A Legal Appraisal of The International Capital Market

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Abstract
Development is critical to all nations and must essentially be sustainable for the growth of the different aspects of a country's national life. Capital is a major driver of development, but it is necessary to note that more countries lack requisite capital to drive their economic and other kinds of growth. The international capital market has thus evolved and grown tremendously over the years to the rescue of many countries which have taken advantage of its ample resources, while many others have yet to take due advantage of the ever-growing market, most particularly countries in the African region and many others in the Asian region. This paper examines the evolution and development in the international capital market over the recent past; the role played by the key players in the market, and appraises how the recent developments have influenced development generally across the world in the face of evolving international legal framework.

1.0 Introduction

There is constant need for development in all spheres of life including the economic life of a nation, which underscores why nations channel their resources to meet their needs. As no nation is fully endowed with enough resources it would need for development, it becomes imperative for nations and entities alike to tap resources from external sources to enhance their development. The economic development of any nation state virtually depends on long-term development plans, oftentimes, developments require long-term plans which need long-term investments. Long-term source of the capital is needed to finance long-term plans, which is provided only in the capital market. This encourages international trade in goods and services, which is a

means by which a nation deficient in a particular resource, including financial capital endeavours to fill the gap from countries which are more endowed.[1] Over the years there is the harmonisation of markets called globalisation, which has come with a great deal of deregulation and a more liberalised investing framework. This comes with the advantage of growth out-sourced from countries which are more endowed with such resources. Thus resource gaps are filled through various external means and investments such as direct and portfolio investments,[2] grants and aids, loans from international capital market and from bilateral and multilateral agencies. Portfolio investment is either portfolio debt investment or portfolio equity investment.

2.0 The Capital Market

The capital market is a market for long-term securities, where people, companies and governments with more funds than they need (because they save some of their income), transfer those funds to people, companies or governments who have a shortage of funds (because they spend more than their income).[3] It provides resources that are material to a modern economy and promote economic efficiency by channelling money from those who do not have an immediate productive use for it to those who do. It then facilitates trade and thereafter production. It provides an avenue for the expansion of the economy by boosting production through

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[1] Suleyman A. Ndanusa, "Foreign Capital Investment and the Challenges for the Nigerian Capital Market," *Modus International Law and Business Quarterly,* Vol.7, No.1, March 2002, p.36.

[2] Portfolio investment is a category of international investment in equity and debt securities, other than direct investment or reserve assets. See, Nay Pyi Taw, "Portfolio Investment," IMF Statistics Department, January 2015. Available at https://www.info.org/external/region/tlm/rr/pdf/Jan 11.pdf Assessed September 2015.

[3] James Woepking, "International Capital Market and Their Importance," *The University of Iowa Center for International Finance and Development,* November 2007, p.1.

provision of the long-term funds. Since the economic growth and development of many nation states virtually depends on long-dated development plans often times, developments require long-term plans, which need long-term investments. Long-term source of capital is needed to finance long-term plans, meaning that the right place to look to is the capital market.[4] Capital markets globally thrive on trust, confidence, transparency and integrity. If for any reason confidence is dampened in the capital market, it would have significant repercussions for the larger economy. The 1929 US stock market crash and its aftermath clearly showed the importance of confidence to the development of the market. A clearly difficult task which could face any financial market regulator and a government is rekindling lost confidence in a financial market.[5] The level of investment is likely to be high where the confidence of the investor is assured.[6] The contrary, of course, would be the result where the level of confidence the investors have in the market is low. In other words, the quantum of investment will nose-dive. Capital markets carry out the desirable economic function of directing capital to productive uses. The savers (governments, businesses, and people who save some portion of their income), invest their money in capital market like stocks and bonds. The borrowers (governments, businesses, and people who spend more than their income) borrow the savers' investments that have been entrusted to the capital markets. Capital markets promote economic efficiency by shifting the funds from the savers to the borrowers, thus employing the funds to their maximum extent. The strength and vibrancy of the capital market have tremendous effects on the economy.

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[4] See, *Capital Market Law and Economic Development Journal Quarterly,* Vol.1, October-December 2004, p.142.

[5] As a result of the consequences of the depression, the US enacted the Securities Act of 1933, and later the Securities Exchange Act, 1934 which subsequently extensively regulated the stocks market.

[6] See, *Capital Market Law and Economic Development Journal Quarterly, October-December 2004, p. 142.*

If there were no capital markets, the savers might have kept their excess funds in a low-yielding savings account, while the borrowers might have put off or cancelled their business plans. The capital market signifies the productive capacity of the economy, as it indicates the extent of long-term capital that can be mobilised for production and development. The capital market is akin to any other market by providing an avenue to facilitate exchange. Unlike the commodity market, the item of exchange in the capital market is long-term funds. The capital market intermediates the surplus unit of the economy (i.e. households and firms that are savers), with the deficit unit of the economy (governments, households and firms that borrow). The surplus unit is, therefore, those investing and the deficit is that which needs to utilise funds for capital projects of various proportions. While the capital market mobilises capital, it also reallocates capital. Capital flows can be in the form of either direct investment or portfolio investment. Portfolio investment is either portfolio debt investment or portfolio equity investment.[7] International capital flows facilitate the levels of domestic involvement in a country to exceed the country's level of savings. It enhances faster growth or growth with less sacrifice of current consumption than ordinarily would have been.[8] The strength and vibrancy of the capital market have tremendous effects on the economy.

Funds from non-performing sectors or companies are mobilised and invested in performing companies or sectors. The capital market is made up of market and institutions which facilitate the issuance and secondary trading of long-term financial instruments.[9] The instruments or securities traded in the capital market are called capital market instruments. However, capital market has both securities based segment (the stock market, i.e. the

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[7] Assaf Razin et al., "A Pecking Order of Capital Inflows and International Tax Principles,"

[8] Robert E. Lipsey, The Role of Foreign Direct Investment in International Capital Flows, p. 307.

[9] See, http//www.nigeriabusinessinfo.com/capitalmarket.htm Site visited August 2008.

stock exchange), and non-securities based segment (market for long-term loans). The capital market is the composite of all markets where long-term securities originated and traded. But when defined in its widest sense, it includes markets where short, medium and long-term financial instruments are originated and were traded.[10] It includes in its broadest form the money market, which is market where short term securities are traded. The capital market contains markets and institutions which facilitate the issuance of securities and secondary trading of such securities that are long-term financial instruments. Securities are the things that are sold on the capital market. They are financial instruments, which show that the holder either runs part of a company or has lent money to the company. The two types of securities are thus equities, and debts- bonds/loan stocks/debentures. Short-term capital flows can give rise to economic instability, because it more often than not results in marked discrepancy between private and social returns and risks. This is usually corrected with the imposition of tax by the economists to eliminate or reduce the difference between social and private returns. This can have more dire consequences and greater risks in developing countries, because of their less diversified economies and the weaker role of automatic stabilizers, coupled with their relatively low regulatory capacity.[11]

2.1 The Structure of Capital Markets

The capital market is composed of the primary and secondary markets. The primary market is a market where fresh long-term funds are mobilised using instruments such as equity (ordinary shares), debentures, government bonds, hybrid securities, etc.

