings⁴ and the maintenance of company records in electronic format, as well as electronic execution of documents⁵, streamlining administrative processes and enhancing efficiency.

Board Structure and Composition: In a bid to enhance governance effectiveness, specific directives have been outlined regarding the composition and functionality of boards of directors. Notably, the legislation mandates that the chairman of the board in a public company cannot simultaneously hold the position of chief executive officer or managing director within the same company⁶. Furthermore, public companies are now obligated to include a minimum of one-third of independent directors on their boards⁷. To prevent potential conflicts of interest and maintain directorial efficacy, directors of public companies are restricted from serving on more than five boards simultaneously⁸.

These progressive amendments underscore a concerted effort to modernize and fortify corporate governance practices within Nigeria, aligning them with global standards while fostering transparency, accountability, and sustainability within the corporate sector.

Challenges faced by organizations in maintaining strong corporate governance practices

Maintaining strong corporate governance practices is essential for organizations to ensure long-term sustainability, ethical operations, and stakeholder trust. However, achieving and sustaining robust corporate governance is not without its challenges. Some of the key obstacles that organizations often face in this endeavour include:

1. **Complex Regulatory Environment:** Organizations must navigate a complex web of ever-evolving regulations and compliance requirements. Staying abreast of changes in laws, reporting standards, and industry-specific regulations is a significant challenge, especially for multinational corporations operating in multiple jurisdictions.
2. **Board Composition and Independence:** Ensuring an effective board of directors with diverse expertise, independence, and a strong understanding of the organization's strategic goals is crucial. However, finding and retaining qualified directors who can provide objective oversight without conflicts of interest can be challenging.
3. **Shareholder Activism:** Organizations often face pressure from activist shareholders who seek to influence corporate decisions. Balancing the interests of various stakeholders while pursuing long-term value creation requires skilful navigation, especially when faced with conflicting priorities.

³ Section 394 (3), CAMA 2020

⁴ Section 240 (2), CAMA 2020; and Section 11 of the Business Facilitation Act

⁵ Section 101, CAMA 2020

⁶ Section 265 (6), CAMA 2020

⁷ Section 14 of the Business Facilitation Act

⁸ Section 307 (2), CAMA 2020

4. **Ethical Dilemmas and Integrity:** Upholding ethical standards and integrity across all levels of the organization can be a significant challenge. Organizations must establish a culture of ethical behavior and integrity, and actively manage the risk of misconduct, fraud, or conflicts of interest.
5. **Risk Management and Disclosure:** Identifying, assessing, and managing risks while ensuring transparent and accurate disclosure is critical for effective corporate governance. However, effectively communicating risks and uncertainties without compromising competitiveness can be a complex task.
6. **Technology and Cybersecurity:** As organizations become increasingly reliant on digital infrastructure, cybersecurity and data privacy have become integral aspects of corporate governance. Safeguarding sensitive information and ensuring resilience against cyber threats are ongoing challenges.
7. **Globalization:** Operating in global markets and managing complex supply chains introduces additional governance challenges, including cultural differences, geopolitical risks, and ensuring compliance with international standards in various jurisdictions.
8. **Sustainability and ESG Considerations:** Integrating environmental, social, and governance (ESG) considerations into corporate governance practices is increasingly important. However, measuring and reporting on ESG performance, and aligning it with long-term strategy, presents significant challenges for many organizations.

Summarily, maintaining strong corporate governance practices requires organizations to address a wide array of challenges, from regulatory compliance and ethical conduct to stakeholder engagement and sustainability. Overcoming these obstacles demands a proactive and holistic approach that aligns the interests of all stakeholders with the organization's long-term success. By addressing these challenges effectively, organizations can build a robust corporate governance framework that enhances trust, resilience, and value creation.

The Role of AI In Enhancing Corporate Governance

Potential Benefits of Incorporating AI into the Corporate Governance Landscape in Nigeria

AI is increasingly vital in global corporate governance, offering innovative solutions to enhance efficiency, transparency, and accountability. In Nigeria's evolving tech landscape, AI holds promise for bolstering corporate governance through improved decision-making, risk management, financial reporting, internal controls, stakeholder engagement, and enforcement of ethical standards.

