

## **CHAPTER SEVENTEEN**

### **TRACKING MECHANISMS FOR FINANCIAL INTEGRITY AT LOCAL GOVERNMENT LEVEL IN NIGERIA: DOES THE ROLE OF NIGERIAN FINANCIAL INTELLIGENCE UNIT MATTER?**

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#### **Abstract**

Local government is a veritable agent of development and grassroots participation in the democratic process. It is a tier of government below the central, regional or state government, established by law to exercise political authority through a representative council within a defined area. The role of the local government administration is to manage the affairs of the people of a particular locality through planning, organizing, staffing, controlling, reporting and budgeting. Therefore, financial administration is essential for a local government to survive, given its significance and financial integrity plays a vital role in the effectiveness of financial administration. Gatekeepers, such as the Nigerian Financial Intelligence Unit (NFIU), must ensure financial integrity. This paper examines the effectiveness of NFIU in ensuring financial integrity at local government levels. The study also viewed the mandates of NFIU and the 1999 Constitution of the Federal Republic of Nigeria. The paper concluded that NFIU requires adequate restructuring to track mechanisms for financial integrity at the local government levels in Nigeria. The paper recommended a review of the mandate of NFIU and an amendment of the constitution about local government autonomy.

#### **Introduction**

The development of democratization and the intensification of widespread participation in national decision-making depends heavily on the local level of governance. Local government is a genuine agent of growth and

popular participation in the democratic process (Ozioko, 2015). It is a tier of government created by legislation to exercise political power through a representative council within a given territory beneath the national, regional, and state governments. To provide effective governance, local government is an extension of central government or an extension of government to local communities. According to Anikeze (2014), local government functions at the fundamental or most basic level of society, while Abba (2007) characterizes it as a grassroots effort that affects people's day-to-day lives. Nworji (2004) posits that to make the effects of governance felt at the local level, local government as a state institution must guide the development activities of a specific location or region.

Local governments in a multi-ethnic federation like Nigeria create a sense of belonging to every nationalist. Local government also provides basic infrastructure in the rural area. Because of the diverse nature of the Nigerian state, the federal government of the country created Local Government Areas to initiate, determine and implement projects, to complement the activities of the State and Federal Government in their areas, and ensure, through devolution of functions to those councils and the active participation of the people and their traditional institutions, that local initiative and response to local needs and conditions are maximized (Ozeh, 2023).

Financial administration is essential for local government to survive, given the significance of local government administration in governance, and financial integrity plays a specific role in this regard. Effective management of financial resources is necessary for the government to obtain value for money from all public expenditures, minimize the government budget deficit, and enhance budget structure and reporting. Financial integrity involves attributes of an economic system that ensure efficient financial resource management. According to Kamil and Hadiyah (2022), financial integrity promotes higher financial management accountability and offers information and a standard for the legitimacy and openness of all economic activities.

According to Transparency International (2019), "it is too easy for corrupt individuals, including those holding or having held public office, including the Head of State or Government and their family members and

close associates, to hide their identities behind complex and opaque corporate structures and to move, launder and benefit from the proceeds of corruption with impunity." Working through multiple gatekeepers, as in the case of the established Nigerian Financial Intelligent Unit (NFIU), is essential to counter this threat. This paper examined the role of the NFIU in monitoring systems necessary for financial accountability at the local government level.

## **Review of Related Literature**

### ***Conceptual Issues***

**Financial Integrity:** According to Digital Financial Report (2010), Financial Integrity is the ability, responsibility, and track record of personal integrity to function as a contractor and to engage in the contracting business, such as management and accounting control procedures, independent external and internal assessment and process openness, all help to assure financial integrity at any organization. According to the International Accounting Standard Board (IASB), financial integrity ensures that a financial report is accurate, complete and consistent, among other general terms.

According to Transparency International (2019), financial integrity identifies the features of a financial system that operates with financial integrity and specifies the traits: an economic system that functions clean, transparent, and responsible. To do this, one must pass through several gatekeepers, including banks, real estate brokers, attorneys, accountants and suppliers of upscale products. Every one of these gatekeepers has a responsibility to keep corrupt money from entering, moving through and leaving the financial system, but doing so is difficult and threatens the stability of the whole process. One major challenge facing the gatekeepers is accurately identifying the legitimacy of the origin of the funds because the identity of the individual who ultimately owns or controls the funds (the "beneficial owner") is complicated to ascertain, most notably when they are hidden behind corporate structures in secrecy jurisdictions that collect and disclose minimal information.

According to Masaau (2018), when most people think of integrity, they mistakenly assume it is the same as morality; if we say someone is a person of integrity, we usually take that to mean that they are a "good" person.