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[10] Hayford Alile, "Securities Market," *The Nigeria Business Law and Practice Journal,* Vol. 2, No. 2, June 1990, p.56. See also, R.A. Olowe, "Introduction to Financial Markets, Financial Management: Concepts, Analysis and Capital Investments," Brierly Jones Publishers, Lagos, 1998, p.25.

[11] J. E. Stiglitz, "Capital Market Liberalisation, Economic Growth and Instability," *Journal of World Development,* Vol. 28, No.6, 2000, pp.1075-1086.

while the primary market is where new securities (stocks and bonds are the most common) are issued. The corporation or government agency that needs funds (the borrowers) issues securities to purchasers in the primary market. The bank underwrites the securities by guaranteeing a minimum price for business's securities and selling them to the public. Here, funds could also be mobilised through private placement whereby shares are issued privately to investors or to the general public through initial public offering (first time offering), offer for subscription or for sale, or right issues. Activities in the primary market indicate emerging economic potential as the funds raised in the market are to be channelled into economic and development activities. Huge public offers are supposed to translate into increased investments in the economy and they suggest improved economic outlook because firms will raise funds when they expect such to be used to earn returns above the cost of the funds. The multiplier effect of this includes increased productivity in the economy, more employment opportunities for the people and higher return to investors. The primary market is, however, of lesser importance to the secondary market, being limited issuing new securities only.

The secondary market is one for trading in existing securities. This consists of exchange and over the counter market where securities are bought and sold after their issuance in the primary market.[12] This is where the vast majority of transactions take place. The secondary market includes stock exchanges (like the Nigerian Stock Exchange, the New York Stock Exchange and the Tokyo Nikkei, etc.), bond markets and futures options markets, among others. All of these secondary markets deal in the trade of securities.[13] The existence of the secondary market facilitates activities in the primary market. The stock exchange provides a market place to allow for exchange of existing securities among investors. It affords those who have invested in the primary market to relinquish their holdings when necessary. The stock exchange

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[12] See http//www.nigeriabusinessinfo.com/capitalmarket.htm.
[13] James Woepking, ibid., p.3.

provides liquidity and hence, gives encouragement to make subscriptions in the primary market. It has the primary duty of ensuring that operators, institutions and professionals in the market comply strictly with the standing rules and regulations governing transactions and activities in the market so as to sustain and maintain confidence and stability in the system and thereby protect the investors. Activities in the secondary market affect timing of new issues in the primary market. This secondary arm of the market is thus highly regulated. For instance, all securities offered to the public by means of offer for subscription, sale etc. have to be registered with the regulatory authorities- Securities and Exchange Commission and the Stock Exchange. Company's securities for instance, may only trade on the exchange after the company has met rigorous requirements of the exchange known as Listing Requirements.[14]

2.2 Instruments Traded in the Capital Market

The instruments or securities in the capital market are called capital market instruments. Capital market has both securities-based segment (the stock market i.e. the stock exchange), and non-securities-based based segment (market for long-term loans). The term "securities" encompasses a broad range of investment instruments. These include most commonly stocks and bonds. Investors have essentially two broad categories of securities available to them: equity securities (which represent ownership of a company), and debt securities (which represent a loan from the investor to a company or government entity)

2.2.1 Debt Instruments

Debt instruments are long-term loans raised by a company or government, for which interest is paid and at a fixed rate.[15] It has a nominal value which is the debt owed by the issuer and interest is paid at a stated coupon rate on this amount. Savers who purchased

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[14] *The Sunday Punch*, September 9, 2007, p.8.
[15] R.A. Olowe, ibid., p.25.

debt instruments are creditors. Creditors or debt holders receive future income or assets in return for their investment. The most common example of a debt instrument is a bond, or debentures. Whatever the form of the debt instruments, it is an evidence of indebtedness of the issuer specifying the right of the holder and the duties of the issuer. Debt instruments are usually redeemable. Interests are paid during the life of the bond, while the principal is paid when the bond expires.[16] This does not mean that there are no irredeemable debt instruments, these are however not common in Nigeria. In practice, there are two kinds of bonds namely government bonds or stocks and corporate bonds.

Government bonds or stocks are issued by the Federal, State or Local Government. They are called "Gilt Edged" to show how distinguishable and safe the investment is. Even though they are unsecured, the protection backing such bonds is general credit worthiness and taxing power of the issuing authority. Corporate bonds are often called "Debentures." A debenture is a written acknowledgement of a debt. It is a company security and may or may not constitute a charge on the asset of the company. Such borrowings are based on the general credit standing of the borrower. In Nigeria, debentures having some specific assets and also all future assets as security for its issuance are called "Mortgage Debentures."[17]

2.2.2 Equity Securities

Stock is the type of equity security with which most people are familiar. When investors (savers) buy stocks, they become owners of a share of a company's assets and earnings. If a company is successful, the price that investors are willing to pay for its stock will often rise and shareholders who bought stock at a lower price then stand to make profit. If a company does not do well however, its stock may decrease in value and shareholders can lose money. The company can issue stock extra funds. It then must share its

[16] James Woepking, ibid., p.4.
[17] Hayford Alile, ibid., p.55.

cash with the stock purchasers known as shareholders (stockholders). Equity securities are either by way of preference shares or ordinary shares. A preference share, as the name suggests, is an equity security which enjoys certain preferences or priorities relative to ordinary shares. Preference is usually in relation to earning of dividends and to sharing of corporate assets in the event of liquidation of the company, if expressly provided for in the Articles of Association.[18] However, preference dividend can only be paid if sufficient distributable profits are available, although with cumulative preference shares, the right to an unpaid dividend is carried forward to later years, which must be paid before any dividend is paid at a fixed percentage of this amount. Preference shares may only either be redeemable or irredeemable.[19]

Ordinary shares on the other hand constitutes an equity security representing residual interest in a company, hence, equities represent ownership interests. Ordinary share has a nominal or face value. The Memorandum and Articles of Association of a company specifies the number of authorised shares a company can issue. The ordinary shareholders of a company have residual claims in the company: claims which exist in perpetuity until the holder decides to sell or until the company goes into liquidation.[20] The ordinary shareholders claims to income and assets come after the creditors (debt holders) and preference shareholders have been paid in full. This implies that a shareholder's return on investment is less certain than the return to a lender or to a preference shareholder. However, there is no limit to the returns of ordinary shareholders when compared to the others.

2.2.3 Convertible Securities

Apart from the foregoing, another category of capital market instrument is convertible securities, which are hybrid securities

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[18] Op cit, p.55.
[19] R.A. Olowe, ibid., p.26.
[20] Hayford Alile, ibid., p.54.

that share both the features of a fixed income security and ordinary shares. They are securities (debentures or preference shares) that are convertible into ordinary shares of the company at the option of the holder in the future. New issue of these securities can take the same form as for preference shares and debentures.[21]

The capital market is therefore, recognised as an important barometer for economic growth and development in a nation via its allocative efficiency properties.[22]

3.0 The International Capital Market

One of the most important developments since the 1970s is the internationalisation, and now globalisation, of capital markets.[23] Basically, the international capital market includes any transaction with an international dimension. It is not really a single market, but a number of closely integrated markets that include some type of international components. The foreign exchange market was a very important part of the international capital market during the late 1990s.[24] Internationally traded stocks and bonds have also been part of the international capital market. Since the late 1990s, sophisticated communications systems have allowed people all over the world to conduct business from wherever they are. The major world financial centres include Hong Kong, Singapore, Tokyo, London, New York, and Paris among others. The indices of the Stock Exchange of some major countries like the US, China, Japan, France, the UK, Canada, Germany, Sweden, the Netherlands, South Korea, Australia, Malaysia, Singapore, Indonesia, India, South Africa, Brazil, and Mexico have become reliable parameter and data base of performance of the economies, There is no more East-West divide or strong ideological differences along economic lines, which inhibited flows to some

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[21] R.A. Olowe, ibid., p.26.

