Impact of the Sacco Societies Regulatory Authority (SASRA) Legislation on Corporate Governance in Co-operatives in Kenya

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Abstract

Following challenges such as mismanagement, conflicting mandates among regulatory bodies and poor corporate governance, the Savings and Credit Co-operative Societies (SACCO) Societies Act No. 14 of 2008 was put in place to address some of these challenges. This paper is anchored on a study on the impact of this legislation on financial management of SACCOs. It will only highlight the impact of the legislation on the corporate governance. The study adopted descriptive research design. Data was collected through questionnaires and secondary sources. Statistical Package for Social Sciences (SPSS) was used to generate the outputs for both descriptive and inferential statistics. From the findings, the legislations have influenced corporate governance to a great extent though there is still room for improvement. The study recommends synchronization of key monitoring tools with the SACCO's systems and processes achievable via exploitation of information and communication technologies. In addition, it recommends building the right infrastructure and allocating the right resources and human capital.
Key words: SACCOs, Co-operatives, performance, shareholders, board, integrity.

1. Introduction

The Co-operatives anchored on a well established Co-operative philosophy based on seven principles formulated by the International Co-operative Alliance which include: voluntary and open membership, democratic member control, member economic participation, autonomy and independence, education, training and information, cooperation among co-operatives and finally concerned for the community (Hans and Hunker, 1976). Prudent corporate governance is a requirement for effective and efficient performance of any organization and, therefore, Savings and Credit Co-operative Societies (SACCOs) are no exception. Performance of the SACCOs is usually associated with their financial performances which are usually highlighted by dividend declarations and payments. The management committees in these SACCOs are also responsible with the utilization of the member's funds and the majority of them have inadequate financial records leading to many fraudulent transactions (Branch, 1992).

2. SACCOs in Kenya

The Co-operative movement in Kenya was started by the European farmers in 1908 when they started the first Co-operative called Lumbwa Farmers Co-operative Society for the purpose of marketing their cereals, fruits and dairy products (Kobia, 2011). It was not until the mid 1940's that the colonialists agreed to introduce Co-operatives in the colonies as a piece meal programme for the development of Africa. In 1945, Kenya enacted the Co-operative Ordinance which was followed by the creation of a department under the Registrar of Co-operatives in 1946, whose objectives were to farm and to promote farm products (Kibanga, 2001). Today there are many types of Co-operatives in nearly all the sectors of the Kenyan economy. Some are haphazardly formed without the necessary considerations in mind and as such many don't go very far before disintegrating or being liquidated because of poor management, lack of records and financial systems, misappropriation of funds among others (Kobia, 2011).

The performance of the SACCOs made the Government to take specific measures to improve their effectiveness and efficiency. This was done through, the Co-operative Societies Act of 1966 Cap 490, the Co-operative Rules of 1969 which gave the Commissioner for cooperative development wider powers to prevent misappropriation and misuse of funds and also empowered overall efficiency of the co-operative movement. In addition, the second National Development Plan of 1970 – 1974 and more specifically the Co-operative development policy for Kenya under the session paper no. 8 of (1970) and the introduction in 1998 of the Co-operative Act no. 6 of 1997 to govern the operations of the Co-operatives under a liberalized economy (Kibanga, 2001).

The liberalization of the Co-operatives led to many of them misusing the powers conjured upon them and this led to the split and collapse of very many Co-operative Societies. The Government realized the need to stop this trend and came up with an Act of parliament to amend the Co-operative and Societies Act of 1997. The main aim was to reduce powers and enable the Government to take a more active role in the management of the Co-operative Societies (Kobia, 2011).

The Co-operatives are a household name and control over thirty percent (30%) of the Kenyan economy. The Co-operative Movement in Kenya is the most vibrant in Africa and it is ranked number one (No.1) and number seven (No. 7) in the whole world. The registered numbers of Co-operatives in Kenya are about twelve thousand (12,000) and the active ones are about nine thousand (9,000) with a total membership of about eight (8) million people. It is therefore, imperative to talk about Co-operatives in Africa when referring to Kenya which acts like a case study for the continent (MOCD & M, 2010).

