



**OMAPLEX
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UNDERSTANDING FINTECH REGULATORY FRAMEWORK IN NIGERIA

FINTECH

INTRODUCTION

“A youthful population, increasing smartphone penetration, and a focused regulatory drive to increase financial inclusion and cashless payments, are merging to create the perfect recipe for a thriving Fintech Sector in an electronic age where every day financial transactions are conducted on electronic platforms.”

The 2008 financial crisis, also known as the great recession period, witnessed the collapse of many renowned world banks, businesses and world economies. Following this event, some banking reforms were made to increase resilience of the Financial Sector and maintain stability in the financial service delivery. Some of the effects of technology on the Financial Sector include; the closure of the gap between the financially excluded and financially included, through innovations and the use of blockchain for data management and optimization of internal processes.

WHAT IS FINTECH?

FinTech has become a buzzword of the decade. The term, which is a portmanteau for 'Financial Technology' refers to the synergy between finance and technology, which is used to enhance business operations and delivery of financial services. It also captures all manner of technological innovation in personal and commercial finance. FinTech can take the form of software, a service, or a business that provides technologically advanced ways to make financial processes more efficient by disrupting traditional methods. The financial products offered by FinTech include money transfer, investing, lending, crowd funding, crypto-currency, smart contract, peer-to-peer payments, amongst others.

FinTech in Nigeria is said to have been birthed in 2007, when the Central Bank of Nigeria (CBN), launched the Payments System Vision 2020 (PSV2020). Through the implementation of the PSV2020 and subsequent activities of CBN and the Financial Services Sector, Nigeria has witnessed an impressive growth of electronic payments and a move from the dominance of cash as a means of payment. In 2013, CBN initiated a further formal assessment of the payments market, resulting in the issuing of PSV2020 Release 2.0. The goal of the PSV2020 is "to facilitate economic activities by providing safe and efficient mechanisms for making and receiving payments with minimum risks to the Central Bank, payment service providers and end users, extending the availability and usage to all sectors and geographies, banked and unbanked, and conforming to internationally accepted regulatory, technical and operational standards."

In furtherance of its vision, the CBN made policies that laid the foundation for the growth of the FinTech ecosystem in Nigeria.

LEGAL AND REGULATORY FRAMEWORK IN NIGERIA

There is an absence of a direct and unified regulation on FinTech in Nigeria, however; presently, there are Bills before the National Assembly capable of expanding the FinTech Sector in Nigeria. The Bills are the Payments System Management Bill, 2009 (PSMB) and the Electronic Transaction Bill, 2015 (ETB). The PSMB provides for the management, administration, operation, regulation, oversight and supervision of payments, clearing and settlement systems in Nigeria. The ETB Bill provides for the legal recognition of electronic commercial transactions where parties have, either expressly or by conduct, accepted to contract through electronic means.

Central Bank of Nigeria

The Central Bank of Nigeria has over the years issued several guidelines and regulations which impacts various aspects of the FinTech industry.

Regulations issued by the CBN include:

- i. CBN Guidelines on International Money Transfer Services in Nigeria, 2014;
- ii. CBN Regulatory Framework for Licensing Super-Agents in Nigeria, 2015;
- iii. CBN Guidelines on Mobile Money Services in Nigeria, 2015;
- iv. CBN Guidelines on Transactions Switching in Nigeria, 2016;
- v. CBN Guidelines on Operations of Electronic Payment Channels, 2016.
- vi. CBN Guidelines on Licensing and Regulation of Payment Service Banks in Nigeria, 2018;
- vii. CBN Regulatory Framework for Use of Unstructured Supplementary Service Data (USSD) Financial Services in Nigeria, 2018;
- viii. CBN Regulation on Electronic Payments and Collections for Public and Private Sectors in Nigeria 2019;
- ix. Risk-Based Cyber-Security Framework and Guidelines for Deposit Money Banks and Payment Service Providers, 2019
- x. Regulatory Framework for Sandbox Operation, 2021
- xi. Framework for Quick Response (QR) Code Payments in Nigeria, 2021

CBN Guidelines on International Money Transfer Services in Nigeria, 2014

The Guidelines are directed at International Money Transfer Service Operators (IMTSOs) that offer digital international money transfer services. Person/Institution in this business must be licensed by the CBN. Deposit money banks are prohibited from operating as international money transfer service operators, although they may act as agents.

