

## FINTECH: LEGAL AND REGULATORY CONSIDERATIONS

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### INTRODUCTION

Nigeria has witnessed an exponential increase in financial technology services in the last decade. This shift in focus from conventional banking practices and financial services can be attributed to a global trend of payment for services and products through an online medium. The Nigeria Inter-Bank Settlement System (NIBSS) in 2022, reported a 613.1% increase in the total volume of transactions carried out on its Instant Payment Platform, to 5.2 billion transactions from 729.2 million transactions recorded in 2018.<sup>1</sup> Financial Technology services (Fintech/Fintech companies/Fintechs) refer to the utilization of computer programs and software to provide banking and other financial services to customers. It allows for access and management of financial products and services digitally.<sup>2</sup>

Fintech companies gained popularity due to the ease and effectiveness of the services they render, especially due to the COVID-19 outbreak, which prompted the need for other efficient options for financial transactions other than traditional banking. Due to the value of transactions carried out on Fintech platforms – the value of transactions carried out on Fintech platforms increased by 381.5 percent from ₦80.4 trillion as at 2018 to ₦387.1 trillion in 2022,<sup>3</sup> it is imperative that there is adequate regulation, monitoring and supervision of companies which render financial technology services and products, to ensure

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<sup>1</sup> See: Guarding Against Modern Frauds: A Comprehensive Look at BNPL and Social Media Fraud Trends. <<https://nibss-plc.com.ng/nigerias-e-payment-transactions-hit-5-yr-high-surged-to-5-2-billion-in-2022/>> accessed 22 November 2023.

<sup>2</sup> See: <<https://plaid.com/resources/fintech/what-is-fintech/>> accessed 22 November 2023.

<sup>3</sup> Ibid (n 1).

that the financial sector is properly safeguarded failing which may incur dire consequences for the economy.

This essay considers the legal and regulatory considerations for Fintech companies in Nigeria vis-à-vis the legal and regulatory framework which govern services rendered by Fintech companies in Nigeria.

### **Overview of the Financial Technology Landscape in Nigeria**

Financial Technology services in Nigeria covers both bank and non-bank entities. Under the provisions of the Banks and Other Financial Institutions Act, other financial institutions are defined to include payment service providers,<sup>4</sup> who must be licenced by the Central Bank of Nigeria to provide payment services. It is however notable that Fintech companies in Nigeria is no longer limited to payment services, as there have been increase in other areas. For example, companies who offer credit facilities, those which allow customers to buy good on credit, as well as those which offer investment and savings services. The major areas of Fintech services which are widely practiced in Nigeria are:

#### **i. Mobile and Online Banking/Electronic Payments:**

This means the payment of money for services or product by means of an electronic device or software application which includes the various payment processing platforms. They are made up of banking and non-banking institutions e.g. Flutterwave, Paypal etc. in recent years, traditional banks have adopted this method by way of banking applications and barcodes, which allow for transfer of money and other services, directly from a bank account. This area of Fintech services has been incorporated by the Federal Government of Nigeria in the area

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<sup>4</sup> Banks and Other Financial Institutions Act 2020, s 57.

of revenue collection where money is paid into the Treasury Single Account through the online Remita platform. Also, payment of taxes and other levies may be made via the NIBSS and Remita, to the Federal Inland Revenue Service (FIRS).<sup>5</sup>

## **ii. Digital Banking:**

This covers virtual banking services. With the advent and popularization of virtual bank accounts, the need for conventional banking has somewhat reduced. Traditional banks have however upscaled to incorporate digital banking services such as payment for services, application for credit cards etc, into their conventional banking systems through online bank portals.<sup>6</sup> It is notable that virtual banking may be done in collaboration with traditional banks which provide certain services such as checking and savings functions e.g. maintaining of Fintech settlement accounts, provision of Application Programming Interface (API) banking services, which enable them to facilitate payments etc.<sup>7</sup>

## **iii. Alternative lending and Digital Credit:**

This includes direct loan and credit platforms which provide for speedy and easy access to loan services or credit facilities. These loans are usually unsecured which make them more convenient for borrowers. Fintech companies who provide this service, utilise data algorithms to assess the credit worthiness of borrowers and their likelihood of repayment of facilities acquired by them.<sup>8</sup>

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<sup>5</sup> Fintech Laws and Regulations in Nigeria <<https://www.globallegalinsights.com/practice-areas/fintech-laws-and-regulations/nigeria>> accessed on 22 November 2023.

