THE MANAGEMENT AND CONTROL OF SOVEREIGN WEALTH FUND UNDER THE NIGERIAN SOVEREIGN INVESTMENT AUTHORITY ACT 2011

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ABSTRACT

This article examined the management and control of Sovereign Wealth Funds (SWFs) under the Nigerian Sovereign Investment Authority (NSIA) Act 2011. Utilizing a doctrinal research methodology, the study analyzed the legal framework governing the NSIA and its three constituent funds against the backdrop of Nigeria's fiscal federalism. The research found that while the NSWF was established to provide economic stabilization, intergenerational equity, and infrastructure development, its operation faced significant constitutional challenges. Specifically, the study evaluated the legality of diverting revenues into the SWF versus the mandatory requirements of the Federation Account under Section 162 of the 1999 Constitution. It was observed that political suspicion and disputes over revenue sharing between the federal and state governments hindered the Fund's effectiveness. The article concluded that despite the NSIA's positive interventions in critical infrastructure, legislative reforms were necessary to clarify its legal status and strengthen its independence from political interference. Ultimately, the study recommended harmonizing the legal framework to ensure transparency and compliance with global best practices.

KEYWORDS: Sovereign Wealth Fund; Foreign direct investment; Revenue Generation; Economy.

1.0 INTRODUCTION

Nigeria Sovereign Wealth Fund (NSWF) was established in 2011[1] and the Nigeria Sovereign Investment Authority (NSIA) was empowered to receive, manage and invest revenue of the Federal government, State government and Local government.[2] The establishment of Nigeria Sovereign Wealth Fund (NSWF) generated lots of controversy because of its funding from the federation account and its utility.[3] Nigeria is one of the largest producers of crude oil, on which the majority of its economy is depended upon. Petroleum exports are said to account for approximately 90% of Nigeria foreign revenue and 80% of government revenue.[4] In view of Nigeria's dependence on oil, its economy is susceptible to shift in oil prices.[5]

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[1] Nigerian Sovereign Investment Authority (Establishment and so on.) Act 2011.

[2] ibid, s. 1.

[3] E. Solomon, *Nigerian Sovereign Wealth Fund* (Sibon Books Limited 2025) 5.

[4] O. U. Nwankwo and I. M Ikpor 'Sovereign Wealth Fund and Challenges of Fiscal Federalism in Nigeria' [2014] (5) (25) *Journal of Economics and Sustainable Development* <www.jiste.org/journals/index-php/jeds/article/view/17527/17911> accessed on 12/08/2025.

[5] ibid.

Oil dependence poses unique economic challenges for major oil exporting nations. Crude oil is a volatile source of public revenue susceptible to the boom and bust of the international market.[6] Like other natural resource rents, improper management of revenue accruable from crude oil can induce inflation, resulting in an unfavorable exchange rate regime and consequently lead to the Dutch disease.[7] It is also described as finite capital asset which must be wisely invested before its depletion. If resource-rich countries appropriately manage and invest their resource rents, it may be a catalyst for economic development.[8]

2.0 CLARIFICATION OF TERMS

2.1 Sovereign Wealth Fund

Sovereign Wealth Funds (SWFs) are government investment vehicles that are funded by the accumulation of foreign exchange assets and managed separately from the official reserves of the monetary authorities. They usually have a higher risk tolerance and higher expected returns than traditional official reserves managed by the monetary authorities. They aim at systematic professional portfolio management to generate a sustainable future income stream. Their portfolio investment includes bonds, equities and alternative asset classes. Although there is no universally agreed-upon definition, Sovereign Wealth Funds (SWFs) can generally be defined as special investment funds created or owned by governments to hold foreign assets for long-term purposes. Sovereign Wealth Funds (SWFs) can be classified according to at least two criteria: the sources of sovereign wealth, their policy objectives.[9]

The funding of Sovereign Wealth Funds (SWFs) comes from different sources, which can be combined. Some funds are byproducts of fiscal budget surpluses accumulated due to a combination of revenues from exports and spending restraint. Fiscal surpluses and public savings generated domestically such as privatization receipts can also be sources for Sovereign Wealth Funds (SWFs), as can large balance of payment surpluses, with or without a corresponding budget surplus.[10] They have existed since the 1950s, especially in countries that were rich in natural resources (particularly oil), but had largely gone unnoticed until the middle of the present decade. Two of the largest of these funds, Kuwait Investment Authority and Temasek Holdings of Singapore, were founded in 1953 and 1974 respectively. In recent years, the assets of Sovereign Wealth Funds (SWFs) have grown considerably, reflecting the rapidly growing current account surpluses of many developing countries and the accompanying accumulation of foreign exchange reserves.[11]

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[6] L. Amusan and others, 'Sovereign Wealth Fund and Fiscal Federalism in Nigeria (2011-114): An assessment of contending issues' [2017] Regional and Federal Studies <https://www.researchgate.net/publication> accessed on 06/08/2025.