The SACCO Societies Act No.14 of 2008 under section 68 empowered the Minister for Co-operative Development and Marketing in consultation with the SACCO Regulatory Authority to make regulations generally for the implementation of the provisions specified by the Act. To exercise those powers, the minister through the Kenya Gazette dated 18th June 2010 Supplement No. 39 issued the “The SACCO Societies (Deposit – taking SACCO business) regulations, 2010” providing for the minimum operations and prudential standards required by a deposit taking SACCO Society in Kenya (Kenya Gazette, Act 2008).

3. The SACCO Societies Act

The SACCO Societies Act, No. 14 of 2008 and also the SACCO Societies (deposit – taking SACCO business) regulations 2010, is divided into eight (8) parts namely, the Preliminary, the SACCO Societies Regulatory Authority, Licensing of SACCO Societies, Governance of SACCO Societies, Regulation and Supervision of SACCO Societies, the deposit guarantee fund, miscellaneous and a schedule of how to conduct of the affairs of the board (Kenya gazette No. 39 dated 18th June, 2010).

In 1931 the colonial government enacted the Co-operative ordinance which forbidden the Africans to form or join Co-operatives but, in 1945 this was repelled Africans were allowed to form and even join Co-operatives. In 1965, the pre-independence Government recognized the co-operatives and in 1966 the Co-operative Societies Act was enacted which allowed the Government to control and supervise the cooperatives through the commissioner of Co-operatives. A session paper was also prepared on African Socialism and development in Kenya. These principles are very important during the formation, management and the foundation of the Co-operatives (Kobia, 2011).

4. Prudent financial management

According to Jones (2002), prudent financial advice is about managing risk by designing an investment portfolio that is highly diversified and exposed to risks associated with higher expected returns. In other words, prudent investors only take on an amount of risk they feel is appropriate for them, and try to limit their exposure to those risk factors for which there is not a reasonable expectation of higher returns. Prudent financial advice is about structuring an investment strategy that is right for the investor, not one that reflects what an advisor is trying to sell, or what will earn the advisor the most fees and commissions. It should be designed to match each client's appetite for risk, while helping them reach their financial goals with broad diversification and excellent personal service (Richard, 1984). It is believed that investors and their advisors should follow the six (6) elements of prudent financial advice namely, Recognize that Markets Work, Manage Investment Risk, Focus on Education, Elevate Fiduciary Responsibility, Retain Transparency and Integrity and, Maintain Investment Principles (Moi *et al*, 2002).

5. SACCOs and the Government

According to the International Co-operative Alliance (ICA) and the Canadian Co-operative Association (CCA), the continued debate of whether co-operatives are independent and autonomous or controlled by the governments is a reflection of the organizational contradictions of some contending perceptions between the government and the cooperative movement. Some government quarters feel that the movement must be controlled, but the forces in the cooperative movement want autonomy and collaboration with government. The middle ground is always clear when both government and the cooperative work with each other as partners in cooperative development and have the same perceptions about the definition of autonomy of the cooperative movement and are on the status of cooperative government or state relations (Birchall, 2005).

6. Corporate governance in SACCOs

Corporate Governance is about the use of power in an organization and it seeks to ensure leader's governance to people. It also seeks to ensure that leaders act in the best interest of the organization. It targets members who are the owners of the organization and seeks to ensure that the power of an organization is used in a manner that facilitates probity, independence, responsibility, efficient, fairness, accountable, social responsibility, transparency, efficiency and discipline (Murtishaw and Sathaye, 2006). Good Corporate Governance entails effectiveness, competitiveness and sustainability of the society. It also ensures the achievement of objectives, innovation (improvement/new creations), quality production/products, competitive edge and credibility which would attract investments. It emphasis the use of resources efficiently, preserves physical and social environment, sensitivity to society's needs and social responsibility (Bosch, 1995).