For the purpose of licensing requirements, the Guideline makes provisions for four categories of international money transfer providers, to wit: Foreign International Money Transfer Operators, Indigenous International Money Transfer Operators, Foreign Technical Partners and Local Agents. The objectives of the guidelines are to:

- i. Provide minimum standards and requirements for

- International money transfer services operations in Nigeria;
- ii. Specify delivery channels for offering international money transfer services (inbound/outbound), in a cost effective manner;
- iii. Provide an enabling environment for international money transfer services in the Nigerian economy;
- iv. Specify minimum technical and business requirements for various participants in the international money transfer services industry in Nigeria; and
- V. Provide broad guidelines for implementation of processes and flows of international money transfer services, from initiation to completion.

- a. All ATMs shall be able to dispense all denominations of Naira.
- b. For deposit taking ATMs, acceptable denominations shall be displayed by the deployer.
- c. All ATM systems shall have audit trail and logs capabilities, comprehensive enough to facilitate investigations, reconciliation and dispute resolution.

CBN Guidelines on Licensing and Regulation of Payment Service Banks in Nigeria, 2018

The key objective of setting up PSBs is to enhance financial inclusion by increasing access to deposit products and payment/remittance services to small businesses, low-income households and other financially excluded entities through high-volume low-value transactions in a secured technology-driven environment.

CBN Regulatory Framework for Use of Unstructured Supplementary Service Data (USSD) Financial Services in Nigeria, 2018

The Guideline seeks to reduce the risks associated with the implementation and use of USSD technology for offering financial services in Nigeria. Only Mobile Network Operators (MNOs) and CBN licensed entities with a letter of no objection or letter of introduction from the CBN are eligible for the issuance of USSD short codes by the Nigerian Communications Commission (NCC).

CBN Regulation on Electronic Payments and Collections for Public and Private Sectors in Nigeria, 2019

The Regulation is a revision of the Guidelines on Electronic Payment of Salaries, Pensions, Suppliers and Taxes in Nigeria (2014), and is intended to guide the end-to-end electronic payment of salaries, pensions and other remittances, suppliers and revenue collections in Nigeria.

Risk-Based Cyber-Security Framework and Guidelines for Deposit Money Banks and Payment Service Providers, 2019

The CBN Cybersecurity Guideline is divided into five main parts covering: Cybersecurity Governance and Oversight, Cybersecurity Risk Management System, Cybersecurity Operational Resilience, Metrics, Monitoring & Reporting and Compliance with Statutory and Regulatory Requirements. The issuance of the Guideline gave effect to the National Cybersecurity Policy, which designates the Financial Services Sector as a National Critical Information Infrastructure (NCII)

CBN Regulatory Framework for Licensing Super-Agents in Nigeria

Super-Agents are companies licensed by the CBN to recruit agents for the purpose of agency banking (i.e, provision of financial services within the communities on behalf of banks). The minimum requirements for Super-Agents are clearly stated in the Regulation.

CBN Guidelines on Mobile Money Services in Nigeria, 2015

This regulatory framework addresses business rules governing the operation of mobile payment services, and specifies basic functionalities expected of any mobile payment service and solution in Nigeria. It identifies the participants and defines their expected roles and responsibilities in providing mobile payment services in the system. In addition, it sets the basis for the regulation of services offered at different levels by the participants.

CBN Guidelines on Transactions Switching in Nigeria, 2016

The Guidelines set out the procedures for the operation of switching services in Nigeria, including the rights and obligations of the parties to the switching contract. It also compels the switching companies to meet with minimum standards for switching, as approved by the CBN.

CBN Guidelines on Operations of Electronic Payment Channels, 2016.

These Guidelines supersede an earlier guideline on Standards and Guidelines on ATM Operations in Nigeria and Guidelines on POS Card Acceptance Services, issued by the CBN. It provides among others that all ATM deployers/acquirers shall comply with Payment Card Industry Data Security Standards (PCI DSS) and the following:

Regulatory Framework for Sandbox Operation, 2021

In view of increasing consumers' appetite for payment solutions and emerging disruptive technology in the Financial Services space, the Central Bank of Nigeria (CBN) has deemed it pertinent to ensure new, more flexible ways of engaging with the industry.

One of the options being the use of a Regulatory Sandbox which is a formal process for firms to conduct live tests of new, innovative products, services, delivery channels, or business models in a controlled environment, with regulatory oversight, subject to appropriate conditions and safeguards. This would enable the Bank stay abreast of innovations while promoting a safe, reliable and efficient Payments System to foster innovation without compromising on the delivery of its mandate.

This Framework therefore defines the establishment, rules and operations of a Regulatory Sandbox for the Nigerian Payments System in order to promote effective competition, embrace new technology, encourage financial inclusion and improve customer experience, with a view to engendering public confidence in the Financial System.