[7] I. I. Ojibara 'Sovereign Wealth Fund in Nigeria: Problems, Prospects and Challenges' (2017) (VIII) *Afro Asian Journal of Social Sciences* 1 www.researchgate.net/publications accessed on 06/08/2025.

[8] ibid.

[9] Solomon (n 3) 6; K. Nakatani, 'Sovereign Wealth Funds: Problems of International Law between Possessing and Recipient States (2015) swf.7 *International Review of Law* 1, 5-6.

[10] Solomon (n 3).

[11] B. Scherer and A. Gintschel, "Optimal Asset Allocation for Sovereign Wealth Funds*"* [2008] (9) (3) *Journal of Asset Management*, 215-238.

Sovereign funds (SWFs) from public savings and privatization are more akin to non-renewable resource funds, as they represent an increase in net financial wealth. The reporting of sovereign financial assets has focused thus far on the appropriate methodological treatment of reserve assets. In 1990, sovereign funds probably held, at most, $500 billion; the current total is an estimated $2-3 trillion and, thereby exceeding assets managed by hedge funds (US$ 1.9 trillion).[12]

2.2 Foreign Direct Investments

Generally, investment refers to the ploughing or resources in the acquisition of interest in an enterprise operating within or outside an economy.[13] Foreign investment is the transfer of funds or materials from one country to another with a view to investing same for profits.[14] It refers to the investment by citizens and government of one country in the industries of another, or investment within a country by foreigners.[15] Foreign investment is a means whereby capital, technology and other managerial expertise are sourced outside the country by a State. It covers such activity as manufacturing, provision of services and trade.[16] It involves foreign direct investment (FDI) and portfolio investment.

Foreign direct investment manifests in the total ownership, control and management of an enterprise in the host country, whilst portfolio investment involves the buying into an existing enterprise in the host country, in the form of shareholding.[17] The result is the emergence of new players in the global financial markets, largely influenced by the political and economic attitudes of their home Governments. Foreign direct investment requires huge financial involvement which in turn is expected to have the capacity to turn around the economies of the host state and invariably enhance its development; it encourages the acquisition of lasting management interests in a company, direct acquisition of a foreign firm, construction of facilities or strategic alliance with local firm with attendant input of technology, licensing of intellectual property, provision of new technologies and development of new market access.[18] In foreign direct investment creates multinational corporations because a parent company with its *'sede sociale'* or headquarters in another country controls an enterprise established in a host country, unlike foreign portfolio investment where a foreign firm owns a pantry share in a company already existing in a host country.[19] Foreign investments are attracted more to democratic Governments as against dictatorial

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12 ibid.
13 Nigerian Investment Promotion Commission Act, Cap N117, Laws of the Federation of Nigeria 2004, s 31.
14 S. Mamud, *The International Law on Foreign Investment* (Grotiies Publication, 1994) 4.
15 O. Otitodiri, "Expropriation and Protection of Foreign Investment in Nigeria: An X-ray of the provisions of the 1999 Constitution (as Amended) and the Nigerian Investment Promotion Commission Act" [2016] 1 Imo State University of Law Faculty Research Papers, 222-249.
16 O. Otitodiri and L. A. Oti-Onyema, "Foreign Investment Laws in Nigeria: A Tool for Economic Development" [2016] (6) *Imo State University Journal of Commercial and contemporary Law*, 64-85.
17 U. S. Nnabue, "Developing the Less-Developed Economies Through Foreign Investment: Nigeria in Focus" (2011) 1 *Imo State University Journal of Commercial and Contemporary Law*, 1-7.
18 Nnabue (n 17).
19 ibid.

or undemocratic States.[20]

In foreign direct investment, the control and management of the multinational entities establishment in the host country is the in hands of the parent company. This is so because the control and management of corporate entities is a very sensitive issue in commercial practice[21], thereby compelling foreign investors to ensure that their investments are in reliable hands.