6.1. Employment of qualified personnel

Corporate governance has become an increasingly important aspect in the corporate scene. The running of organizations especially those that are listed at the stock exchanges has become of great concern both to regulators and to the general public. The authority recognizes this fact and highlights some of the critical issues that need to be observed in adherence to corporate governance by those responsible in the day to day running of organizations as well as the rights and obligations of the shareholder (CMA Authority Handbook 2, 2010). According to the MOCD & M's five year national strategic plan 2012/13 – 2016/17, the Kenyan SACCOs have weak governance because of the general system for election of board members and the appointment of management which is not based on competence and the general lack of policies and procedures. The conflicting management and board systems results in absence of clear division between the role of the board and management. Lack of clear roles results in poor decision making, particularly in credit approval and also, significant resources of SACCOs have been tight in non-earning assets and have affected liquidity levels (MOC&D, 2010).

6.2. Democratic governance

Authority and duties of the members (shareholders) are jointly and severally to protect, preserve and exercise the supreme authority of the SACCO. It ensures that competent persons are elected to the board and that the board is constantly held accountable and responsible for efficient and effective governance (Bosch, 1995). The democratically elected board should provide leadership for the enterprise with the following qualities: integrity, judgment, strategy and values, structures and organization, viability and financial sustainability, corporate compliance, communication, development and strengthening of skills, adoption of technology and recognition of risk areas, key performance indicators, social and environment responsibility, internal controls and procedures and generally the imaging issues.

6.3. Markets governance

Markets must be deeply embedded in systems of governance which is the idea that markets are self-regulating. This received a mortal blow in the recent financial crisis and should be buried once and for all because markets require other social institutions to support them. They rely on courts, legal frameworks, and regulators to set and enforce rules. They depend on the stabilizing functions that central banks and countercyclical fiscal policy provide. They need the political buy-in that redistributive taxation, safety nets, and social insurance help generate. And all of this is true of global markets as well (Pandey, 2003).

7. Research methodology

The study was carried out using descriptive design method. Random sampling method was applied to get the sample of 40 out of 200 SACCOs operating front office services activities (FOSAs) in the country by March 2012. The data was collected through questionnaires. The data collected from the research instruments was analyzed with the help of statistical package for social sciences (SPSS) and other appropriate relevant computer software programs.

8. Findings and discussion

8.1. Gender balance in top management of the SACCOs and reasons for disparity

The respondents were asked to state of gender balance in the top five (5) management employees of their SACCOs. Out of 180 top management employees, 146 (81%) were men while 34 (19%) were female employees. This reflects imbalance of gender among the top management staff. Majority of the respondents (50%) stated that the reason for disparity was due to discrimination while, 33% stated fear of those positions, 12% stated that it was due to lacked of interest and 5% stated that it was due to the low salaries offered.

8.2. SACCO board members gender balance and reasons for disparity

The research findings found out that 85% of the board members were men while only 15% were females. Reasons for the gender disparity were found to be: 58% decline to contest during the elections, 22% discrimination by the electorate, 17% lack of interest to contest and 3% was due to the allowance paid to the board members of the SACCOs.

8.3. Employee training on SASRA requirements on financial provisions

Majority (83.3%) of the respondents acknowledged having received training on SASRA financial provision requirements while 16.7% of the respondents had not received any training. This was a high percentage and yet SASRA expected all the SACCOs operating FOSA to fulfill the financial provisions before being licensed.

8.4. Improvement in SACCO corporate governance due to SASRA provisions

Majority (83.3%) of the respondents were of the opinion that the corporate governance of SACCOs had improved due to SASRA financial provisions by reducing risk that could result to SACCO closure due to mismanagement, strengthening the financial base of the SACCOs, improved governance and ethics, enhanced accountability, improved financial reporting, improved internal control systems and shareholders confidence. However, 8.3% of the respondents were of the opinion that the provisions had no effect in the corporate governance of SACCOs while another 8.3% were undecided. This is reflected on the good perfomance of the SACCOs in regard to income generation which has led to an upward trend as witnessed by the steady increase of licenses given by SASRA. If this trend of performance continued, the SACCOs would have no difficulty in effectively managing the balance sheet.

8.5. Extent of Improvement of SACCO Corporate governance through SASRA Provisions

From the respondents' views, the study found out that generally SASRA provisions had improved the SACCOs corporate governance components to a great extent. The most improved components were found to be employment of qualified personnel (mean: 4.17) and the nature of preparation of financial reports (mean: 4.17). Others that were found to have improved to a great extent were financial internal control systems (mean: 4.00), the stakeholders' financial base (mean: 3.75), making appropriate financial decisions (mean: 3.67), improved corporate image (mean: 3.58) and work relationships through improved organizational structure (mean: 3.50). Table 1 has the details.