[22] Rose Mbatomon Ako, "The Capital Market and Equity Failure in Nigeria," *CBN Economic and Financial Review,* Vol.37, No.37, p.77.

[23] Joseph E Stiglitz, Globalization and Growth in Emerging Markets and the New Economy, *Journal of Policy Modeling, 25 (2003), 505-524.*

[24] James Woepking, ibid., p.5

countries in the past. Many economies have been substantially reformed, democracy and the rule of law have been entrenched in countries which were previously autocratic while information flows at lightning speed. Today's global investor is highly analytical, has a strong market insight and trails global and corporate developments very closely.[25] It follows, therefore, that the ability of a country to attract foreign investment would most critically be dependent on the existence of a capital market and in particular a stock exchange. The capital market is a fairly accurate barometer of the performance gauge of a developed modern economy, hence, it is no coincidence that today the developed countries and the emerging modern economies are also countries that have well developed capital markets. However, the size of flow would not merely be dependent on the existence of a capital market but on a multiplicity of factors including the features (characteristics) of the market, political environment and economic fundamentals with several countries competing for scarce global resources, foreign investment capital moves easily and quickly across countries while the investors now dictate much of the tune.

The world is now moving very fast compared to the traditional custody world. In the recent past, the governments of several industrial countries and some emerging economies have responded to the new realities of mobile and volatile capital flows and integrated capital markets by significantly revamping their debt management practices. This has brought about three principles: first, that debt management should be shielded from political interference to ensure transparency and accountability in its conduct. Second, that debt management should be entrusted to portfolio managers with sophisticated knowledge and experience in risk management techniques, and their performance be measured against a set of criteria defined by the ministry of finance. And third, that sufficient resources should be allocated to hiring high-quality staff and to acquiring sophisticated systems to

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[25] Sulyman A. Ndanusa, ibid.,

support the staff.[26] On the technology side, custodians must have systems that not only can trade the increasing size of the market, but also have the flexibility to manage new products as they develop. One development that is driving how custodians allocate resources is the globalisation of the market. The investment services market is expanding rapidly into different regions of the world.[27] As markets begin to deregulate and a more liberalised investing framework develops, as seen in for example in China and India, these come with great opportunities to global custodians. These couple with building of resources in the offshore markets which are known to hold a disproportionate share of the institutional market.[28] The trend in Europe is toward regionalisation and globalisation, with the breaking down of geographic conglomerates. Firms accessing the online foreign exchange market have more and more products and services to choose from, as online foreign exchange trading continues to grow in terms of both volumes and numbers of firms using online platforms for foreign exchange.

There is split in the market place, as bank platforms are becoming more multi-product to encourage customers to use their own proprietary platforms. The multi-bank platforms are also moving to provide other products such as money market funds. Many banks lack a global retail payment capability. Varied payment systems, formatting standards, rules and regulations, and a lack of global banking laws are also barriers for banks seeking to compete in the space. Likewise, the gathering and distribution of payment-related information present other multiple levels of complexity.[29] Many corporations use electronic trading systems so as to trade exposures generated by their subsidiaries. The

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[26] EU-LDC Network, "External Liability Management," Vol. V, p.41.

[27] Denise Bedell, "Thrive or Survive," *Global Finance*, Vol.21, No.8, September 2007, p.55.

[28] Op cit., p.55.

[29] Erick Kamback, Global Direct Remittances: Developing Low-Value Payments Capabilities, in Paolo Panerai (Ed.), *Global Finance,* Vol. 21, No.8, September, 2007, p.10.

collection of information from subsidiaries around the globe is still typically done manually. The corporate market is a very small portion of the overall foreign exchange market. Whereas in the institutional market there are a number of major players taking up much of the volume, in the corporate market there are thousands of companies, each with unique needs in terms of workflow processes. Thus the ongoing investment that would be required has simply not been seen as economical. One big change that could have a profound impact on the online foreign exchange markets is the interdealer platforms breaking into the dealer-to-client space. The segregation of the market between inter banking dealer and dealer-to-client is already being attached, with two major interdealer platforms reaching the wall to attract these profitable new customers. Foreign exchange portals are part of a process for corporate treasury that is ripe for workflow enhancement. The technology is there to do it, but there has to be a willingness to put the money behind it. One of the problems with online trading applications for corporations is that everyone is in a race to the bottom; they want to get applications for a very low cost. The question is who is going to keep putting money into it? Portals create transparency and with that the potential is to take margins away.[30]

In an age of globalisation, companies are more and more dependent on global networks of customers, suppliers and investments, and dependence on a global workplace and employee mobility is growing. As a result, companies increasingly need to offer global remittance services to employee as part of their banking packages, placing greater demand on cross-border payments activity, and opportunities for banks that can meet that demand. Both banks and governments have an interest in channelling this payment activity into the interest system, creating new opportunities for banks that can develop competitive solutions quickly and cost effectively. But many banks lack a global retail

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[30] Op cit, pp.16-17.

payment capability.[31] Although, banks have implemented proprietary identify-management solutions, only a few banks were willing to try to meet demands for a single interoperable digital identify-management solution to be implemented by the beginning of 2008. The banks appear to have been caught napping, which is surprising given that as early as 1999, when the type around B2B e-commerce peaked, eleven leading global banks including Citi Bank of America, ABN, AMRO and Deutsche Bank, formed Identities (now called Iden Trust), the only global network of its kind, whereby banks representing 50 countries agreed on a set of uniform system rules, contracts and practices for facilitating trust and risk management in B2B e-commerce transactions. Banks are now using Iden Trust's legal, policies and rules based framework which ensures digital certificates are binding in more than 175 countries, and interoperable cross-border between banks, to help solve the problems faced by multinationals. There is now an infection point within the industry where things like digital identity are no longer considered niche but core to the treasury and cash management process.

Banks in some countries have been encouraged by their supervisors to reduce their funding risk, particularly in foreign currencies, by issuing medium-term floating rate debt. As interest rates began to decline, some banks were able to obtain medium-term floating rate funding by issuing fixed rate obligations and swapping the proceeds with a non-bank borrower that had issued floating rate debt. Many of these so-called interest rate swap operations were also combined with currency swap operations.[32] Until recently, banks where fixed rate debt instruments were well accepted in the market have been able to use this technique to obtain floating rate funding at favourable rates. The supervisory authorities in several countries have given more attention to

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[31] Erick D. Kamback, "Global Direct Remittances: Developing Low-Value Payments Capabilities," *Global Finance,* ibid., pp.10-11.