3.0 THE MANAGEMENT AND CONTROL OF SOVEREIGN WEALTH FUND IN LIGHT OF THE NIGERIAN SOVEREIGN INVESTMENT AUTHORITY ACT 2011

Nigeria practices fiscal federalism. The allocation of functions to different tiers of government in any federal system has fiscal implication. This is due to the fact that the discharge of the assigned functions involves expenditure and revenue. Consequently, in addition to specifying the division of powers and functions as between tiers of government, a federal system has to deal with the counterpart issue of intergovernmental fiscal relations.[22] There is the need to ensure fiscal balance so that each tier of government in the federation will have adequate resources to discharge its assigned functions. The stability and smooth running of a federal set-up depend to a large extent on how well it is able to deal with the problem of financial relations between the component units.[23]

Presently in Nigeria, distribution of powers among the federating units can be found in the second schedule to the Constitution of the federation, 1999 (as amended) parts I and II. There are 68 items on the exclusive legislative list while there are 30 items on the concurrent legislative list. Only the National Assembly may legislate on any matter not on the exclusive legislative list. This means that the states can legislate on matters on the concurrent legislative list as well as on the other matters that are not either of those two lists except where the matters are "incidental or supplementary" to matters on exclusive legislative list, the picture of power sharing described above shows that the central government is stronger than the federating units.[24] It is argued that, long period of military rule gradually ingrained in the system a very strong central government and states with largely whittled down authority, the tradition of a strong central government within the federal system has been carried into our latest attempt at democratic governance.[25] The Constitution of 1999 upon which the system is founded has been severely criticized by many as establishing a lopsided federal system.[26]

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[20] ibid.

[21] K. N. Ogbaegbe, "Directorship Responsibilities in Modern Corporate Practice: An Appraisal" (2011) (1) *Imo State University Journal of Commercial and Contemporary Law*, 8-18.

[22] O. Fajana, 'Three and Half Decades of Fiscal Federalism' in J. I Elaigwu and R. R Akindele (eds), 'Foundation of Nigeria Federalism: 1960-1995' (1996) *IGSR,* 105.

[23] Fajana (n 22).

[24] A. D Ijalaye, *The imperatives of Federal State Relations in Fledging Democracy: implications for Nigeria* (Institute of Advanced Legal Studies 2001) 22.

[25] L. O Ogiji 'Resource Mobilization and Revenue Allocation in a Decentralized Government: The Nigeria Experience' (2005) (4) *BSU Law Journal,* 87.

[26] ibid.

The Federal government in Nigeria has not only strong political powers over the states but has also economic powers. It controls all the mineral resources scattered all over the states throughout the country.[27] Nwabueze argued that, the federal system in Nigeria, contradicts the cardinal principle of true federalism which requires that the arrangement should not place such a predominance of power and resources in the hands of either the national or regional government as to make it so powerful that it is able to bend the will of the other to its own.[28] The power and resources sharing arrangement should be so weighted as to maintain a fair balance between the national and regional governments.

The national and regional governments should stand towards each other in a relation of meaningful autonomy and equality resting upon a balanced division of powers and resource sufficient to support the structure of the functional government able to stand on its own against each other. The sharing arrangement under the Nigeria's federal system assigns to the federal government powers and resources so overwhelmingly greater than those assigned to the states, thereby depriving the latter of any meaningful autonomy in relation to the federal government.[29] The matter is compounded by the continuing influence of a hangover of our military past when the state governments were mere instruments of an all-mighty federal military government. There is a noticeable tendency on the part of the federal government even after the exit of the military to regard and treat the state governments as if they were its instruments, just as in military days.[30]

It is in the light of the above that the system of government in place in Nigeria cannot be referred to as true federalism. This has in effect affected the power to control resources and does not avail the respective states the opportunity to control the resources that are found on their lands.[31] Federalism was first entrenched in the 1963 Constitution where powers were divided between the central and regional or state governments, this method of power distribution was carried over to the 1979 Constitution, and under the 1999 Constitution (as amended) the sovereignty of the nation was divided between the federal, state and local governments. Section 162 of the 1999 Nigerian Constitution requires that the federation shall maintain a special account to be called 'the Federation Account' where all revenue collected by the government of the federation shall be domiciled, except the proceeds from the personal income tax of the personnel of the armed forces of the Federation, the Nigeria Police Force, the Ministry or department of government charged with responsibility for Foreign Affairs and the residents of the Federal Capital Territory, Abuja. Any amount in the Federation Account shall be distributed among the Federal and the State Government and the Local Government Council on such terms and manner as may be prescribed by the National

[27] ibid.
[28] B. O Nwabueze 'Reflection of the 1999 Constitution: A Unitary Constitution for a Federal System of Government', being a paper delivered at a seminar in Abuja, organized by the International Commission of Jurists, 14-16 February 2000 4-5.
[29] Nwabueze (n 28).
[30] ibid
[31] Solomon (n 3) 8.