8.6. Overall degree of improvement of corporate governance

Majority (41.7%) of the respondents opined that SASRA provisions had improved corporate governance to a little extent while 8.3% of the respondents opined that it had improved corporate governance to a great extent. Some respondents (33%) felt there was no change on corporate governance while 16.7% indicated it was moderate. On areas SASRA financial provisions had failed to improve corporate governance, the respondents indicated that insider lending was not addressing it fully. High fee on SASRA levy interfering with members' funds and the mandate between management and the board were also identified as areas not improved by the provisions.

9. Conclusion and recommendations

SASRA provisions were found to have improved the SACCOs management components and ultimately the corporate governance to a great extent. The study however concluded that unless such measures provided by the provisions were fully implemented, the SACCOs could be exposed to mismanagement, poor corporate governance and ethics and lack of accountability from both the SACCO management and their boards. Therefore, proper human capital was required towards this end. The study recommends synchronization of key monitoring tools with the SACCO's systems and processes. This is to be achieved through exploitation of information and communication technologies such as software programs. In addition, it recommends building the right infrastructure and allocating the right resources and human capital.

References

Anyanwu, J. C. Oyefusi, A., Oaikhenan, H., Dimowo. F. A. (1997). "The Structure of The Nigerian Economy (1960-1997)". Joanee Educational Publishers, Ltd, Onitsha, Nigeria.

Atieno, R. (2001). University of Nairobi. Institutions lending policies and access to credit by small scale enterprises in Kenya an empirical assessment. ©2001 African Economic Research Consortium. Published by The African Economic Research Consortium

Barton, D. (2000). What is Cooperative? Unpublished paper, Kansas State University.

Birchall, J. (2005). Cooperative Principles ten years on. International Cooperative Alliance, Issue 2, 98(2):45-63.

Bosch, H. (1995). Corporate practices and conduct, 3rd eds. FT Pitman, Melbourne

Branch, B. (1992). "Prudential Management: Protection of Savings at the Credit Union Level."

Carrel, S. (2007). Strike Rochdale from the record books. The Co-op began in Scotland. The Guardian.

Chaves, R. A. (1994). "The Behavior of Cooperatives and Other Client-Owned Financial Intermediaries: A Contribution to the theory of Organizations." Unpublished Ph. D dissertation, Department of Agricultural Economics and Rural Sociology, The Ohio State University, Columbus, Ohio.

Cuevas, Carlos E. (1992). "Rural Finance Experiences in Sub-Saharan Africa and Latin America: A Comparative Assessment." Unpublished report prepared for the World Bank,

Daily Nation Newspaper. Nation Media Group Thursday February 2, 2012. Page 25.

Demirguc-Kunt, A. (1997). "Financial Liberation and Financial Fragility", Annual Bank
Conference on Development Economics, World Bank, Washington

Donald R. C., Pamela S. S. (1998). Business Research Methods 6th Edition. Irwin McGraw-Hill International Editions

Fabozzi, F.J., Modigilian, F. (2003). Capital Market Institutions and Instruments, 3rd edition, (New Delhi. Prentice – Hall)

Gupta S. P. (2004). Statistics Method. New Delhi.

Hans, H. H. (1976). Cooperative Principles and Cooperative Law

Harper, R. D., Jack, Dublin S. (1983). Credit Unions in a Changing World: The Tanzania-Kenya Experience. Detroit: Wayne State University Press.

Helm, F.C. (1968). "The Economics of Cooperative Enterprise". The Cooperative College, Tanzania. Delhi

House of Commons Canada. (2006 Feb. 11). Bill C-67. An Act to amend the Bank Act, the winding up and Restructuring Act.

Institute of Corporate Governance. (2007). Financial Services and the Cooperative Corporate Governance. Financial Services for Production document.

Ishola, K. A. (2010). "Macroeconomics" Chresthill Publishers ltd, Ibadan, Nigeria.

Jhingan, M. L. (2006). "Microeconomic Theory" Vrinda Publications (P) Ltd. Delhi.