But what integrity means is wholeness, in the sense of coherence, stability, or consistency of function; when something has no integrity, it disintegrates and does not work. Without integrity, systems will fail to perform their functions. While finances are just one aspect of personal integrity, financial integrity is especially important because money touches every part of our lives. Money is just an economic value created by giving another party the benefit of continuing or more enjoyable existence. You may not want to give other people the economic benefit in your day-to-day life, but you can hardly continue to exist without it. In this context, money functions as a symbol of interdependence. You can trade it to continue or improve your existence amid an entropy universe, ideally in acknowledgement of having done the same thing for others. Without financial integrity, money does not isolate one from life as it should, and it also prevents one from helping others because he is too preoccupied with his situation.

**Nigerian Financial Intelligence Unit:** The NFIU is the Nigerian branch of the global Financial Intelligence Units (FIUs), which operate in the African Region and are domiciled within the Central Bank of Nigeria (CBN). The NFIU was established as an autonomous unit under the auspices of the CBN to comply with the requirements of Financial Action Task Force (FATF) Standards and the United Nations Convention against Corruption (UNCAC). In 2007, the NFIU joined the global Financial Intelligence Unit (FIU) group, the Egmont Group, which comprises more than 131 Financial Intelligence Units (FIUs) from 131 jurisdictions worldwide. The National Financial Intelligence Unit (NFIU) was established in 1995 to promote international cooperation in intelligence exchange by member states and to support and influence the work of the FATF as regards the mandate of the Financial Intelligence Units (FIUs) under FATF Recommendation 29 and FATF recommendation 40. As a member of the Egmont Group, NFIU has supported and mentored other African Financial Intelligence Units (FIUs) to participate in the Egmont Group. Fulfilment of the FATF recommendation and the UNCAC requirement led to the formal establishment of NFIU in 2004 and its full operationalization in 2005 as an entity under the EFCC. Since then, NFIU has endeavored to develop norms and procedures for receiving, analyzing and disseminating financial information to law enforcement bodies, conduct onsite as well as off-site financial functions, improve compliance

with legal and regulatory frameworks on anti-money laundering and combating the financing of terrorism in Nigeria, as well as to respond to global trends by working with other financial intelligence units around the world. In 2018, NFIU acquired its independence after the passage of the NFIU Act 2018 by the Nigerian National Assembly.

### ***Core Mandate of NFIU***

The NFIU primarily draws its powers from the Money Laundering (Prohibition) Act 2011 (amended in 2012) and the NFIU Act 2018. As per international standards, the NFIU's primary mandate is to act as the "National Centre for the Receipt and Analysis of (a) suspicious transaction reports and (b) other information relating to money laundering, related predicate offences and terrorist financing and for the dissemination of the results of the analysis to law enforcement and anti-corruption agencies."

### **The NFIU has the responsibility to:**

- i. Receive, request, analyze and distribute financial intelligence reports regarding money laundering, terrorism financing and other related information to law enforcement, security and intelligence agencies and other relevant authorities.
- ii. Receive and collect currency transaction reports, suspicious transaction reports and other information, including records of wire transfers related to money laundering, financing of terrorism, proliferation of weapons of mass destruction and related predicate offences from financial institutions, designated non-financial institutions, law enforcement agencies, security agencies, anti-corruption agencies and relevant regulators and administrations.
- iii. Analyse, process, interpret and assess the information and reports received and undertake strategic and operational analysis about them.
- iv. Provide information and analysis results on money laundering, terrorism financing, weapon of mass destruction proliferation, related predicate offences and other illegal activities that have occurred, are occurring or are about to happen in a secure environment to law enforcement, security, regulatory and other relevant authorities on a voluntary and upon request basis.

- v. Advise the supervisory authorities in the manner they deem fit to fight money laundering, terrorism financing, weapons of mass destruction and related predicate offences.
- vi. Maintain a comprehensive financial intelligence database for information collection, analysis and exchange with counterpart FIUs and law enforcement agencies worldwide.
- vii. Assist in uncovering proceeds of crime, fighting money laundering, terrorism financing, weapons of mass destruction, and related activities.
- viii. Make information collected and analyzed available to investigating, security, and law enforcement agencies to facilitate the administration and enforcement of relevant laws.
- ix. Interact with Financial Intelligence Units (FIUs), Law Enforcement Organizations (LEOs), Anti-Corruption Organizations (ACOs) and competent authorities in other countries on money laundering, financing of terrorism and proliferation of weapons of mass destruction and predicate offences.
- x. Respond to requests for information by law enforcement, security agencies and other competent authorities.
- xi. Maintain a robust, secure financial intelligence database to store information and intelligence for law enforcement, securities, and regulatory agencies, anti-corruption bodies in Nigeria, economic intelligence units, and competent authorities in third countries with a mandate to flee financial crimes.
- xii. Advise the government, law enforcement and security agencies, supervisory authorities and reporting institutions on the prevention of money laundering, the financing of terrorism and proliferation of weapons of mass destruction and associated predicate offences.
- xiii. Develop and implement policies and procedures to guide the sharing of financial intelligence confidentially and securely.
- xiv. Monitor compliance by reporting institutions and advise supervisory authorities as to the discharge by those institutions concerning their obligations under this act.
- xv. Monitor and undertake studies and risk assessments on emerging trends and patterns in money laundering, the financing of terrorism and the proliferation of weapons of mass destruction and associated predicate offences.