[32] Richard Williams et al, "International Capital Markets Developments and Prospects, 1983," *International Monetary Fund, Occasional Paper*, No. 23, p.17.

maturity mismatch in international lending, and in a few cases where there are administrative guidelines these have been tightened. There is a definite trend towards global liquidity management, with techniques originally applied at country level, such as cash concentration now common regionally and are moving upstream to support the development of global structures. This is due to a number of factors viz:

(a) Exchange control and tax regimes have been relaxed in some parts of the world;
(b) Cash management banks are developing techniques to take advantage of this more flexible operating environment, such as automated global cash sweeps, cross-currency notional pooling and automated multi-bank cash concentration;
(c) Corporations are under pressure to make the most of limited resources, especially now that business has gone global, involving the management of more currencies, countries and entities in more zones and regulatory regimes than ever; and
(d) Macro-economic factors are having an impact. Higher global interest rates have pushed up the cost of external funding, forcing businesses to optimise internal sources of funds. Thus an organisation with a sizeable external debt and excess cash in multiple countries may have much to gain. The more international an organisation, the more opportunities there are particularly if cash is being left idle in countries with high overdraft rates. Taking a global view of liquidity management and creating an automated, multi-currency centre, companies in the oil, shipping and transportation sectors have led the way with a global approach to liquidity management, as they tend to have relatively centralised operations and their currency flows are mainly in US Dollars. Global cash concentration introduces a level of professional management corporations could not otherwise achieve.

3.1 The Principal Actors in the International Capital Market

Commercial banks powered their way to a place of considerable influence in international markets during the late 1990s. The primary reason for this was that they often pursued international activities that they would not have been able to undertake in their home countries. The lack of international regulation fuelled bank growth over the decades leading up to the 1990s. Commercial banks undertook a broad array of financial activities during the late 1990s. They granted loans to corporations and governments, were active in the bond market and held deposits with maturities of varying lengths. Special assets transactions like underwriting were undertaken by them. Thus they guaranteed a company issuing stocks or bonds that it would find buyers for the securities at a minimum price. Non-bank financial institutions became another fast-rising force in international markets during the late 1990s.[33] Insurance companies, pension and trust funds, mutual funds from many countries began to diversify into international markets in the period. Together, portfolio enhancement and a widespread increase in fund contributions have accounted for the strength these funds had in the international marketplace.

Corporations often use foreign funds to finance investments. They may sell stock, issue bonds or obtain loans from commercial banks. The trend in the late 1990s was for corporations to issue securities that attracted investors from all over the world. The Eurobond was an example of this. A Eurobond is a corporate bond not denominated in a single currency, but gives the lender the right to demand repayment from a spectrum of currencies. For example, a Eurobond allows its holder the right to be repaid in Yen, Euros or Pounds. When the holding period is over, the holder chooses the most preferable currency at that time. This partially protects buyers from exchange rate fluctuations. Government agencies, including central banks, were also major players in the international marketplace during the late 1990s. Central banks and other government agencies borrowed funds from abroad.

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[33] James Woepking, ibid., p.8.

Governments of developing countries borrowed from commercial banks, and state-run enterprises also obtained loans from foreign banks. There has been international cooperation in the area of bank supervision, which has progressed greatly over the past decade; developments in international capital markets over the past year have however posed new challenges for the international coordination of bank supervision. The collapse of Banco Ambrosiano in Italy in the 1980s and its complex group of affiliates around the world, including Banco Ambrosiano Holding in Luxembourg highlighted the need to define the responsibility of bank holding companies. There was published a “Principles for the supervision of banks foreign establishments” in June 1983, which had been prepared by the Basel Committee of Supervisors and endorsed by the Governors of the Group of Ten countries and Switzerland.[34] It represents a revision of the 1975 concordant in order to take account of changes in supervisory techniques and practices and development in the market place. There has been additional progress in enlarging the number of countries whose banking supervisors are in mutual contact and who are working toward harmonisation of supervisory practices. The most tangible result of international cooperation in recent years was the general acceptance and widespread implementation of the Basel Committee’s recommendations that bank solvency be evaluated on a consolidated basis. Some further initiatives in this general area have been in recent years. In the US, countries borrowing (over minimum amounts)from US banks were placed in categories with differing notional guidelines on what could be considered “excessive” exposure in relation to capital/reserves for each category. In various circumstances, these reports also included a note on the economic circumstances of particular countries where exposure concentrations were indicated. It does not appear that their system which is unique greatly affected the international lending decisions of the major US banks or the degree of any concentration of exposure. The European Union is also developing

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[34] Richard Williams et al, ibid., pp.18-19.

observation ratios for banks and calculations have been carried out in order to increase the understanding of banks solvency, liquidity, and profitability in member countries of the Union.

Banks themselves have reacted to recent developments by strengthening their own internal analytical capabilities and management procedures for sovereign risks. Towards the end of 1982, major international banks began to organise an international institute to provide its members with improved economic and financial information concerning major borrower countries in international markets.[35] In early 1983, this "Institute of International Finance" was established in Washington D.C. and a number of banks were invited to join. Its purpose was to gather country economic information; to discuss with borrower countries their economic plans and financing needs; and to serve as a forum for dialogue between the international banking community and multilateral institutions, central banks and supervisory agencies. The founding of this institute is symbolic of banks' increased awareness and concern with questions of cross-border risks and of the initiatives they are taking to improve risk management in view of recent experience.

4.0 Sources of Capital

International stock exchange revenue derives mainly from the basic stock exchange products (equity and debt instruments), and historic activities (i.e. trading and listing).[36] It is important to note that, a large percentage of international stock exchange, about 70 per cent are registered as legal companies, while the rest are divided in almost equal parts into associations that is, about 16 per cent, and other structure, that is about 14.5 per cent.[37] There are two main sources of capital: private sources and public sources, both of which are very important to the economies of the world.

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[35] Richard Williams et al, op cit., p.20.

[36] Adeniyi Ajibola Daranijo, "International Stock Exchange," (Unpublished). Being text of a Seminar Paper presented in the Faculty of Law Seminar Series in 2002, at the Obafemi Awolowo University, Ile-Ife, Nigeria.

[37] Op cit.

Capital flows result in when funds are transferred across borders, the flows are recorded in the balance of payments account. There was ample supply of funds in securities markets in 1996, which intensified competition and maintained thin margins in international loan markets. Much of the increase in lending came from Benelux, British, Dutch, German, Italian and Swiss banks, and EMU convergence plays provided a significant boost to the international lending activities of European banks.[38] Private sources of capital involves foreign direct investment (FDI) and portfolio investments (both debt and equity flows), are important sources of private capital.[39] FDI is capital invested by corporations in countries other than their places of domicile (their home countries). Direct investment is not nearly as liquid as portfolio investment, and is, therefore, less volatile. The normal requirement to qualify as FDI is for the foreign firm to own at least ten per cent of voting stock. Portfolio debt flows result from foreign investors buying domestic debt securities. A German investor buying bonds in Canada is an example. Commercial bank lending (loans from private financial institutions) is also portfolio debt. Portfolio equity flows occur similarly when foreign investors purchase equity securities domestically. American Depository Receipts (ADRs) and Global Depository Receipts (GDRs) also fit into this category.
Public sources of capital on the other hand include official non-concessional loans of both multilateral and bilateral aid and official

[38] See EU-LDC Network, "International Capital Markets," November 2007, p.11.