Jones, R. (2002). "Public Sector Accounting. " In The International Encyclopedia of Business and Management, 2nd ed., ed. M. Warner, 5454 – 62. London.

Kenya Gazette Supplementary Acts. (2008). Special Issue, The Cooperative Societies Act, 2008 Cap 490 Nairobi, 30th December, 2008,

Kenya Gazette Supplementary No.39 (Legislative Supplement No.27), Legal Notice No.95,
18th June, 2010 SACCO Societies Regulatory Authority (SASRA)

Kenya Institute of Management. (2009). Fundamentals of Management research Methods. Macmillan Publishers Ltd. World bank report "Disrupting Corruption".

Kibanga M. M. (2001). A Commentary on the Co-operative Societies Act, 1997 No. 12 of 1997 © Published 2001 by Pearl Marketing Co. Ltd.

Kobia S. K. (2011). The Cooperative Movement in Kenya, Challenges and Opportunities; Designed & Published by Colors capes media Ltd.

Marion J. P. (1987). "Building Successful Financial Systems. The Role of Credit Unions in Financial Sector Development. Unpublished paper prepared by the World Council of Credit Unions, Madison, Wisconsin, September.

Menlo P. C.A. (2009). "New Generation Cooperatives – 10 things You Need to Know". Government of Alberta. Agriculture and Rural Development.

MOCD & D Presentations during the 2010 East and Central Africa Value Chain Symposium held in November 2010 at the Cooperative College of Kenya Promotion of Private Sector Development in Agriculture(PSDA) 2003. Unpublished.

Moi Ali, Stephen B., Andy B., Robert H., Tim H., Ken L. (2002). The Management Book. Everything you need to know to be effective Manager. Doring Kindersley Ltd. Great Britain.

Mugenda O. M., & Mugenda G. A. (2003). Research Methods, Quantitative & Qualitative Approaches. Acts Press Nairobi – Kenya.

Murtishaw S., Sathaye J. (2006). Quantifying the Effect of the Principal–Agent Problem on US Residential Use, Report LBNL-59773

Ouma S. J. (1980). History of Co-operative Movement in Kenya. © Pearl Marketing Co. Ltd

Pandey I. M. (2003). Financial Management. I.V. Publishers, Nairobi

Randall S. J. F.C.A. (1983). Mastering Principles of Accounts: The Macmillan Press Ltd.

Reinhart C., Graciela K. (1996). "The Twin Crises: The Causes of Banking and Balance of Payments Problems", IMF Seminar series no. 96/12.

Richard L., David P., David S. S. (1984). Advanced Financial Accounting: Pitman Publishing Ltd. London.

Ridley D. R. J., (2009). "Cooperative Social Enterprises: Company Rules, Access to Finance and Management Practice". Social Enterprise Journal, 5(1): 50-68

Rory R. D. (2009). Cooperative Social Enterprises, Company Rules, Access to Finance and Management Practice in the Social Enterprises Journal Vol.5,Issue 1.

Rothschild, J., Allen-Whitt, J. (1986). The Cooperative Workplace, Cambridge University Press, Chapter 1.

Saunder M., Thorn H. A., Lewis P. (2007). Research Methods for business student 4th Edition, London, Pitman Publishers Ltd.

The Standard Group Ltd. Tuesday Sept. 13, 2011. The Financial Journal Editorial Page 2

Vogel, R. C., Burkett, P. (1986). "Deposit Mobilization in Developing Countries: The Importance of Reciprocity in Lending." *Journal of Developing Areas* 20: 425-438. Washington, D.C. October.

Whitsett, R. (2006). Urban Mass: A Look at Co-op City. The Cooperator Journal.

Table 1: Improvement of SACCO Management through SASRA Provisions

Constructs	**N**	**Minimum**	**Maximum**	**Mean**
Employing qualified People	36	2	6	4.17
Preparing financial reports	36	3	6	4.17
Putting in place financial control systems	36	3	6	4.00
Making appropriate investment decisions	36	3	6	3.67
Increasing s/holders financial base	36	1	6	3.75
Improving the corporate image	36	1	6	3.58
Improving the organizational structure	36	1	6	3.50