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Approaches and developments

The Financial Technology ("**Fintech**") industry in Nigeria witnessed notable developments in 2022. In September 2022, fintech ventures were reported to have accounted for more than 35% of the existing technology startups in Nigeria. According to the Fintech Times, Fintech is the largest subsector of the Nigeria technology ecosystem and has been contributing a great deal to the country's economy in 2022. According to the Nigerian Inter-Bank Settlement System ("**NIBSS**"), there was a 42% increase in the transaction value of instant payments in Nigeria – estimated at about NGN387 trillion. This is notwithstanding the decline in the total funding secured by Nigerian fintech companies in 2022.

It is notable to observe that it appears that funders have been more responsive towards targeted thriving fintech companies in Nigeria and this explains the increase in per-round funding of Fintech companies on the one hand, and the general decline on an overall basis on the other hand. To be sure, in 2022, Flutterwave raised USD250 million in its series D round, Interswitch secured a USD110 million deal and Moniepoint raised USD50 million in a pre-series C round. This shows funding growth and the trust that some Nigerian Fintech Companies have gained as well as the top spot they now occupy in Fintech funding in the world.

The scope of Fintech in Nigeria is also widening. In previous years, the industry was filled with payment services, microfinancing and lending. However, since 2022, other specialised Fintech companies have been emerging and developing, including "buy now, pay later" solutions such as Easycare and Credpal. The number of lending Fintech companies have also risen significantly; since December 2022, more than 100 digital lending companies have been registered with the Nigeria Federal Competition and Consumer Protection Commission ("**FCCPC**") pursuant to the FCCPC's August 2022 Interim Guidelines on registration of digital lending platforms.

The regulatory approach has also shifted in several dimensions especially in the area of encouraging more activity in space with the enactment of the Nigerian Start-up Act, 2022 and increased regulatory compliance obligations. A recent instance of the latter was the compliance notice issued by the Nigeria Data Protection Bureau (now the Nigeria Data Protection Commission) in November 2022 mandating all organisations (including Fintech Companies) controlling or processing data to make reports to it.

Another development in the Nigerian ecosystem that is worthy of mention is the Nigerian Exchange Technology Board Listing Rules approved by the Securities and Exchange Commission in December 15, 2022. The Rules seeks to encourage investments in indigenous technology companies in Nigeria. Upon the effectiveness of the Rules, we are confident that the fintech ecosystem in Nigeria will grow even further in terms of funding and public investments.

Fintech offering in Nigeria

The Nigerian Fintech industry received its first official endorsement (albeit a limited one) from the apex banking regulator, the Central Bank of Nigeria ("**CBN**") through its 2012 cashless policy. Since then, the CBN, other key regulators and successive federal administrations have introduced policies aimed at improving financial inclusion, thereby providing a foundation for the deepening of Fintech offerings in the Nigerian market.

Fintech offerings in Nigeria may be classified into five (5) major categories: (i) Digital Banking; (ii) Alternative Lending and Digital Credit; (iii) Electronic Payments; (iv) Investment and Financial Management/Crowdfunding; and (v) Blockchain and Digital Currencies.

These categories of offerings are discussed below:

- Digital Banking

  Fintech companies have caused major disruption to the traditional banking system. The COVID-19 pandemic lockdown also bolstered the adoption of mobile and online banking platforms by virtually all banks. In addition, there is an ongoing increase in the number of Fintech companies offering virtual bank accounts. For this category of financial service providers, the existing laws and guidelines applicable to traditional banks also apply, especially regarding consumer protection, data privacy and protection, cybersecurity, anti-money laundering and minimum capital requirements. The CBN in February 2021 issued the Regulatory Framework for Open Banking in Nigeria. Further to the framework, the industry has commenced the process of implementing the standards to be used by all participants. This will significantly facilitate increased data accessibility and collaboration between traditional banks and Fintech stakeholders. The CBN, in furtherance of its mandate for the promotion of innovation and competition in the banking system and to promote its mandate under the Framework, also issued an Operational Guideline for Open Banking in 2023. Recently, the CBN enhanced the existing know-your-customer framework to strengthen compliance with anti-money laundering and counter-terrorism financing provisions by establishing the Customer Due Diligence Regulations, 2023 ("**CDDR**"). In line with the CDDR, financial institutions including Fintechs, are now mandated to obtain and verify the social media handles of customers as part of their KYC requirements (Rule 6(a) of the CDDR).