<sup>6</sup> Ibid.

<sup>7</sup> What is Open Banking? <[https://www.softwareag.com/en\\_corporate/resources/api/article/open-banking.html](https://www.softwareag.com/en_corporate/resources/api/article/open-banking.html)> accessed 22 November 2023.

<sup>8</sup> Ibid.

#### **iv. Investment and Financial Management/Crowdfunding:**

Certain Fintech companies provide financial management services to consumers which range from; online savings platforms by means of software which enable consumers to save money, in line with the terms offered by the service provider e.g. PiggyVest, CowryWise, Opay etc; online management of expenses within set timelines e.g. Kliqr; invoicing services e.g. Invoice NG. Automated trading services are also offered for trading of securities e.g. MeritTrade, as well as investment platforms such as InvestNow, I-Invest etc. Certain investment management platforms also provide crowdfunding services which uses Fintech to raise funds for financing projects or businesses.<sup>9</sup>

#### **v. Blockchain and Digital Currencies:**

Blockchain technology provides for an efficient recording and storage of information, and on the other hand, digital currency entails an online currency. The CBN recently introduced the eNaira as our national digital currency to serve as legal tender through the Regulatory Guidelines issued on 25 October 2023.<sup>10</sup> The Guidelines stipulate compliance with subsisting anti-money laundering laws and regulations, as well as Tiered - Know Your Customer requirements.<sup>11</sup>

#### **vi. Insurance and Technology (InsurTech):**

Fintech companies utilise mobile applications and technological innovations such as data analysis and Artificial Intelligence, to provide insurance services to

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<sup>9</sup> Ibid.

<sup>10</sup> Central Bank of Nigeria Regulatory Guidelines on the eNaira. <<https://www.cbn.gov.ng/Out/2021/FPRD/eNairaCircularAndGuidelines%20FINAL.pdf>> accessed 22 November 2023.

<sup>11</sup> Ibid.

consumers.<sup>12</sup> It is usually more accessible, cost efficient and offers more competitive prices as against conventional insurance firms in Nigeria e.g. Aella Care, a Nigerian InsurTech firm, and Carbon, a Fintech company which partnered with Axa Mansard, an insurance company, to provide health insurance coverage to their customers during the pandemic.<sup>13</sup> Some Fintechs also collaborate with traditional insurance companies to provide insurance services. Fintech companies in Nigeria who provide InsurTech are under the regulatory purview of the National Insurance Commission and must obtain the relevant licences and permits to enable them carry on business activities.

### **Legal and Regulatory Framework for Financial Technology in Nigeria**

This encompasses the body of rules govern the product and services offered by Fintech institutions, and the bodies established under the various laws which oversee the functioning and compliance of Fintech through a series of policies and regulations with the aim of protecting stakeholders from exploitative practices. Although Fintech has numerous advantages, it is imperative that sound regulations are put in place to guard against the attendant risks associated with it. Several legal issues have been identified in the Fintech sector, one of which is data privacy. This is because Fintech companies collect and process large amounts of data. It becomes crucial that customer data is adequately protected in order to avoid data breach.

Second, money laundering activities are on the rise due to the relative ease by which Fintechs facilitate money transfer and payments. Thus, anti-money

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<sup>12</sup> Overview of Insurtech & Its Impact on the Insurance Industry <  
<https://www.investopedia.com/terms/i/insurtech.asp>> accessed 23 November 2023.