Assembly.[32] Also any amount belonging to the state in the Federation Account is required to be distributed among the state on such terms and such manner as may be prescribed by the National Assembly.[33]

Nigerian Sovereign Investment Authority (NSIA) was established to receive, manage and invest in a diversified portfolio of medium and long-term revenue of the Federal Government, State Government, Federal Capital Territory, Local Government and Area Councils to prepare for the eventual depletion of Nigeria's Hydrocarbon Resources for the development of critical infrastructure in Nigeria that will attract and support foreign investment, economic diversification, growth and job creation in Nigeria; and for related matters.[34]

It is argued that the underlying philosophy for the policy of a national SWF is basically necessitated by the need to prudently utilize the revenues derived from oil and gas to meet the needs of the present and future generations as well as provide economic stabilization for government.[35] In order to give sense of ownership to the constituent governments within the Federation, and assuage their opposition to the establishment to the Sovereign Wealth Fund (SWF), States have been incorporated into the governance of the Sovereign Wealth Fund (SWF) Authority. However, the Local Governments which are co-owners of the fund are not represented on the Governing Council. Section 8 of the Nigerian Sovereign Investment Authority (Establishment, etc.) Act No 15 of 2011 which provides for the membership of the Governing Council to include: The President, State Governors, the Minister of finance, the Minister of National Planning Commission, Governor of the Central bank of Nigeria, Chief Economic Adviser to the President, Chairman of the Revenue Mobilization, Allocation and Fiscal Commission, four persons representing the private sector, two representatives and civil society organizations, two youth representatives and four academics.

It is because of the inadequacies witness with the operation of the Excess Crude Account (ECA) established in 2004 to save revenues-in excess of the budgetary benchmark price that were generated from the sale of crude oil that led to the advent of Sovereign Wealth Fund (SWF) in 2011. Section 162 (1), (2) & (10) of the 1999 Constitution prescribes mode of sharing the revenue of the Federation. Section 162 (1) for ease of reference provides that: 'The Federation shall maintain a special account to be called "the federation account" into which shall be paid all revenues collected by the Government of the Federation, except the proceeds from the personal income tax of the personnel of the armed forces of the federation, the Nigeria Police Force, the Ministry or department of government charged with responsibility for Foreign Affairs and the residents of the Federal Capital Territory, Abuja.'

[32] Constitution of the Federal Republic of Nigeria 1999, Cap C23, LFN 2004, s. 162 (3).
[33] ibid, s 162 (4)
[34] Nigerian Sovereign Investment Authority (Establishment, etc.) Act No 15 of 2011.
[35] S. E Ekokoi, 'Legal and Constitutional Evaluation of the Nigerian Sovereign Wealth Fund' <https://www.ajol.info/index.php/jsd/p/article/download/122453/111983/0> accessed on 12/08/2025.

Subsection (2) also provides that: "The President, upon the receipt of advice from the Revenue Mobilization Allocation and Fiscal Commission, shall table before the National Assembly proposals for revenue allocation from the Federation Account, and in determining the formula, the National Assembly shall take into account, the allocation principles especially those of Population, Equality of States, Internal Revenue Generation, Land Mass, Terrain as well as Population Density". Furthermore, subsection (10) states that: "For the purpose of subsection (1) of this section, 'revenue' means any income or return accruing to or derived by the Government of the Federation from any source…." Indeed, applying the literal canon of interpretation on the above provisions, it is manifestly lucid that there shall be a Federation Account into which 'all revenues' must be paid into.

The exceptions as stated above are: (a) Proceeds from the personal income tax of the personnel of the armed forces of the Federation; (b) The Nigerian Police Force; (c) The Ministry or department of government charged with responsibility for Foreign Affairs; and (d) The residents of the Federal Capital Territory, Abuja. It must be pointed out straightway that there is clearly nothing like Excess Crude Oil Proceeds in the above exceptions! If the lawmakers had intended to include it, they could have expressly said so in Section 162 (1) above.