- Alternative Lending and Digital Credit

  Several tech-driven alternative lending and direct credit platforms have emerged in Nigeria. These platforms enable customers to swiftly access unsecured credit facilities online and are more convenient for borrowers when compared to borrowing from traditional commercial banks due to the reduced documentation requirements and the absence of a requirement for collateral in most cases. Operators in this space use machine-learning algorithms to perform real-time assessments of the creditworthiness of a user and to carry out risk evaluations of the ability of users to repay the loans. The algorithms usually rely on non-traditional digital data mined from the mobile phone of the user in the first instance, and credit report/history obtained from facilitators such as the credit bureaux (where available) for subsequent disbursements.

  Traditional money deposit banks have launched various lending products similar to the product offerings by the alternative lenders and also highlighting that loan products can be obtained without cumbersome documentation processes. In July 2020, the CBN made a notable development with the introduction of the Global Standing Instruction ("**GSI**") agenda to improve credit repayment (the "**GSI Guidelines**").[1] The GSI

Guidelines allows Participating Financial Institutions (the "**PFIs**") to recover past-due debts from borrowers by accessing all accounts held by such borrowers (in addition to the repayment account) with other PFIs across Nigeria.

Most organisations that hold CBN licences allowing them to do business as lenders are now PFIs. In January 2022, the CBN issued a circular to amend the GSI Guidelines. The amendment allows ongoing and widespread loan recovery by Deposit Money Banks and financial institutions in Nigeria. The GSI automated recovery feature now applies to all loans in the industry throughout the life of the loan or until it is fully repaid.

- Electronic Payments

  In the past several years, payment and bill collection mechanisms in Nigeria have significantly evolved following the development of electronic payments and payment-processing platforms. These Payment System Providers are mainly non-banking institutions that are integrated into the payment side of commercial activities. The regulatory framework in this area is relatively stable. A sub-category of electronic payments is public sector revenue collection. All payments to the Federal Government of Nigeria and its agencies are made to its Treasury Single Account ("**TSA**") via the Remita online payment platform. In addition, the Federal Inland Revenue Service introduced several electronic tax services including the e-Tax Payment product for the payment of all Federal Government taxes and levies through payment platforms, such as NIBSS and Remita.

Other sub-categories of electronic payments are foreign exchange and remittance transactions. Fintech has impacted cross-border businesses particularly with respect to foreign exchange and remittance transactions. A recent example is Chipper Cash, which recently expanded its operations to Nigeria in partnership with Paystack, to facilitate cross-border mobile money transfers in many African countries. The CBN regulates this space principally through the Guidelines on International Mobile Money Remittance Service, 2014 and the Guidelines on International Mobile Money Remittance Service in Nigeria, 2015. These Guidelines authorise licensed operators to provide inbound and outbound international money remittance services in Nigeria. In May 2021, the CBN issued New Licence Requirements for Payment Systems further to the December 2020 Licence Categorisations for the Nigerian Payment System.

In September 2021, the African Export-Import Bank and the African Continental Free Trade Area announced the advent of the Pan-African Payment and Settlement System ("**PAPSS**").[2] PAPPS is a cross-border, financial market infrastructure mechanism geared towards enabling instant cross-border payments between originators in one African country and beneficiaries in another African market in local currencies. This was immediately followed by the issuance of the CBN guidelines for the operation of PAPPS in Nigeria.

- Investment and Financial Management/Crowdfunding

  This is another area that has been impacted by Fintech solutions. At present, trustee and asset management companies have introduced online investment platforms that enable customers to invest in money market instruments, mutual funds and treasury bills. These include online investment platforms such as I-invest, InvestNow, and the online securities trading platform, MeritTrade. Also, the Nigerian Stock Exchange has adopted Fintech solutions in the form of an automated trading system for securities trading on its floor. Further, non-banking institutions have also developed online platforms that provide financial management services such as savings, expense management and invoicing to customers. Notable examples include Carbon, PiggyVest and CowryWise (online savings platforms), Kliqr (an online expenses management platform) and Invoice NG (an invoicing platform). The Securities and Exchange Commission ("**SEC**") now grants digital sub-broker licences to fintech companies offering investment solutions in Nigeria to allow them to operate in the Nigerian capital market and include Nigerian securities on their platform. For instance, in January 2023, Bamboo Systems Technology Limited (Africa's leading online brokerage firm) was granted a digital sub-broker licence from the SEC.