[39] Foreign direct investment and portfolio investment have grown strongly in importance relative to the share of commercial bank lending in private capital flows during the 1990s. FDI has been the largest component of non-private flows since 1995 and accounted for 45% of total private flows in 1996, while portfolio flows were negligible during the 1970s and 1980s, they became sizeable in the early 1990s and represented the largest component of flows between 1992 and 1994. FDI flows have been especially important in Asia where they have been the key vehicle for the global reallocation of production activities to lower cost sites. See also, Joseph E. Stiglitz, Capital-Market Liberalization, Globalization, and the IMF, *Oxford Rev. of Econ. Policy, Vol. 20, No.1, 2004, pp.57-71.*

development assistance (ODA). ODA is made up of grants and concessional multilateral and collateral loans. Official non-concessional multilateral aid consists of loans from the World Bank, regional development banks and other inter-governmental agencies such as multilateral organisations. The term "non-concessional" refers to the fact that these loans are based on market rates, must be repaid and are not partly grants. By contrast, official non-concessional bilateral aid is loans from governments and their central banks or other agencies. Export credit agency loans are also included here. "Bilateral" refers to the fact that the entities providing the funding provide aid only in their home country.[40] ODA i.e. official grants and concessional loans refer in part to official public grants that are legally binding commitments and provide a specific amount of capital available to disburse, for which no repayment is required. Concessional bilateral aid refers to aid from governments, central banks and export credit agencies that contains a partial grant element (25% or more), or partially forgives the loan. Similarly, concessional multilateral aid contains a partial grant, or forgiveness of the loan. Multilateral aid comes from the World Bank, regional development banks and intergovernmental agencies.

During 1996, net private capital flows to emerging markets surged to a record level of US$235 billion- a 22 per cent increase over 1995. The scale of the inflows and the broadening of market access provide evidence for the hypothesis that the 1990s represent a restoration of the trend toward global financial market integration that had been evident in the gold standard period and the 1920s, but was disrupted by the Great Depression, World War II, and the Capital Control Systems of the post war period. In sharp contrast, in 1990-94, official flows declined significantly as a source of external finance for emerging markets, falling from 29 per cent of total flows in 1990 to 6 per cent in 1994. Official flows rose steeply during 1995 as assistance was extended to Mexico in the

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[40] James Woepking, ibid., p.12.

aftermath of the crisis.[41] However, for the first time in the 1990s, total net official flows to emerging markets in 1996 were negative. Net official flows were negative not only to Latin America, reflecting the substantial repayments by Mexico of official assistance, but also to the Middle East, Europe and the transition economies. Still for Africa, official flows have continued to be the largest source of flows, and in 1996 accounted for over 40 per cent of total flows. The regional distribution of private capital flows has been closely linked to the macroeconomic performance of countries in the various areas, reflecting an improved ability of investors to discriminate among countries according to the quality of policy and economic performance. While Asia remained the largest recipient of capital flows in 1996, Latin America experienced the sharpest increase in capital inflows. The relatively modest expansion of capital flows to Asia reflected the showdown in the growth of both exports and output in the region, as well as the impact of uncertainties created by financial sector weakness in countries such as Korea and Thailand. In Africa and the transition economies in contrast, net private capital inflows declined during 1996. As a region, Africa has not shared in the expansion of private capital flows to emerging markets in the 1990s. Indeed, during the period 1990-96, Africa received on a reflective basis. These flows have been highly concentrated, with the top 10 countries receiving nearly three-quarters of capital inflows during the 1990s. In recent years, many of the world's wealthier nations- including the US, Germany, Britain and Japan have promised billions of dollars in aid to help developing countries, but these have consistently been dwindling and in most cases not forthcoming. Oxfam reports that by 2013, "most developed countries are now failing to demonstrate promised increases, even in sensitive issues like climate change."[42] The effect of this

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[41] EU-LDC Network, "Developments and Prospects in Emerging Markets," ibid., pp.27-29.

[42] Brad Plumer, "Wealthy Nations Pledged Billions to Help the Poor Adapt to Climate Change. Where Did it All Go?," *The Washington Post,* 18 November, 2013. Available at

development on the poorer part of the world is palpable, as despite significant GDP growth in sub-Saharan Africa, Gallup surveys show more people are "finding it very difficult" to live on their present household income. The median percentage struggling this much rose from 22 per cent in 2007 to 36 per cent in 2010. The median of 16 per cent who reported "getting by on present income" in 2010 is nearly half of what it was in 2007.[43]

Throughout the 1990s, a substantial proportion of the capital inflows into the emerging markets have been accumulated as foreign exchange reserves. Of the $1.2 trillion in net capital flows to emerging markets during 1990-96, $575 billion (49% of inflows) was accumulated as foreign exchange reserves, and in Latin America 37 per cent. This accumulation raised reserve assets in emerging market central banks to $822 billion by end-1996, a more than threefold increase since 1989, representing about half of the world's central banks foreign exchange reserves. In 1990, a World Bank publication listed aggregate net long-term resource flows to developing countries (private and public sources of capital) as $101.9 billion.[44] Of that number, approximately 57 per cent was from official loans or grants, and the remaining 43 per cent came from private sources. Just five years later, in 1995 only 28 per cent of the resources were from official sources, with the remaining 72 per cent from private sources. Official funding remained relatively constant during this period. Private funding however, skyrocketed from the 1990 figure of $44 billion, increasing to almost 400 per cent to $167 billion. Clearly, there was a fundamental change in the sources of funds for developing countries to draw from during the late 1990s.

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http://www.washingtonpost.com/blogs/wonkblog/wp/2013/11/18/weather. Site visited 26-11-2013

[43] Bob Tortora, "Sub-Saharan Africans Struggle Financially Even as GDP Grows," *Gallup,* 26 January, 2011. Available at http://www.gallup.com/poll/145787/sub-saharan-africans-struggle-finanncially-even-gdp-grows.aspx . Site visited 25-06-2013.

[44] James Woepking, ibid., p.12.

As overall international portfolio diversification grew, so too did the share of international portfolio diversification that went to developing countries. According to the International Monetary Fund (IMF), the five largest industrial countries in the late 1990s (the UK, US, Japan, Germany and France) increased their international investments from $100 billion in 1980 (about 5% of assets) to $900 billion in 1993 (more than 7% of assets). In 1987, $0,50 of every $100 of foreign portfolio investment went to emerging markets. By 1993, that figure increased to $16 of every $100. Net capital inflow to developing countries as a percentage of world savings more than doubled (from 0.8% to 2%) between 1990 and 1995. Capital flows to developing countries acted as catalysts propelling the world closer to a seamless global marketplace during the late 1990s. The growth of global institutional investors resulted in capital flows to emerging markets based on more short-term liquidity and performance than long-term business ventures. Portfolio equity investment outside Asia increased from 1996 to 1997, growing 50 per cent.[45] Commercial banks around the world cut back their financing the most during the late 1990s. After lending about $100 billion in 1996, commercial banks actually took more than they lent out in emerging markets in 1997.