In terms of decision-making enhancement, AI processes vast data sets to provide actionable insights, aiding strategic planning. For risk management, AI identifies and mitigates threats in real-time, enhancing resilience in Nigeria's dynamic business environment. AI automation also improves financial reporting accuracy, mitigating fraud risks and financial mismanagement. Additionally, AI can be utilized to augment internal controls and audit procedures by automating mundane tasks, identifying irregularities in financial transactions, and ensuring adherence to regulatory standards.

In the context of stakeholder engagement, AI-driven tools like chatbots provide stakeholders with prompt and accurate information, enhance customer service, as well as communication and feedback mechanisms, and fosters trust.

AI can also be utilized to monitor and enforce ethical standards within corporations. For instance, AI can identify and report unethical behaviors such as insider trading, or other forms of corruption; improve compliance monitoring, whistleblower support, etc. It is however important to note that while AI has the potential to significantly enhance ethical standards in corporate governance, it should be complemented with robust legal frameworks and effective enforcement mechanisms.

In essence, the role of artificial intelligence in enhancing corporate governance in Nigeria is diverse and substantial. However, it is important to emphasize that the successful integration of AI in corporate governance also hinges on factors such as the availability of reliable data, the technical capacity of the corporations, and the relevant regulatory framework. Therefore, besides adopting AI, Nigerian corporations and regulators need to confront these underlying issues to fully harness the advantages of AI in corporate governance.

Potential Risks and Challenges Associated with AI Adoption

Utilizing artificial intelligence (AI) to enhance corporate governance holds great promise, but it also presents a series of potential risks that must be carefully considered and managed. The integration of AI into corporate governance processes has the potential to streamline decision-making, improve efficiency, and enhance oversight. However, several risks loom large, ranging from ethical concerns to technical challenges.

Algorithmic bias is a key risk in AI-driven corporate governance, as biased training data can lead to unfair decision-making and discrimination, posing legal and reputational risks. Additionally, the opacity of AI algorithms presents challenges for transparency and interpretability, hindering compliance efforts. Cybersecurity risks also increase with AI integration, as malicious actors may exploit vulnerabilities to manipulate governance decisions, leading to financial and reputational harm. Workforce displacement, lack of expertise, overreliance on AI, and evolving regulatory complexities further compound these risks, necessitating careful management and oversight when utilizing AI in the enhancement of corporate governance.

Miscellany

The potential of artificial intelligence to transform corporate governance practices is truly profound and multifaceted. By leveraging AI, corporate governance can be significantly improved in several key areas, including risk management, compliance, strategic planning, and stakeholder engagement. However, as we consider the transformative potential of AI in corporate governance, it is crucial to balance technological advancements with ethical considerations. While AI offers tremendous opportunities for improving governance practices, it also poses significant risks that must be carefully managed. Additionally, as AI systems rely heavily on data, it is imperative that the collection, storage, and utilization of data are conducted in a manner that respects individuals' privacy rights and complies with relevant regulations and best practices.

Incidentally, the European Union (EU) Parliament, in March of 2024, gave its final approval to a comprehensive set of regulations governing AI. The new Act - the Artificial Intelligence Act ("**AI Act**"), initially proposed in 2021, aims to safeguard individuals against potential risks posed by rapidly advancing technology while simultaneously fostering innovation. While the AI Act's jurisdiction is limited to the European Union, it is highly probable that

other countries, potentially including Nigeria, will adopt similar models and enact legislation to regulate AI usage accordingly.

Conclusion

In conclusion, while the integration of AI into corporate governance processes offers numerous benefits, it also presents a myriad of risks that must be carefully managed. To harness the potential of AI while mitigating these risks, companies must prioritize transparency, ethical considerations, cybersecurity, workforce implications, and regulatory compliance as they integrate AI into their governance frameworks. Additionally, ongoing monitoring, robust risk management strategies, and continuous oversight are essential to ensure that the benefits of AI in corporate governance are realized while mitigating potential downsides. Furthermore, by prioritizing ethical principles and ensuring responsible AI governance, organizations can harness the full transformative power of AI while safeguarding against potential risks and promoting the greater good for all stakeholders involved.