The above literal interpretation as hitherto sequenced subject to Section 163 thereof, has been upheld by the Supreme Court in the case of *Attorney-General of Ogun State Vs. Attorney-General of the Federation*.[36] At page 283 paras. E-H, the prolific Uwais, CJN had this to say: "it seems to me that the provisions of Section 162 subsections (1) and (10) of the 1999 Constitution are general in nature while those of section 163 (b) of the Constitution, which deal in particular with capital gains tax and stamp duties, are specific. Therefore, the latter provisions override the former for *generalibus specialia derogant* (i.e. special things derogate from general things). Therefore, it follows that there is no basis on which capital gains tax and stamp duties collected by the Government of the Federation could for the time being be paid…. into the Federation Account…". Consequently, based on the above authority, there is no provision in our Constitution for the amorphous contraption of the executive called "Excess Crude Oil Account". There is no name or nomenclature of that nature throughout the 320 Sections of the 1999 Constitution. Thus, the creation of so-called "Excess Crude Oil Account" is an attempt to enlarge the provisions of the Constitution which is therefore null, void and illegal.

The Federal Government personified by Mr. President must realize that he is bound to obey the Constitution. In *Attorney-General of Abia State v. Attorney-General of the Federation*.[37] the sagacious Klago, JSC made the apposite remarks that: "…the Supremacy of the Constitution has made it abundantly clear and in no uncertain terms that the provisions of the Constitution are

[36] *Attorney-General of Ogun State v Attorney-General of the Federation* [2002] 18 NWLR (pt. 798) 232.
[37] ibid, 479 paras D-F.

superior….and are binding and must be observed and respected by all persons and authorities in Nigeria". There is no scintilla of doubt, therefore, that the Excess Crude Oil Account is overly unconstitutional. Accordingly, the President should pay all the proceeds in that illegal Account into the Federation Account as lucidly provided for under Section 162(1) of the Constitution, for sharing in compliance with Section 162(2) thereof with the National Assembly participating.

The legal consequence or constitutional implication of the creation of a special account for the Federation under Section 162(1) of the Constitution is to mandatorily empower the National Assembly which ought to be the true representative of the people to supervise and finally authorize the sharing of the Federation Account. That is why Section 162(2) of the Constitution directs the President thus: "The President, upon the receipt of advice from the Revenue Mobilization Allocation and Fiscal Commission, shall table before the National Assembly proposals for revenue allocation from the Federation Account, and in determining the formula, the National Assembly shall take into account, the allocation principles especially those of Population, Equality of States, Internal Revenue Generation, Land Mass, Terrain as well as Population Density. Provided that the principle of derivation shall be constantly reflected in nay approved formula as being not less than thirteen percent of the revenue accruing to the Federation Account directly from any natural resources. In this connection, the National Assembly itself must have regard to certain considerations before enacting a revenue sharing formula, thus also subjecting it to the Constitution and not given absolute powers.

4.0 BENEFITS OF SOVEREIGN WEALTH FUND

Despite the controversy surrounding SWFs, various international financial institutions have emphasized the numerous benefits and advantages to emerging economies, particularly African countries in general and Nigeria in particular. The IMF, World Bank Group, African Development Bank, and SWFI have all identified the following potential benefits of SWFs for economic development.[38]

First, Nigeria's mono-product economy is undeniably vulnerable to the vagaries of crude oil price volatility in the international commodities market. The SWF is intended to serve as a fiscal stabilizer and buffer. With the intervention of SWF,the government's budget funding is expected to be more secure, as fluctuations in earnings can be smoothed out by the SWF's economic stabilization component.[39] This will provide stability in the funding of long-term government projects that would otherwise have been negatively impacted by revenue fluctuations.
Second, the Fund is also expected to facilitate a more efficient allocation of earnings from crude oil by diversifying the country's economic base. This will enable other sectors of the

[38]Organization for Economic Cooperation and Development, *Sovereign Wealth Funds as Investors in Africa:Opportunities and Risks* (OECD Development Centre Working Paper No.303, 2011) 56.
[39] N.V. Emodi and K. Boo, 'Sustainable Energy Development in Nigeria: Current Status and Policy Options[2015] (51) *Renewable and Sustainable Energy Reviews;* 356-381.