4.1 Financial Instruments: Bonds, Equities, Bank Lending and Derivatives

A remarkable development in the composition of external financing by emerging markets in the 1990s has been the increased reliance on bond issuance as opposed to bank lending. The increased bond issuance reflected an across-the-board improvement in the terms and conditions under which borrowers in emerging markets could access global markets. International bond issues rose from $58 billion in 1995 to $105 billion in 1996. The number of countries rated by international credit-rating agencies, often viewed as a prerequisite for the issuance of Eurobonds has

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[45] Op cit., p.14.

risen from 11 in 1989 to 49 in 1996. [46] Bond issuers from all regions except Africa increased their issuance during 1996. Yield spreads on sovereign issues declined from an average of 364 basis points in 1995 to 302 basis points in 1996, with more dramatic declines for the major Latin American sovereigns. International bond markets expanded rapidly at a rate first evident in the fourth quarter of 1981. While foreign bond issues grew from $21.3 billion to $ 25.1 billion between 1981 and 1982, Eurobond issues expanded even more rapidly, rising from $26.5 billion to $46.4 billion (a 75% increase). And during some recent periods, issues denominated in certain currencies also proved attractive to bond purchasers when there was the prospect that the currency would appreciate relative to other major currencies.

International placements of equity by emerging markets entities rose during 1996, but remained subdued compared with the previous peak in 1993. American Depository Rights (ADRs) and Global Depository Rights (GDRs)[47] continued to be the major instruments used to raise equity capital in the international markets, accounting for a little more than half the capital raised. Issuance by Asian entities rose slightly to $9.8 billion and continued to account for the major proportion of equity placements by emerging market countries.[48] Latin American placements rebounded to $3.7 billion in 1996 but remained modest compared to previous years. Placements by entities in the transition economies have continued to grow and companies from the region doubled their 1995 equity placements to reach $1.3 billion in 1996. American and global depository receipts trading were easily at an all-time high in the first half of 2007 and was higher than every

[46] EU-LDC Network, "Developments and Prospects in Emerging Markets," ibid., p.29.

[47] ADRs and GDRs were used extensively in the privatisation of public enterprises in developing and transitioning (i.e. socialism to capitalism) countries in the 1990s. They are certificates issued by a depository bank, representing shares of stock of a foreign corporation held by the bank.

[48] Convertible bond issuance by Asian entities continued to account for a quarter of the region's bond issuance during 1996, with Korean companies accounting for 40% of these issues.

full-year total since 2006. The New York Stock Exchange, Nasdaq and the American Stock Exchange together accounted for 88 per cent of DR trading value worldwide in the first six months of this year. A record $1.1 trillion of DRs traded on the major US stock exchange during the first half. The London Stock Exchange reported that trading of DRs on the International Order Book, the main trading platform for DRs listed on the exchange as well as on the Luxembourg Stock Exchange totalled $195 billion in the same period. Over-the-Counter and other DR trading value in the first half was about $50 billion. Issuers from 13 countries completed 53 new primary and follow-on the DR offerings in the first half, raising a six month record $25.8 billion, up 72 per cent from the same period a year earlier. Some of 80 per cent of new stock exchange listings in the first half of this year were from issues based in Brazil, Russia, India and China (BRIC).[49]

The favourable environment for emerging market borrowers in global bond markets prompted several sovereigns to launch issues to restructure existing liabilities of improved terms to reduce refinancing risk through an extension of maturities, to diversify their investor bases, and to set benchmarks for their corporate borrowers. In international markets, issuance increased by nearly 100 per cent on strong demand for funds by US corporations and by Dutch, German, UK and US financial institutions. Financial institutions accounted for two-thirds of this sharp increase, and US corporations accounted for more than half of all issuance by non-financial corporations. Equity market in the majority of advanced countries is presently at or near record highs[50] and US markets have continued to rise after doubling in value during 1992-96.[51] While some indicators suggest that US equities are optimistically priced, others suggest that US markets are not as far out of line as they previously were. However, there is a consensus that a moderate correction in US equity prices would

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[49] *Global Finance,* ibid., p.20

[50] EU LDC Network, Vol. II, ibid., p.12.

[51] Conclusions, Vol. III, "Developments and Prospects in Emerging Markets," ibid., p.54.

not significantly affect the US economy, [52]because real spending was apparently not significantly bolstered by positive wealth effects during the run-up in equity prices. The present strength of the US economy, the strong financial condition of banks, the development and widespread use of risk management systems and recent improvements in the US financial infrastructures all support this view and suggest that a correction would be manageable.

An international bond issue is sold to investors in countries other than the country of the issuing entity. All international bonds are either foreign or Eurobonds. A foreign bond is issued by a foreign borrower, underwritten by a syndicate composed of members from within a single country other than the country of the borrower, sold principally and denominated in the currency of that country. In comparison, a Eurobond is underwritten by a multinational syndicate of banks and other securities firms, and is sold to investors in a number of countries other than the country of the issuing entity.[53] The Eurobond may be denominated in the currency of the country of the issuing entity, for example, US companies that seek Eurobonds in Europe typically denominate them in US dollars.[54] Or it may be denominated in some other major currency as would occur if a British firm issued a Eurobond denominated in Swiss francs or Eurodollars. Some Eurobonds have been denominated in Special Drawing Rights (SDRs). The Eurobond market is a direct market in which investors hold the

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[52] The US equity market has evolved into a multi-faceted structure, with the primary markets- the New York Stock Exchange (NYSE), American Stock Exchange (AMEX), and National Association of Security Dealers (NASDAQ), due to the so many types of users.

[53] David K. Eiteman, "International Capital Markets," in Daniel D. Bradlow (Ed.), *Internal Borrowing,* (3rd Ed.), International Law Institute, Washington D.C., 1994, p.346.

[54] In some respects, the Eurobond market is similar to the Eurocurrency market. Both markets are "external," in that obligations in a particular currency are written or carried out in a country other than the country whose currency is used. However, the Eurocurrency market is a financial inter-mediation market with major world banks operating as intermediaries between depositors (suppliers) and borrowers (users) of Eurocurrencies.

securities issued by final borrowers. Institutions in the Eurobond market carry out an underwriting and direct marketing function. These functions are performed by departments of banks, the same banks that conduct a Eurocurrency business. However, underwriting and marketing groups for Eurobonds include many types of securities firms in addition to banks. Eurobonds are debt obligations of leading multinational firms, of governments, or of government enterprises. Most Eurobonds are issued in bearer form and have call provisions and sinking funds.

The Eurobond market owes its existence to several unique factors. National governments sometimes impose tight controls on foreign issuers of securities denominated in their local currency and sold within their national boundaries. However, such governments are often much more flexible about securities denominated in foreign currencies and sold to local residents already possessing those foreign currencies.[55] Eurobond market is also more popular because of its freedom from the stringent and time-consuming registration requirements of domestic agencies such as in the US, the Securities and Exchange Commission. This freedom saves both time and money. That Eurobonds appear in bearer form is also an attraction, since the country of residence of the investors is not a matter of public record and interest paid is generally not subject to a withholding tax. This is in comparison with the US where foreign resident who holds bonds issued in the US are subject to a 30 per cent withholding tax by US authorities. The number of countries rated by international credit-rating agencies often viewed as a prerequisite for the issuance of Eurobonds has arisen from 11 in 1989 to 49 in 1996.