Framework for Quick Response (QR) Code Payments in Nigeria, 2021

This framework provides regulatory guidance for the operation of QR Code payment services in Nigeria. It aims to ensure the adoption of appropriate QR code standards for safe and efficient payments services in Nigeria. The framework therefore stipulates:

- i. Acceptable QR Code Standards for implementing QR Payments in Nigeria;
- ii. Interoperability of QR Payments in Nigeria;
- iii. Roles and Responsibilities of Participants in QR Payments in Nigeria;
- iv. Risk management principles for QR code Payments in Nigeria.

National Information Technology Development Agency

Data protection and cybersecurity are governed by the Nigerian Data Protection Regulations, 2019 (NDPR) issued by the National Information Technology Development Agency (NITDA) pursuant to the National Information Technology Development Agency Act, 2007, which impacts the use, transfer, and processing of data of Nigerian citizens.

The Regulation applies to all transactions intended for the processing of personal data of natural persons residing in Nigeria or Nigerian citizens residing in foreign jurisdictions. Pursuant to the NDPR, all public and private organisations in Nigeria that control the data of natural persons are required to adhere strictly to the requirements under the NDPR regarding the protection of data and privacy of persons.

The Electronic Transactions Bill, when enacted, will have far reaching consequences for organizations that process personal data, including fintech companies. For example, data controllers and processors (including Fintech companies) will be restricted from transferring personal data of individuals to a country outside Nigeria, unless such country has adequate provisions for the protection of data. The Electronic Transactions Bill will also give individuals the right to request their personal data from a data processor or controller, and to claim compensation against such data processors and data controllers for any data breaches.

Federal Competition and Consumer Protection Commission

Another regulatory body for FinTech organisations is the Federal Competition and Consumer Protection Commission. This body established by the Federal Competition and Consumer Protection Act, 2018 (FCCPA), among other reasons was established in order to develop and promote fair, efficient and competitive markets in the Nigerian economy, facilitate access by all citizens to save products, and secure the protection of rights for all consumers in Nigeria.

The FCCPA which is applicable to all entities carrying on business in Nigeria, including fintech companies, prohibits anti-competitive practices, including price fixing, market sharing, collusive tendering, or entering into any arrangement which might cause a restraint on competition.

National Communication Commission (NCC)

FinTech companies offering services that involve the use of mobile networks or mobile phones are subject to NCC's regulatory purview and must obtain requisite operating licenses from the NCC.

National Insurance Commission

National Insurance Commission (NAICOM) was established by the NAICOM Act, 1997, with the responsibility of ensuring

the control and regulation of insurance business in Nigeria. Thus, where an Insurtech Company carries on business, it will require a license from NAICOM.

Securities and Exchange Commission(SEC)

The SEC is the Securities and Capital Market Regulator in Nigeria, pursuant to Investment and Securities Act, 2007(ISA). FinTech companies desirous of raising capital from the Capital Market must register their securities with the SEC and comply with the ISA.

Other generally applicable laws and regulations include the:

- a. Companies and Allied Matters Act, 2020 (as amended);
- b. Money Laundering (Prohibition) Act, 2011 (as amended);
- c. Corrupt Practices and other Related Offences Act, 2000;
- d. Economic and Financial Crimes Commission (Establishment, Etc.) Act, 2004;
- e. Terrorism (Prevention) Act, 2011 (as amended); and
- f. Cybercrimes (Prohibition, Prevention, Etc.) Act, 2015

Conclusion

Innovation and regulation are often seen as rivals. Hence, posing a difficult task for the body saddled with the responsibility of regulating the industry on how to regulate such industry without putting a peg on innovation.

The importance of a solid legal framework for FinTech in Nigeria cannot be over emphasized, as this will boost investors' confidence in the industry and increase the ease of doing business. It is crucial that the framework must be flexible enough to accommodate further growth and not inimical to the financial inclusion goal it is meant to address.

ENDNOTES

1. Masahudu Ankilu< <https://africaneyereport.com/harnessing-nigerias-fintech-potential/>>
2. CBN Payment System Visions 2020, 2013.
3. CBN Guidelines on International Money Transfer Services in Nigeria, 2014, p.3
4. CBN Guidelines on Operations of Electronic Payment Channels, 2016, p. 4
5. Paragraph 7.5 of the National Cybersecurity Policy, 2014.
6. Regulatory Framework for Sandbox Operation, 2021, p.3
7. Paragraph 2.0 of the Framework for Quick Response (QR) Code Payments in Nigeria, 2021.

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