<sup>13</sup> Fintech Laws and Regulations in Nigeria. Ibid (n 5).

laundering (AML) regulations have been put in place, to help detect and prevent money laundering. This is in conjunction with Know-Your-Customer (KYC) measures, which require customer identification and screening, monitoring of transactions carried out via Fintech companies, and reporting of suspicious activities to the relevant authorities. It is also crucial that robust cyber protection measures are put in place in order to guard against cyber attacks, and lastly, requirements for licensing and registration by the relevant bodies must be complied with.<sup>14</sup> The various laws and regulatory bodies, in consideration of these issues, make regulations and guidelines to regulate, monitor and supervise Fintech operations in Nigeria. They are:

### **Central Bank of Nigeria**

The Central Bank of Nigeria (CBN) is established under the Central Bank of Nigeria Act, 2007,<sup>15</sup> and it is the primary regulatory body tasked with supervising and monitoring banks and other financial institutions in Nigeria through its oversight functions. The CBN is empowered under the Bank and Other Financial Institutions Act (BOFIA) 2020 to regulate banks and all other financial institutions which provide financial services in Nigeria.

The CBN aims to ensure that consumers are adequately protected through its guidelines. The CBN requires strict observance of data privacy requirements, as well as KYC and AML Provisions. To this end, the CBN has issued several regulations and guidelines to oversee Fintech operations in Nigeria. Some of the Regulations and Guidelines include:

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<sup>14</sup> Fintech Regulation: Legal and Regulatory Aspects. <<https://www.forbes.com/sites/forbestechcouncil/2022/07/20/fintech-regulation-legal-and-regulatory-aspects/?sh=177150aa2e38>> accessed 23 November 2023.

<sup>15</sup> Central Bank of Nigeria Act, s 2(a).

- i. **Regulatory Framework for Open Banking in Nigeria, 2021:** This aims to provide guidance on open banking, which involves a collaboration between financial institutions and third-party providers, usually Fintech companies, who provide them technological services and have access to customer data. Thus, third party providers must access and utilise such data in line with the Regulations, in order to ensure transparent and competitive banking services.<sup>16</sup> In line with this objective, the CBN also issued the Operational Guideline for Open Banking, 2023.<sup>17</sup>
- ii. **Central Bank of Nigeria (Customer Due Diligence) Regulations, 2023:** This provides additional due diligence measures for financial institutions, Fintechs inclusive, to promote compliance with the provisions of the Money Laundering (Prevention and Prohibition) Act, 2022, Terrorism (Prevention and Prohibition) Act, 2022, Central Bank of Nigeria (Anti-Money Laundering, Combating the Financing of Terrorism and Countering Proliferation Financing of Weapons of Mass Destruction in Financial Institutions) Regulations, 2022 and in line with international best practices.<sup>18</sup> Fintechs are mandated to comply with KYC requirements and ensure proper customer due diligence.<sup>19</sup> Fintechs must also comply with e-KYC requirements under the CBN Guidelines on e-KYC, and the three-tiered KYC measures – which ensure flexible account opening requirements for low value and medium value account, as stipulated by the CBN,<sup>20</sup> in respect of digital products.<sup>21</sup>

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<sup>16</sup> The Case for Open Banking in Nigeria. <<https://www.forbes.com/sites/forbestechcouncil/2022/07/20/fintech-regulation-legal-and-regulatory-aspects/?sh=177150aa2e38>> accessed 23 November 2023.

<sup>17</sup> Fintech Laws and Regulations in Nigeria. Ibid (n 5)

<sup>18</sup> Central Bank of Nigeria (Customer Due Diligence) Regulations, 2023, s 1 (a).

<sup>19</sup> Ibid, ss 5 & 6.

<sup>20</sup> CBN Circular to all Banks and Other Financial Institutions on Introduction of Three-Tiered KYC Requirements, 2013.