The international interbank market is a short-term market that operates in a rapid and informal manner, often through brokers, with a minimum of documentation. Transactions are agreed over the telephone and confirmed by telex. The customary role of international interbank markets has been to free individual banks from the need to match deposits and loans to non-banks on

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[55] David K. Eiteman, ibid., p.347.

their own balance sheets as the market allowed rapid intermediation between banks with excess funds and those with unfunded lending opportunities. Banks also have been able to utilise the interbank market to adjust quickly the maturity structure and currency composition of their portfolios in response to market developments even though customarily certain banks tended to be net takers of funds while others were net placers. As the international operations of commercial banks expanded during recent years, more foreign branches and subsidiaries of banks domiciled in some non-oil developing countries began to participate in this market, joining the major banks from industrial countries.[56]

Commercial banks powered their way to a place of considerable influence in international markets in the late 1990s. They often pursued international activities that they would not have been able to undertake in their home countries. The lack of international regulation as it were, fueled bank growth over the decades leading up to the 1990s.[57] Commercial banks undertook a broad array of financial activities during the late 1990s. They granted loans to corporations and governments were active in the bond market and held deposits with maturities of varying lengths. Special asset transactions like underwriting were undertaken by commercial banks. By underwriting, the bank guaranteed a company issuing stocks or bonds that it would find buyers for the securities at a minimum price. The ample supply of funds in securities in 1996 intensified competition and maintained thin margins in international loan markets. Announced syndicate credits rose 68 per cent in 1996, driven by refinancing operations, mergers and acquisitions, commercial paper and asset-based securities backed up facilities, and project financing. Most of the increase in borrowing was by entities located in the US, the UK, the offshore centers and the developing countries. The demand for syndicated

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[56] Richard Williams et al, “international Capital Markets Developments and Prospects,” *International Monetary Fund,* Occasional Paper, No. 23, 1983, p.13.

[57] James Woepking, op cit., p.8.

loans by US borrowers rose by $218 billion in 1996, an increase of almost 400 per cent and greater than the increase in announced credits to all other credits. A notable development is the growing displacement of interbank lending by repurchase agreements (repos). At end-1996, international repos outstanding totalled about $1 trillion, and annual turnover is estimated to have reached between $40 trillion and $50 trillion.[58] The increased use of repos reflects the greater emphasis on collateral in interbank funding, which is attributable to two factors. First, heightened credit-risk awareness, partly inspired by capital requirements, has encouraged the use of repos as banks have extended their funding activities into geographically less familiar markets and as concerns have increased about some major banks active in the international markets. Second, collaterisation procedures and documentation are more standardised, which has facilitated the use of repos by banks. Aggregate loan spreads over the London Interbank Offered Rate (LIBOR) remained relatively constant in 1996-97, as banks in a relatively benign economic environment sought higher margins by expanding their lending into geographic areas and to lesser known names.

Although the share of commercial bank lending in total flows to emerging markets has declined in importance, such lending continues to be a substantial resource of syndicated and structured finance-trade finance, project finance and bridge finance, and a particularly significant source of funds in regions. Lending to Asian countries grew robustly, increasing to 22 per cent and accounting for the largest share of total syndicated bank lending- 63 per cent in 1996.[59] Lending to European emerging markets countries also rose strongly increasing by 9 per cent, while loans extended to Latin America grew more modestly- by 5 per cent, and declined for Africa and the Middle-East. This was because the cost of borrowing on international bond and equity markets increased sharply in the wake of the Mexican crisis in

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[58] EU-LDC Network, "Developments and Trends in the Mature Markets," *International Capital Markets,* Vol.11, November 2007, p.11.

[59] Developments and Prospects in Emerging Markets, ibid., p.30.

1995. Offshore derivative products in emerging market instruments have continued to proliferate. These products enhance the ability of investors to manage the risks associated with their emerging market investments and foster arbitrage between different instruments. Moreover, recent experiences have again illustrated the ability of financial markets to innovate to manage risk exposures across markets and to circumvent official controls. It underscores the need for national authorities in emerging markets to understand the limited effectiveness of many restrictions that are being placed on financial transactions, lest institutions engage in a variety of unobserved, let alone unregulated transactions.[60] One new hedging product is the over-the-counter non-deliverable forward (NDF), foreign exchange contract, which allows investors to hedge foreign exchange risks on emerging markets instruments when hedging transactions have been constrained by either underdeveloped local forward and futures foreign exchange markets or capital controls.

While the price for the contract is linked to movements in a particular emerging market currency, settlement is made in US dollars. The Asian segment of the market is particularly active, with banks and brokers in Singapore and Hong Kong, China estimating daily volumes of between US$500 million and US$800 million. Participants expect the market to continue to grow rapidly (by 30- 50 per cent), over the coming year. Other innovations include exchange traded emerging market debt derivatives, for example, futures and options on Brady bonds,[61] structured notes, the development of emerging market index funds, growth of over-the-counter swaps and options on emerging market stocks and stock indices, and the creation of offshore exchange-traded equity derivative products such as the stock index futures contracts on Mexico's and Taiwan Province of China's equity indices that are

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[60] Op cit., p.31.

[61] Brady bonds represent some of the most liquid emerging market bonds. They are heavily weighed in the major emerging market bond indices. They are the single most traded emerging market debt instrument with spreads exceeding those on Eurobonds.

traded on Chicago Mercantile Exchange. Since May 1995, futures exchanges in Chicago and New York have offered a variety of emerging market products including options on the Mexican Peso and Brazilian real futures. Several new derivative products were also developed in emerging markets, including the launching of future and options contracts on the rand-dollar exchange rates on the South African Futures Exchange.

5.0 Dissemination of Information

As globalisation increases, technology advances and the number of organisations proliferate, the foresight to take a broader view of working capital management then becomes a competitive advantage. Further, in an age of globalisation, companies are more and more dependent on global workforce of customers, suppliers and investors, and dependence on global workforce and employee mobility is growing. As a result, companies increasingly need to offer global remittance services to employees as part of their banking packages, placing greater demand on cross-border payments activities, and providing opportunities for banks that can meet that demand. Corporates are looking for real-time information to manage positions and feed different systems. Also, they want the ability to integrate into their treasury workstations, and they want their banks to provide solutions to manage that liquidity. In order to get a clear view of global liquidity, it is essential to have a fully internet-based reporting system and a high-end treasury management system. A system that can give one a global view where one can drill down to region, country and entity.[62] It is possible to globally move on a same day basis without loss of value days, positions across a group into a single global position. Firms accessing the online foreign exchange (FX) market have more and more products and services to choose from, yet the workflow development and integration into back-end systems continue to lag. Online foreign exchange trading continues

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[62] Dennis Bedell, "Realising the Dream," *Global Finance,* ibid., pp.14-15.

to grow in terms of both volumes and numbers of firms using online platforms for foreign exchange.