In Nigeria, investment management platforms often offer crowdfunding as an investment product. The two biggest beneficiaries of crowdfunding in Nigeria are Agriculture and Real Estate. Beyond the typical equity and debt financing options open to a business seeking funding, crowdfunding relies on the use of online platforms to raise funds to finance a project, business, or venture. The SEC in January 2021 issued its Rules on Crowdfunding (the "**Rules**"). These Rules provide a regulatory framework permitting private companies with the required structure and mechanism in place to raise capital from the public through crowdfunding. The principal feature of the Rules is the introduction of a crowdfunding portal, which would serve as a touchpoint between the fundraising entity and the investing public. However, there have been growing concerns about the future of crowdfunding in Nigeria as many of the operators have either defaulted or are delaying payment of interest and capital invested in them by their financiers.[3] It is hoped that with increased regulatory action and supervision, the confidence of the investing public in crowdfunding activities will be restored.

In August, 2021, the SEC issued its new rules on Robo-Advisory activities ("**Robo-Advisory Rules**"). Robo-Advisors provide automated financial management services utilising information on the financial state and goals of investors. The Robo-Advisory Rules seek to regulate Robo-Advisors who operate digital investment platforms that offer financial management services by proposing that: (i) Robo-Advisors comply with extant laws and regulations applicable to financial advisors regulated by the SEC; (ii) the principal officers of Robo-Advisors have the required experience and skill in financial management and technology; (iii) mechanics be put in place to mitigate investor risks where Robo-Advisors are advising on trading in foreign securities; and (iv) material information be disclosed to investors. Although Fintech companies in Nigeria like Carbon, Piggvest and Cowrywise actively provide wealth management services, they do not as yet provide the full range of Robo-Advisory services.

- Blockchain and Digital Currencies

On May 3, 2023, the Nigerian government announced the approval of a national blockchain policy. The policy re-emphasises the potential of blockchain in the development of the Nigerian digital economy in areas including national identity management, internal revenue monitoring and secure financial services. The adoption of the policy in Nigeria lays the groundwork for blockchain adoption in the country. While the policy does not provide a legal framework *per se*, it serves as a go-ahead for stakeholders to develop a legal framework.

The regulatory environment for non-fiat digital currencies in Nigeria has remained cautionary on the basis of the regulator's position on maintaining regulatory oversight and control over financial activities in Nigeria. However, the CBN has been active in the area of Central Bank Digital Currency with the introduction of the eNaira and the Regulatory Guidelines on eNaira in October 2021. The eNaira is a digital form of the Naira which serves as a legal tender, unit of account, a store of value and a medium of exchange.

In May 2022, the SEC issued the Rules for the Registration of Virtual Assets Service Providers and Rules on Issuance, Offering Platform(s) and Custody of Digital Assets for stakeholder input. These rules apply to (i) local, foreign or non-residential issuers or sponsors of virtual or digital assets, and (ii) platforms that facilitate the trading, exchange and transfer of virtual assets. The definition of virtual assets is broad enough to capture digital currencies to the extent that they are not fiat currencies, e-money or digital securities.

Regulatory and insurance technology

Given the speed of innovation and the evolving regulatory regime for Fintech companies in Nigeria, financial institutions have resorted to regulatory technology ("**Regtech**") solutions to aid in regulatory compliance. Requirements for more rigorous data protection and privacy have led Fintech companies to, as part of their Regtech offerings, provide blockchain, cybersecurity and other technology-enabled services to enable banks and other financial institutions to comply with data protection, risk-monitoring, reporting and Know Your Customer ("**KYC**") requirements.

The insurance space in Nigeria is dominated by traditional insurance companies offering their services without the use of Insurance Technology ("**Insurtech**"). The Census Report shows that only about 3% of Fintech companies provide Insurtech products and services. However, in recent times, some start-ups, such as AutoGenius, CompareIN, Insurpass and Casava, have emerged with technologies that integrate the creation, distribution and administration of the insurance business using mobile applications, thereby promoting ease of accessing insurance products and services at competitive prices.