- xvi. Keep up-to-date statistics on matters related to the efficacy and effectiveness of money laundering, funding of terrorism and the proliferation of weapons of mass destruction and related predicate offences, such as suspicious transactions; data received and transmitted money laundering and terrorism financing investigation, prosecution and conviction property frozen, seizure and confiscation mutual legal aid or other international request for cooperation.
- xvii. Receive and provide general or specific feedback on the value of information reported by reporting institutions, regulatory authorities, law enforcement and security agencies and any other competent authority.
- xviii. Direct the monitoring of accounts, transfers and any other means of payment or transfer of funds.

### **Financial Integrity at Local Government Levels in Nigeria**

The financial integrity of local governments remains a myth, as the state has completely gutted the local government system. As Transparency International rightly argued, "Corrupt individuals, including the Head of State or Government and their family members and close associates, hide their activities behind complex and opaque corporate structures and move, launder and benefit from the proceeds of corruption with impunity." Stakeholders (Internal Auditors, Lawyers, Accountants, External Auditors, etc.) whose job is to prevent corrupt funds from entering, moving through and out of the financial system face the challenge of determining the legitimacy of the funds' origin. The identity of "the beneficiary owner" is difficult to decide on, especially if the funds are concealed behind corporate structures in secretive jurisdictions that collect and publish very limited information.

Ogunna (2007) states, "Local government officials do not adhere to the financial memorandum". In Nigeria's local government system, there's a lot of accounting fraud going on. Sometimes, local governments make payments for non-existing services. Local government officials often conspire with contractors to deceive the council by inflating contract amounts. These bad work ethics lead to a massive gap between spending and delivering services to the people. According to Agbo (2010), "local government revenue collectors have a negative attitude towards revenue

collection", meaning that many venue collectors collect revenue and spend it the way they want. Some valuation officers at the local government level conspire with landlords to either under-assess or not assess their property in full but rather give them a lump sum of money monthly.

Ogunna (2007) also argued that one of the main challenges facing local government revenue generation is that market and motor park officials often print false receipts or collect money from people without issuing receipts and divert the money collected to personal uses. Chief executive Officials are also involved in corruption, colluding with contractors and workers in the local government to deceive the council. The chief executives of local councils no longer live in the areas they were elected to govern. Instead, they ride in their expensive cars to the council headquarters from the state capital or Federal Capital Territory, pay salaries, share other monies, and disappear until it is time to distribute the next subvention. According to Udunze (2013), corruption through fraud and misappropriation of funds have led to the failure of local government councils and rendered the necessary development of the local areas as drain pipes by making the local government financially unable to discharge its constitutional responsibility.

It is a well-known fact that almost every local government in every state in Nigeria is headed by caretaker functionaries appointed by the governor. Caretaker functionaries serve at the governor's pleasure because he sometimes dismisses them without reference to anybody. Most local government laws passed by the State Houses of Assembly contain absurd provisions that empower the State House of Assembly or the governor to suspend and remove any elected or appointed local government officials. The tenure of local governments is usually limited to 2 years, which leaves no room for elected officials to plan and execute any significant project within their term of office. In some cases, local government functions listed in Schedule 4 of the Constitution are transferred to the state, and the state also takes over the financing sources for those functions. This transfer of power, functions and revenue sources is also carried out under purportedly valid laws.

When the governor chooses to hold local government elections, the outcome is predictable and can be announced months before the election



date. The ruling party almost always wins all the seats; in some cases, it only allocates a few council seats to the opposition parties. Hardly at all will the opposition party be returned as the victor of a chairmanship post. State Electoral Commissions are far from being independent, as they are among the worst in the history of electoral umpiring. They do not pretend to have a mission, as their members are morally challenged and repugnant individuals who claim to be educated. In a system of ethically challenged political parties, the governor is the party leader at the state level, and only one can serve as a nominated representative to fly the party flag with his endorsement. All those who fly the party flag are his nominees. This raises a question about the leadership's ability to maintain financial stability at the local government level.