economy to grow as economic activities will no longer be concentrated in the petroleum sector. The SWF symbolizes prudent fiscal discipline and potentially will enable thediversification of the country's assets.[40]

Third, by joining the league of countries with SWF albeit belatedly, Nigeria's standing in the comity of nations is expected to receive enormous boost, the country will be better placed to negotiate effectively in the comity of nations. SWFs have become veritable tools for international diplomacy and relevance. Countries with substantial SWF are treated courteously since withdrawal of their investments could have disastrous consequences on the economies of the host nations. It has been argued that counties like China and Russia have been able to deploy their SWFs as an instrument of international diplomacy at the time of global economic downturn.[41]Furthermore, the fund are established as inter-generational fund mechanism to diversify a country income as to increase return on assets held in the central bank reserves. Norway for example is a country that has shown how a country can effectively and efficiently deploy its SWF. This fund provides an excellent investment opportunity for the country to advance the greater well-being of its citizen.[42]To drive home the above point, the Norwegian Narges Bank Investment Management (NBIM) was established in 1988 with the responsibility of investing the Norwegian SWF assets.[43]The key aim of the Norwegian fund is to allow the Norwegians to smoothen their pattern of spending relative to the volatile pattern of nation oil revenue.

Fourthly, SWFs will ensure intergenerational transfers of resources and ensure that the present generation do not in anyway undermine the growth of next generations and can also serve as infrastructural financing for the growth and development of developing countries**.** The National Infrastructure Investment Fund(NIF), a key component of the NSIA Act has proven to be effective as a vehicle for driving infrastructural and key economic development in recent times. These critical intervention via the instrumentality of the NIF include medical technology for cancer screening,[44] the second Niger Bridge and the Abuja-Kano Highway,[45] oil capture development,[46] state land

[40] J. A. Omojolaibi and T. N. Okenesi 'Fiscal policy and private investment in selected West African countries'[2016] (7) (1) *CBN Journal of Applied Statistics*; 277-309.
[41]O.K. Ufuoma and O. Omoruyi, 'Political Economy Diagnosis of Crude Oil Theft in Nigeria: The WayForward' (2014) (5) (2) *Mediterranean Journal of Social Sciences;* 297-302.
[42] M.U Yakub, 'Nigerian Sovereign Wealth Fund (SWF): Lesson From Existing SWF' (2019) (35) (1) *Bullion*, 2.
[43] ibid.
[44] Africa News, 'Fight against cancer: GE Healthcare collaborates with Nigeria Sovereign Investment Authority (NSIA) to advance early cancer detection in Nigeria' https://www.africanews.com/2019/02/28/fight-against-cancer-ge-healthcare-collaborateswith-nigeria-sovereign-investment-authority-nsia-to-advance-early-cancer-detection-in-nigeria// Accessed 22/08/2025.
[45]NIPC (Nigeria Investment Promotion Commission), 'ICRC, NSIA sign agreement to improve infrastructure delivery' https://nipc.gov.ng/2019/03/29/icrc-nsia-sign-agreement-to-improve-infrastructure-delivery/ Accessed 22/08/2025.
[46]B. Bungane, 'Will Nigeria's fresh look into gas flaring, finally end it?' https://www.esi-africa.com/industrysectors/generation/will-nigerias-fresh-look-into-gas-flaring-finally-end-it/ Accessed on 22/08/2025.

restoration,[47] a fund for agricultural finance[48] and an expected $1.5 billion ammonium plant for fertilizer through co-investment with Moroccan company OCP,[49] and a $200 million partnership with South African insurer Old Mutual in agriculture and real estate.[50] The NSIA has partnered with AfriEXIM Bank and the Bank of Industry to develop special economic zones that support export-orientated manufacturing industries.[51] It has also supported domestic private equity and venture capital.

Furthermore, SWFs can be used to fund the post 2015 MDGs development plan. The World Bank has identified the SWFs to be at the core of finance for the post 2015 development plan for the emerging and less developed countries. In addition, SWFs has a potential of deepening and broadening regional integration. SWFs could place some of their resources in banks throughout the continent to shore up their long-term deposits. Given the long-time investment horizon of SWFs, this should help address the scarcity of long-term resources at the continent level.[52]