This has compelled key players in the insurance industry to rethink their mode of operation. One such way includes partnerships. Carbon, a Fintech company, has partnered with Axa Mansard (an insurance company) to launch a range of healthcare benefits for its customers in the wake of the COVID-19 pandemic lockdown in Nigeria.[4] Also, Aella Credit, another Fintech company providing lending services, launched its health insurance product AellaCare to provide health insurance for financially excluded persons in Nigeria.[5]

It is expected that more of such partnerships will emerge in the coming years as Fintech companies look to diversify from other "crowded" areas of Fintech in Nigeria. The Insurtech companies are helping traditional insurance companies package insurance products into the point-of-sale of various digital platforms. Recently, FSD Africa and the National Insurance Commission ("**NAICOM**") announced their partnership that launched BimaLab. BimaLab is an accelerator programme designed to address gaps in the insurance industry. Through a series of awareness, BimaLab seeks to nurture and promote insurtech start-ups to accelerate development and facilitate the use of digital solutions for the insurance sector.[6]

NAICOM recently issued the Insurance Web Aggregators Operational Guidelines which became effective from February 1, 2022 (the "**Operational Guidelines**"). The Operational Guidelines applies to relevant participants carrying out insurance web aggregator services. The Operational Guidelines covers the registration, supervisions, and monitoring of web aggregators as insurance intermediary who maintain websites for providing information on products of different insurers.

Regulatory bodies

As at today, there is no single regulatory authority assigned to fintech in Nigeria. The regulators of fintech in Nigeria cut across various other sectors in Nigeria. The main regulatory bodies of the Fintech sector in Nigeria include the CBN, the Nigerian Deposit

Insurance Corporation ("**NDIC**"), the SEC, the Nigerian Communications Commission ("**NCC**"), the National Information Technology Agency ("**NITDA**"), the National Insurance Commission ("**NAICOM**"), the Federal Competition and Consumer Protection Commission ("**FCCPC**"), the Corporate Affairs Commission ("**CAC**"), the Federal Inland Revenue Service ("**FIRS**"), the Nigeria Data Protection Commission ("**NDPC**") and the National Office for Technology Acquisition and Promotion ("**NOTAP**"). The extent of each regulator's supervision will mostly depend on the transactions or fintech services which the fintech company is engaging in.

- The CBN
  The CBN has primary responsibility for regulating financial services in Nigeria. The CBN is the principal regulator mandated to issue licences to banks and other financial institutions by virtue of the Banks and Other Financial Institutions Act, 2020 ("**BOFIA**"). Fintech companies offering financial services to Nigerian consumers must obtain the appropriate licences and comply with CBN's applicable guidelines.
- The NDIC
  The NDIC is responsible for insuring all deposit liabilities of licensed banks and other deposit-receiving financial institutions in Nigeria. Fintech companies that provide mobile banking services, including deposit accounts such as checking and savings accounts for Nigerian consumers, are required to be registered with the NDIC. This is pursuant to section 15 of the NDIC Act, 2006.
- The SEC
  The SEC is the securities and capital markets regulator in Nigeria pursuant to the Investments 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 and the rules made thereunder. Further, in in May 2022, the SEC established the Rules on Issuance, Offering Platforms and Custody of Digital Assets (the "**Rules on Digital Assets**"). By the Rules on Digital Assets, the SEC is empowered to regulate the Issuance of digital assets as securities, the registration of digital assets offering platforms, registration of digital asset custodians, virtual assets service providers and digital assets exchange.
- The CAC
  The CAC is the regulatory body responsible for the incorporation and statutory supervision of all companies in Nigeria. The CAC makes regulations for the operation of Companies in Nigeria an ensures compliance with the statutory requirement for companies in Nigeria. Fintech companies (including banks) must be incorporated at the CAC to carry on business in (as distinct from doing business with) Nigeria except otherwise exempted from this requirement by the Minister of Trade, Industry and Investment (see sections 78 and 80 of CAMA 2020).
- The NCC
  The NCC is empowered by the Nigerian Communications Act, 2003 to regulate the telecommunications industry in Nigeria. Thus, Fintech companies offering services that involve the use of mobile networks or mobile phones are subject to NCC's regulatory purview and must obtain operating licences from the NCC. For instance, companies that operate mobile payments must be licensed by the NCC pursuant to the Licence Framework for Value Added Service ("**VAS**"). The NCC VAS regulation defines a VAS provider as a person or organisation engaged in the provision of value-added mobile/fixed services.
- The NITDA and NDPC
  The role of the NITDA pursuant to the NITDA Act, 2007 is to develop, regulate and