Local governments are supposed to be governed by two main branches of government – the executive and the legislature. Local governments draw up budgets at the local government level based on instructions from the state government. These budgets are defended before the ministries of local government and the State House of Assembly. This places the legislative function on the shoulders of the local councillors, which form the legislative branch of the local government. When funds come through the common account, the governor decides what to allocate to local governments while retaining, managing or mishandling the remaining funds. The little money allocated to local governments also faces the state-level approval process for significant contracts. These obstacles are well established in state-level legislation and procurement procedures and procedures.

### **NFIU and the Challenges of Integrity at the Local Government Levels in Nigeria.**

As Section 3 of the constitution argues, two main issues affect financial integrity at the local government levels in Nigeria. The section highlights the Local Government's dependency on the state government and the financial irresponsibility of financial officers at the local government level. The question now is: will NFIU be able to address this challenge? First, the answer is no. The NFIU does not have direct powers. Second, the answer is yes, given its mandate. The NFIU's primary mandate is collecting, analyzing, and disseminating financial intelligence. It also advises agencies on preventing money laundering, financing terrorism and

proliferation of weapons of mass destruction. It also monitors suspicious accounts and distributes the results of its analysis to law enforcement agencies and anti-corruption bodies. By reporting to anti-graft agencies, NFIU indirectly impacts the financial integrity of local governments.

Let us look at the 2019 declaration of the NFIU as a case in point. On 6 May 2019, NFIU issued new guidelines to reduce vulnerabilities created by local government cash withdrawals across Nigeria. According to the spokesperson of NFIU, "As of 1 June, no bank shall allow any transaction from a local government account to be made without first reaching a specific local government account. No cash withdrawals shall be made from local government accounts for more than ₦500 000 daily. All other transactions shall be made using valid cheques and electronic funds transfers." As a result, it was assumed that governors would lose control over local government funds as the guidelines prohibit them from manipulating funds allocated to local councils. The common account system currently used by state and local governments is only meant to receive allocations from the Federation account but, not to disburse them.

Yes, the federal government beautifully crafted this directive. However, the local governance system is still entirely gutted by the state government supported by the Nigerian Constitution. Nigerian Governors Forum rightly argued that Section 162(6) of the 1999 Constitution (as amended) provides for establishing the State Joint Local Government Account, into which all allocations to the state's local government are paid from the Federation Account. However, the NFIU Act (2018) only empowers the body to collect, analyze and distribute financial information. This made the directive of no use to track a mechanism for adequate financial integrity at local government levels in Nigeria.

The directive was dead on arrival because it had no bearing on forming the candidates representing the party in the local government when the governor decided to hold the local government election. The directive had no impact on the fetish oaths given by the governor to these nominees to do his will. It did not invalidate the local government laws that allow the governor to appoint a caretaker or dissolve the elected council officials. It also did not invalidate laws and policies that will enable state governments to control local government functions and the sources of revenue. Again,

the directive did not affect the legality of the procurement laws, policies and practices used to loot local government funds. It did not affect the practice of state government approving local government budgets. It did not prevent financial officers from printing fake receipts at local government councils. It always prevented them from collecting the money without issuing the receipt. It never prevented them from diverting the money collected at markets into their private pockets. It did not stop the chief executive at the local government council from conspiring with contractors to fraudulently defraud the council.

This directive did not have constitutional support as the Constitution of the Federal Republic of Nigeria 1999 (amended) empowers the state government to keep a special account in which all allocations to local governments of the state would be paid from the Federation Account to the Government of the State. This is further reinforced by the establishment of State Electoral Commissions, which are modelled after the INEC, which is responsible for organizing local government elections. State legislatures must pass a law that further transposes this democratic guarantee into practice. Ugbuudu (2020) argues that any reform that seeks to strengthen the financial independence of the 3rd tier of government in Nigeria, without a constitutional amendment to abolish the state joint local government account, will not achieve its objective. The result is that NFIU needs an effective mechanism to track the mechanisms of financial integrity at the local government levels in Nigeria.

## **Conclusion**

Financial integrity is essential for the growth of all individuals, communities and nations. The importance of financial integrity to local government administrations cannot be overstated, and it is also important to work through several gatekeepers like NFIU to maintain financial integrity. However, as it stands, the National Financial Intelligence Unit (NFIU) needs to be in a better position to track a mechanism that would promote financial integrity at the local government level. Freeing the Local Government councils from the suffocating grip of the State Governors will undoubtedly improve third-tier governance and development. In light of the preceding, this paper urges the National Assembly to amend the Constitution to allow the State House of Assembly to do the correct thing by guaranteeing local government autonomy. The Constitution needs to be amended to expand NFIU's mandate

and give it more power. Finally, the Federal Government should find a mechanism to prohibit the appointment of Caretaker Committees by State Governors to manage the local Government administration. These caretaker committee members are mostly party loyalists who cannot challenge any demand made by the State Governor, so they are allowed unrestricted access to Local Government funds.

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