5.0 CHALLENGES TO THE MANAGEMENT AND CONTROL OF SOVEREIGN WEALTH FUND IN NIGERIA

The constitutionality of NSIA Act is still being debated having regard to a section of the constitution of Nigeria which stipulates that all revenues of government and or savings to be made from all monies made by the Federal Government from resources belonging to all tiers of government shall be deposited into the Consolidated Account of the Federal Government of Nigeria.[53] Prior to the enactment of the NSIA, while the ECA was still operational, the issue of centralized savings and how it contravenes the constitutional provisional stipulating a single consolidated account,[54]prompted the commencement of two suit by some states governors in Nigeria against the Federal Government of Nigeria wherein they seek at the Supreme Court of Nigeria proper interpretation of relevant sections of the constitution which they consider are being contravened by the Federal Government of Nigeria in its quest to further the operation of the SWF.[55]The Supreme Court of Nigeria in the case brought before it held that all centrally-collected revenues from the federal government for the three tiers must be deposited into the

[47] UK AID, 'Improving communications of the Nigerian Sovereign Investment Authority (NSIA)', August 2018, https://www.pdfnigeria. org/wp-content/uploads/2018/08/Improving-Communications-of-the-Nigeria-Sovereign-Investment-Authority-NSIA.pdf, Accessed on 20/08/2025.
[48]ibid
[49] E. Egbejule, 'OCP fertiliser deals take Nigeria closer to self-sufficiency', The Africa Report, 18 March 2019, https://www.theafricareport .com/10431/ocp-fertiliser-deals-take-nigeria-closer-to-self-sufficiency/ Accessed on 22/08/2025.
[50]D Radley, 'Old Mutual partners with Nigeria's Sovereign Wealth Fund', Old Mutual, http://ww2.oldmutual.co.za/old-mutual-partners -with-nigeria-s-sovereign-wealth-fund Accessed 22/08/2025.
[51] Business Times Africa, 'Nigeria signs agreements with Afreximbank, BoI, NSIA to develop special economic zones' http://www.businesstimesafrica.net/index.php/banking/item/3995-nigeria-signs-agreements-with-afreximbank-boi-nsia-todevelop-special-economic-zones Accessed on 22/08/2025.
[52] S. O. Ekokoi 'Legal and Constitutional Evaluation of the Nigerian Sovereign Wealth Fund' [2015] (5) (1) *Afe Babalola University: Journal of Sustainable Development Law and Policy*; 102-103.
[53]Constitution of the Federal Republic of Nigeria 1999, s.162.
[54]ibid
[55]*A.G Ogun v AG. Federation*, (2002) 14 SCM 1–32; *A.G. Cross River vs AG Federation (2002)* 2 NWLR (Pt. 763) 264.

Federation Account. The court opined that the special accounts opened for the purpose of retaining the fund is ultra vires extant provision in the Constitution of the Federal Republic of Nigeria as amended.[56]

At the time of NSIA's enactment in May 2011, the Act got the endorsement and support of the state governors. However, in recent times, the state governors have continually challenged the NSIA's constitutionality and even filed a lawsuit in October 2011, only to succumb to the federal government's request to settle out of court; however, these settlements have been short-lived and a legal recourse was resumed.[57]Nevertheless, federal government asserts that the NSIA is constitutional and that centralized savings can be legally interpreted in a manner that is constitutionally sound. To the above end, the federal Government came up with three legal arguments.

First, according to the Federal Government, centralized savings "may be regarded as promoting a system of deferred distribution of a portion of the Federation Account, which may not necessarily be in conflict with section 162 of the Constitution.[58] By this, the Federal Government asserts that each State Government is not permanently denied its share of oil revenues saved in the NSIA as each state's share will be distributed to it during periods of revenue shortfall.[59]Although "deferred distribution" may be appropriate for revenues transferred into the Stabilization Fund, it is simply unclear how this argument willapply to states' portions allocated to the Infrastructure Fund and Future Generations Fund. Perhaps, these two funds will be exempted from revenue-sharing.

The Federal Government's second legal argument is that the NSIA legislation is consistent with section 162 of the Constitution,[60]particularly, subsection 3 thereof which empowers the National Assembly to determine the "terms" and "manner" in which revenue may be distributed between the different tiers of government. Thus, the National Assembly in enacting the NSIA Act only determined the "terms" and manner" for revenue-sharing.