advise on Information technology in Nigeria through regulatory standards, guidelines and policies. Pursuant to its regulatory powers, the NITDA issued the Nigerian Data Protection Regulations in 2019 (the "**Regulations**") and subsequently issued its Implementation Framework in 2020 (the "**Framework**"). The Regulations and its Implementation Framework aim to safeguard the rights of natural persons to data privacy and foster the safe conduct of transactions involving the exchange of personal data. However, in June 2023, the Nigeria Data Protection Act ("**NDPA**") was signed into law as the primary regulation on data protection in Nigeria. The NDPA established the NDPC as a body which will regulate the processing of personal data by data controllers and data processors in Nigeria. Operationally, the NDPC regulates the processing of personal data as contained in the regulations, the Framework and the NDPA, while the NITDA regulates cloud computing services or data centres used for storage and processing of data in Nigeria. The NDPA and the NITDA regulation extends to Fintech companies who are handling, processing, storing or transferring the data of data subjects in Nigeria.

- The NAICOM
  The NAICOM was established by the NAICOM Act, 1997 with the responsibility for ensuring the administration, regulation, and control of insurance business in Nigeria. Thus, where an Insurtech company carries on insurance business, it will require a licence from the NAICOM.
- The FCCPC
  The FCCPC was established by the Federal Competition and Consumer Protection Act, 2018 ("**FCCPA**"). The FCCPA prohibits anti-competitive practices in the Fintech space. The practices covered include price-fixing market division and exclusive dealing agreements that have anti-competitive effect. It is, however, worthy of note that the regulatory oversight of the FCCPC will only extend to Fintech companies that do not qualify as banks or other financial institutions as defined by BOFIA. This is pursuant to the ever-rising arguments on who has the ultimate powers to regulate the banks and other financial institutions. While the FCCPA attempts to override other laws in all matters regarding anti-competition and consumer protection, the BOFIA specifically restricts the application of the FCCPA and any products arising from the operations of banks and other financial institutions. In this regard, the regulation of the CBN pursuant to the BOFIA supersedes the regulation of the FCCPC in matters pertaining to financial products and services.
- The NOTAP
  The NOTAP is an agency under the Federal Ministry of Science and Technology in Nigeria established by the NOTAP Act N68, LFN 2004. NOTAP is saddled with the responsibility of regulating and promoting the acquisition, transfer, and domestication of foreign technology in Nigeria. NOTAP's regulation will apply to Nigerian Fintech companies who engage in technology acquisition activities and enter into technology transfer agreements in their business with foreign entities.
- The FIRS
  The FIRS is the federal tax regulator in Nigeria. Fintech companies are required to remit income tax, withholding tax, value-added tax and stamp duties to the government through the FIRS. Pay-as-you-earn taxes are remitted to the state (not federal) internal revenue services for the location (the state) where the employee in question works.
- The NDPC
  The NDPC is the data privacy regulator in Nigeria. They are empowered by the Nigeria Data Protection Act, 2023 ("**NDPA**") to make regulations regarding the processing of data by data controllers and processors in Nigeria. The NDPA extends to Nigerian

Fintech companies who are handling, processing, storing or transferring the data of data subjects in Nigeria, The Fintech companies are required in this regard to adhere to the provisions of the NDPA and the subsequent regulations that may be made by the NDPC.

Key regulations and regulatory approaches

There has been no single regulatory approach targeted at the Fintech players in Nigeria. In the Nigerian Fintech space, what is obtainable is a mix application of various statutes and regulations. CBN, as a major regulator for Fintech in Nigeria, have made the following guidelines for their operations:

- CBN Operational Guidelines for Open Banking in Nigeria, 2023;
- CBN Framework for Regulatory Sandbox Operations, 2020 ("**Sandbox Operations Framework**");
- CBN Guidelines on Mobile Money Services in Nigeria, 2015;
- CBN Guidelines on Operations of Electronic Payment Channels in Nigeria, 2020;
- CBN Guidelines for Licensing and Regulation of Payment Service Banks in Nigeria, 2018;
- CBN Regulatory Framework for the Use of Unstructured Supplementary Service Data Financial Services in Nigeria, 2018;
- CBN Regulation for Bill Payments in Nigeria, 2018;
- CBN Risk-Based Cyber-Security Framework and Guidelines for Deposit Money Banks and Payment Service Providers, 2018;
- CBN Microfinance Policy, Regulatory and Supervisory Framework, 2011;
- CBN Revised Guidelines for Finance Companies in Nigeria, 2014;
- CBN Guidelines on Operations of Electronic Payment Channels in Nigeria, 2016;
- CBN Guidelines on International Mobile Money Remittance Service in Nigeria, 2015;
- CBN Guidelines on International Money Transfer Services in Nigeria, 2014;
- CBN Regulation on Electronic Payments and Collections for Public and Private Sectors in Nigeria, 2019;
- CBN Regulation for Direct Debit Scheme in Nigeria, 2018; and
- CBN Regulatory Guidelines on the e-Naira, 2021.

Other applicable laws and regulations include the:

- Nigerian Exchange Technology Board Listing Rules, 2022;
- Nigeria Startup Act, 2022;
- NCC Value Added Services and Aggregator Framework, 2018;
- SEC Crowdfunding Rules, 2021;
- Moneylenders Laws of the respective states in Nigeria (this line item apart, all laws and regulations mentioned in this section are federal laws);
- NITDA Nigeria Cloud Computing Policy, 2019;
- Companies and Allied Matters Act, 2020;
- Investments and Securities Act, 2007;
- FCCPA and FCCPC regulations;
- NAICOM Act;
- Money Laundering (Prohibition) Act, 2011 (as amended);
- BOFIA;
- Corrupt Practices and other Related Offences Act, 2000;
- Economic and Financial Crimes Commission (Establishment, Etc.) Act, 2004;
- Terrorism (Prevention) Act, 2011 (as amended);
- Cybercrimes (Prohibition, Prevention, Etc.) Act, 2015;

- Nigeria Data Protection Act, 2023;
- Nigeria Data Protection Regulations, 2019;
- NDPR Implementation Framework, 2020;
- Foreign Exchange (Monitoring and Miscellaneous Provisions) Act, 1995;
- Nigerian Investment Promotion Commission Act, 2004;
- NOTAP Act, 1992;
- Finance Act, 2023 (as amended);
- Nigerian Deposit Insurance Commission Act, 2006;
- Financial Reporting Council of Nigeria Act. 2011;
- Nigerian Communications Act, 2003; and
- Business Facilitation Miscellaneous Provision, Act 2023.

The implementation of these regulations, like the regulators themselves, relies on the transactions or the nature of services offered by the Fintech company. While certain regulations are operating in tandem, others seem to be fragmented, leading to a lack of consistency within the Fintech Regulatory Framework. However, extensive discussions have been taking place between the regulators and the stakeholders regarding the establishment of a cohesive regulatory framework and approach towards Fintech and technology in general. The Sandbox Operations Framework appears to be an effective regulatory approach towards encouraging a conducive regulatory environment for Fintech to thrive in Nigeria. We are hopeful that a unified framework for Fintech in Nigeria will emerge in the nearest future.

Restrictions

Many of the restrictions relating to Fintech activities have been evident in the regulatory posture developed in relation to non-fiat digital currencies and associated trading platforms. Insisting on fulfilling its mandate to ensure the financial system's stability, the CBN on February 5, 2021, issued a notice to Deposit Money Banks to desist from dealing with entities engaged in cryptocurrency trading. This announcement caused major dislocation in the market and caused buyers and sellers of cryptocurrency to panic because the announcement effectively prevented them from operating bank accounts in Nigeria.

According to the CBN, its stance is based on the significant risks associated with transacting in cryptocurrencies, among them the risks of loss of investments, money laundering, terrorism financing and other criminal activities. The CBN is rather insisting on the use of the eNaira, a Central Bank Digital Currency, as a much better alternative to non-fiat currencies. However, while banking operations in virtual assets or cryptocurrencies are discouraged, there are no laws prohibiting transactions in virtual assets and cryptocurrencies in Nigeria. In fact, in May 2022, a bold move has been made by SEC to regulate the offering and Issuance of Virtual Assets in Nigeria by companies who intend to operate as digital assets offering platforms, digital asset custodians, virtual assets service providers and digital assets exchange.