Active traders are increasingly treating currencies as an asset class while asset managers and corporations are increasing their trading activity in step with the growth of cross-border investing. While better pricing and ease of use are big drivers of online trading, another big advantage of moving online is that it can help companies improve efficiency across their internal processes. Many corporations use electronic trading systems to trade exposures generated by their subsidiaries.[63] The collection of information from subsidiaries around the globe is still typically done manually, particularly in many developing countries. Head office will receive information by fax or e-mail and will manipulate the information in Excel spreadsheets to collect the cashflow forecast, FX exposures and so on. Corporates can then use an electronic trading system to execute transactions for these exposures. Over time it has been discovered that the actual collection of information is not yet achieved. What the corporates need is something that helps them manage the complexity of inflows and outflows, handle risk management, do trades and accounting requirements. Even as banks these days are confronted with an array of situations to cope with, which may include among numerous others, a challenging interest rate environment (flat yield curve) and the collapse of the subprime loan market are pinching profits, meanwhile, customer concerns over security and a maturing web marketplace are challenging banks online growth plans. Yet the leading banks are forging ahead with web initiatives, some are finding growth in emerging markets and through building deeper relationships with prosperous sophisticated consumer and corporate internet users who demand convenient fast and advanced internet services. Banks are also continuing to use the web to wring cost savings from their operations.[64]The challenge for banks on the internet is that the market has moved out of early adopters into the

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[63] Dennis Bedell, "Exchange Change," *Global Finance,* ibid., pp.16-17.
[64] Adam Rombel, "Growth Explosion," Global Finance, ibid, p.43.

mass market, which puts pressure on banks to have their web systems running all the time, provide customer service and quick response time, and also find ways to effectively market and cross-sell their products and services. Some banks are finding plenty of growth in on-line financial services, signing up several millions of online customers and have the web as a key part of their international growth strategy.

In addition to growth, banks are also continuing to use the internet to become more efficient in the delivery of products and services, which boost profits. Part of the reasons for banks undimmed enthusiasm for generating web-based business is that internet banking clients are generally more profitable to banks than other customers.[65] Web-banking customers are more loyal than offline customers, hence the number internet products per customer is increasing globally. However, as they expand their offline offerings, banks also have to fight the battle of perception versus reality regarding the security of their web services. Identity theft,[66] viruses,[67] spyware,[68] adware, spamware,[69] phishing,[70]

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[65] Op cit., p.46.

[66] Identity theft is a process whereby a person wrongfully obtained and used another person's personal data or identity, using it for deception and fraud, and criminal acts.

[67] A computer virus is a malware that, when executed, replicates by inserting copies of itself into other computer programmes, data files, or the boot sector of the hard drive, which when it succeeds, the affected areas are then said to be infected. This can cause a lot of havoc to the operating system of the infected computer.

[68] This is any technology that aids in gathering information about a person or organisation without the other person's knowledge, through a programming that is put in his computer to secretly gather covert information about the user and relay same to the interested party. It may cause computer to slow down or crash, change web browsers home page or search page.

[69] Spamware is a software designed by or for spammers, varying widely but may include the ability to import thousands of addresses, to insert fraudulent headers into messages, use dozens or hundreds of mail servers simultaneously and so on.

[70] This is a form of fraud in which the attacker tries to acquire sensitive information such as log-in credentials, or other account information, masquerading as a reputable entity. It entices a user to the web site through a

pharming[71] and other internet threats have eroded the confidence of some customer and corporate banking clients in recent years.[72] Despite these, the tide is starting to turn, according to at least one survey, as more business and individual clients are now aware of online threats and are taking steps to protect themselves.[73] Security concerns are not preventing growth in online banking. In fact, uptake continues as people become more aware of the benefits and of the many ways they can protect themselves. An independent online-security survey commissioned by TD Bank Financial Group in Canada says its online security guarantee has contributed to customers feeling more secured online. Among TD's online customers surveyed, 58 per cent said the security guarantee was a major favour in signing up for its Easy Web service. EasyWeb service promises 100 per cent reimbursement if account losses occur from unauthorised easyweb activity, according to the bank. The battle to secure internet banking and financial records is an unending one. Though the technical problem of security will never be solved, there will always be a clever crook out there.

6.0 Conclusion

The world entered an era of global capital markets in the 1990s sake of the coming to existence of offshore markets, as corporations and investors made to escape domestic regulation, which has been credited with the creation of greater internationalisation of the capital market, in other words

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bait in the form of a phony e mail or link, tricking people into divulging sensitive information such as bank and credit card account details.

[71] This is a scamming practice in which malicious code is installed on a personal computer or server, misdirecting users to fraudulent websites without their knowledge or consent. It is cyber-attack intended to redirect a website's traffic to another fake site. It redirects victims to the bogus site even if the victim has typed the correct web address. This is often applied to the websites of banks or other e commerce sites.

[72] Joseph E. Stiglitz, Information and the Change in Economics, Part 2, *The American Economist, Vol.48, N0.1, (Spring 2004), pp. 17-49.*

[73] Op cit., p.48.

globalisation of finance. Several broad structural changes in international investment management combined with the successful implementation of macroeconomic stabilisation programmes and structural economic reforms in emerging markets suggest that a significant share of the favourable market conditions are not only permanent, but have since been advancing.[74] The globalisation of finance has been transforming financial institutions, banking systems and securities markets worldwide for some time, and some countries are further along in the process of banking system restructuring and consolidation than others. Nigeria for one, has taken advantage of this to restructure whole sale its banking system, and has been the better for it over the years. A process that is still on-going. With international barriers to competition having been removed significantly among the industrial countries, regulators need to reconsider policies that hinder competition between different segments of the domestic financial systems. Among others, there is broad international agreement that government-owned banks should be made to operate as purely commercial entities, and subsidisation of their cost of capital be incompatible with that principle.[75]

Since states are independent and sovereign of the foreign control of other states, there is the need to protect foreign investment internationally to forestall states from acting contrary to their obligations under contracts into which they have entered with multinational corporations (MNCs), and foreign governments. The United Nations Commission on Transnational Corporations (UNCTC) attempted in 1983 to provide a code of MNCs, but it was adversely affected by the suspicions and divisions between capital-exporting and capital-importing countries.[76] The code attempts to maintain a balance between the opposing positions of these countries on the desirability of the control and protection of

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[74] EU-LDC Network, "Developments and Prospects in Emerging Markets," *International Capital Markets,* Vol. IV, 2007, p.33.
[75] EU-LDC Network, "Conclusions," Vol. VIII, ibid., p.58.
[76] Pereowei, S. and Kolawole, O., "Foreign Investment in the Nigerian Capital Market: A Critical Appraisal," Unpublished, 2006, p.30.

foreign investment. A stable political environment is fundamental to attracting foreign investment to an economy, hence the precarious financial and economic situations of many developing countries, particularly in the African region which has been made pore parlous because of prevailing insecurity in many of the African countries. Until something drastic is done, foreign participation in the region may remain low while the Asian region, particularly China and India are gaining the upper hand in the attraction of foreign capital. It is thus recommended that concise and downright legal framework on capital market be put in place in the developing countries, and significant measures be taken to ensure their proper implementation to enhance sufficient capital inflow into the economies of the developing countries crying for attraction.