Thirdly, although NSIA centralized savings does not fall under the exclusive legislative list or concurrent legislative list, the federal government of Nigeria through its Attorney General of the Federation argues that the economic objectives of the NSIA which includes building a saving base for the Nigerian people, enhance development of infrastructure in Nigeria, provision of stabilization support in times of economic stress and carrying out any other

[56]ibid.
[57]T. Soniyi, 'Nigeria: SWF - FG, States Settlement Bid Fails' *This Day* 22 May 2012. Available at:< http://allafrica.com/stories/201205220270.html> Accessed 30/08/2025.
[58]Constitution of the Federal Republic of Nigerian 1999.
[59]A. Yusuf, 'Jonathan gets legal advice on SWF' *The Nation* 11 October 2012 Available at <http://www.thenationonlineng.net/2011/index.php/news/25867-jonathan-gets-legal-advice-on-swf.html>Accessed: 30/08/2025.
[60]Constitution of the Federal Republic of Nigerian 1999.

function in furtherance of the above objectives[61] are consistent with the economic objectives of the "state" provided in the Constitution.[62]And thus, the NSIA is constitutional.

Notwithstanding the persuasive argument of the federal government, one thing that remains unclear is whether the word "state" in this provision refers to the Federal Government, the State Governments or both. Nevertheless, the Federal Government appears committed to the NSIA and its current constitutional legitimacy based on the above legal grounds. This commitment does not in any way erase the notion among other tiers whose perception of the NSIA is that of an entity legally created to act as a conduit through which the Federal Government using it might will have unfettered access and control over funds kept for the joint utilization of the two remaining tiers of government**.** Thus, there is need for the overseers of the NSIA to be insulated from political pressure and control by the ruling regime at the Federal level.

As it presently the case, the establishment of SWF in Nigeria has been and will continue to be trailed by political suspicion, especially as it relates to the independence of the Authority and the management of the fund. This view was expressed by the erstwhile Lagos State Governor, Babatunde Raji Fashola, when he likened the SWF to: 'the sharing of a family estate in which a top member of the family is dictating to, or indeed, forcing others in the family to save for a rainy day'. Notwithstanding the negative tales surrounding the functioning of the NSIA, one can still point out some positive contribution it has achieved as an interventionist scheme put in place by government in line with best practices as seen in other developed countries of the world. Irrespective of its imperfection, the NSIA Act is still considered by many as a welcome development. This is made manifest when a bill seeking for its repeal that was sponsored by a Member of the House of Representative was defeated on the floor of that house.[63]

6.0 RECOMMENDATIONS

The following are recommended in line with this research:

1. The Nigerian Sovereign Investment Authority (NSIA) should be granted greater operational autonomy, insulated from political influence, and mandated to adhere strictly to professional and transparent investment practices.

2. The Federal Government should harmonize the legal and constitutional framework governing the Fund to resolve conflicts over ownership, accountability, and fiscal federalism among the tiers of government.

3. Nigeria should adopt global best practices by instituting mandatory savings rules, ensuring full transparency through public reporting, and aligning SWF operations with long-term national development goals.

[61] ibid, s. 3.
[62] ibid, s.16
[63] Amusan (n 6).

7.0 CONCLUSION

The Nigerian Sovereign Investment Act of 2011 can be said to be in accordance with the established principles as stipulated by IMF in the Santiago Principles. The underlying philosophy behind the enactment of the NSIA Act are quite commendable. Nevertheless, to what extent the core objective of the Authority has achieved so far will be informed by how well major stakeholders in Nigeria are able to resolve the constitutional and political controversies that surround its proper operation. The notion held by many has been that that the political class and successive ruling regimes in Nigeria, have for decades, squandered and mismanaged the country's oil wealth, neglecting infrastructural development, even when they are provided for in national annual budgets**.** Since the 1970s, Nigeria has emerged as the leading producer and exporter of crude-oil in Africa and one of the major producers and exporters in the World. This feat has not in any way translated into any positive economic development and better standards of living for Nigerians.

The establishment of the Nigerian Sovereign Wealth Fund represents a significant milestone in the nation's quest to ensure prudent management of its natural resource wealth and to promote intergenerational equity. However, the effectiveness of the Fund has been hindered by constitutional controversies, institutional weaknesses, and political interference that undermine its objectives. To achieve its full potential, there is a compelling need for constitutional and legislative reforms that will clarify the legal status of the Fund, particularly in relation to fiscal federalism and the allocation of revenues among the tiers of government. Strengthening the independence of the Nigerian Sovereign Investment Authority (NSIA) and ensuring that its operations are guided by transparency, professionalism, and accountability are critical for restoring public confidence and enhancing the Fund's developmental impact.