Another challenge in the Nigerian Fintech space is the continuous anti-competition and consumer protection regulatory battles between the FCCPC and the CBN. The FCCPA, in an attempt to create a supreme anti-competition law, made a provision to the effect that all other laws shall be subject to the provisions of the FCCPA in all matters relating to competition and consumer protection (Section 104 of the FCCPA), consequently empowering the FCCPC to have overriding powers to regulate all sectors regarding competition and consumer protection matters. The BOFIA on the other hand, post FCCPA, made provisions to give the CBN the exclusive responsibility to regulate banks, specialised banks and financial institutions in all aspect (Section 60 of the BOFIA). The BOFIA, in this regard, goes further in section 65 to specifically restrict the application of the FCCPA from applying to any function, act, financial product, or financial services issued or undertaking, and transaction howsoever described by a bank or other financial institutions licensed by the CBN. Both sections 104 of the FCCPA and 65 of the BOFIA exist and are clearly in conflict. In determining which law supersedes the other, the interpretation of case law has been applied to the effect that where there are two enabling provisions, one specific and the other general, the court ought to presume that the lawmaker has intended the specific provision to prevail over the general provision to govern the matter. See *Federal Mortgage Bank of Nigeria v. P.N. Olloh* (2002) 9 NWLR (Pt. 773) page 475. As a result, the CBN has exclusive regulatory oversight in anti-competition matters relating to financial services.[7]

Despite the settled principle of law in this regard, the FCCPC continues to make moves to regulate financial services. An example is the Limited Interim Regulatory/Registration Framework and Guidelines for Digital Lending, 2022 ("**FCCPC Regulation**"). This FCCPC regulation requires all Fintech companies engaged in digital lending to obtain approval and register with the FCCPC. Further to the FCCPC Regulation, the FCCPC continues to release statements making orders directing Fintech companies to take down specific applications not approved by the FCCPC, directing payment systems to cease from providing payment services to lenders operating without the FCCPC's approval and directing technology companies from providing hosting services to lenders operating without FCCPC's approval. On May 25, 2023, the FCCPC took an additional step by issuing a statement that reveals a roster of fintech companies that have received either full approval or conditional approval from the FCCPC.[8] As a result, many Fintech companies are faced with the challenge of multiple regulators and varying regulatory requirements. However, there is still hope for increased collaboration and the development of unified regulatory frameworks that will eliminate bottlenecks and streamline the regulatory landscape for Fintech, providing greater clarity and consistency for companies in the future.

Cross-border business

The remarkable growth of the Fintech Sector in Nigeria has naturally fostered increased participation in local and cross-border businesses in Nigeria. Locally, the influence of the Fintech sector has been particularly notable in domains such as banking, payment solutions, lending, digital asset transactions, and financial management. Nigerian Fintech companies, moving faster than their traditional counterparts, are solidifying their presence both within and beyond the local market by strategically cultivating meaningful partnerships with global players across different sectors.

Fintech players like Moniepoint and Opay have continued to revolutionise the payment ecosystem and improve businesses with its point-of-sale terminals, which many have termed to be small banks.[9] Other Fintech players such as Grey Finance, Kuda, Branch, payday and Flutterwave continue to attract capital across the borders by developing more sophisticated platforms to cater for the diverse needs of individuals and businesses with their API integrations.[10]

In terms of cross-border regulatory collaborations, Nigeria is a party to the African Continental Free Trade Area ("**AfCTA**") which was established to liberalise markets in Africa and boost intra-African trade and economic development within Africa. In line with the objectives of the AfCTA, and the need to facilitate a seamless payment and settlement system for trade within Africa, the CBN and other stakeholders such as the African Export-Import Bank ("**Afreximbank**"), some central banks of state parties, the African Union, and the Secretariat of the AfCFTA, launched the Pan African Payment and Settlement System ("**PAPSS**") in July 2019 at an African Submit in Niger.[11] By simplifying the historically complex and costly process of making payments across African borders, PAPSS brings forth operational efficiencies that unlock tremendous economic opportunities for businesses across Africa. Further to the launch of PAPSS, CBN has also issued guidelines for the operation of PAPPS in Nigeria to encourage local business participation in trades across Africa.

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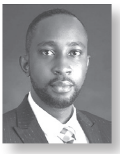

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