- iii. **Guidelines on Mobile Money Services in Nigeria, 2021:** The CBN regulates mobile money operations in line with its objective to facilitate efficient electronic payments in Nigeria. The guidelines cover both banking and non-banking institutions, in which case, it must be licensed by the CBN to provide mobile money services in Nigeria.<sup>22</sup> It also provides that Mobile Money Operators acquire the relevant licences from the NIBSS AND Nigeria Communications Commission.<sup>23</sup> Paragraph 15 stipulates compliance with the provisions of the KYC Guidelines in the Central Bank of Nigeria Anti-Money Laundering/Combating Financing of Terrorism (CBN, AML/CFT) Regulations of 2013.
- iv. **Guidelines on International Money Transfer Services, 2014:** Fintechs which provide international money transfer services must be licensed by the CBN,<sup>24</sup> and outlines permissible operations which may be carried on by Fintech companies in Nigeria, which include cross-border money transfer services. It also requires strict compliance with the provisions of the Central Bank of Nigeria Anti-Money Laundering/Combating Financing of Terrorism (CBN, AML/CFT) Regulations, 2013.
- v. **Guidelines on International Mobile Money Remittance Service, 2014:** These guidelines aim to facilitate and regulate foreign exchange transactions through more convenient and flexible payment channels i.e. Fintechs, in Nigeria.<sup>25</sup> Such Fintech companies must be duly registered,<sup>26</sup> comply with all KYC requirements and risk management measures as specified under the

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<sup>21</sup> Ibid, s 14.

<sup>22</sup> Guidelines on Mobile Money Services in Nigeria, para. 7.1.

<sup>23</sup> Ibid.

<sup>24</sup> Guidelines on International Money Transfer Services, para. 2.1.

<sup>25</sup> Guidelines on International Mobile Money Remittance Service, para. 1.0.

<sup>26</sup> Ibid, para. 5.0.



Guidelines,<sup>27</sup> and must operate in line with the various NCC and NIBSS requirements.<sup>28</sup> Participants in international money remittance are provided under the Guidelines to include: Banks, Mobile Network Operators, Infrastructure Providers with their roles stated.<sup>29</sup>

- vi. **Regulatory Framework for the Use of Unstructured Supplementary Service Data (USSD) for Financial Services in Nigeria, 2018:** This guides transactions via mobile phones and seeks to mitigate the risks associated with the use of USSD short codes in financial transactions.<sup>30</sup> Fintech companies which provide both banking and non-banking financial services using USSD must secure the appropriate licence from the CBN.<sup>31</sup> USSD short codes are issued by the NCC to mobile network operators and entities which are licensed by the CBN, upon production of a Letter of No Objection or a Letter of Introduction, and where the relevant requirements are met.<sup>32</sup>

### **Money Laundering (Prevention and Prohibition) Act, 2022**

The Act prohibits money laundering activities in Nigeria and regulates payment transactions. It provides a threshold value on cash payments for individuals and corporate bodies.<sup>33</sup> It also criminalises any attempt to avoid the threshold value by conducting separate transactions with one or more Fintech company, with the intent avoid the requirement of disclosing such transactions.<sup>34</sup> Thus, multiple

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<sup>27</sup> Ibid, para. 12.0.

<sup>28</sup> Ibid, para. 6.0.

<sup>29</sup> Ibid (n 22).

<sup>30</sup> Regulatory Framework for the Use of Unstructured Supplementary Service Data (USSD) for Financial Services in Nigeria, 2018, para 3.0.

<sup>31</sup> Ibid, para. 4.0.

<sup>32</sup> Ibid, para. 5.1.

<sup>33</sup> Money Laundering (Prevention and Prohibition) Act 2022, s 2(1).

<sup>34</sup> Ibid, s 2 (2).

transactions may be considered in considering whether or not the threshold value has been complied with.<sup>35</sup> Fintech companies must comply with KYC requirements and conduct due diligence in respect of consumers.<sup>36</sup> It also mandates them to take reasonable measures in ensuring that persons purporting to act on behalf of customers are so authorised. Fintechs are also mandated to conduct assessment of new products for potential money laundering and terrorism financing risks, and take appropriate steps to ensure that such risks are mitigated.<sup>37</sup> It also establishes the Special Control Unit against Money Laundering to monitor and supervise the activities of Designated Non-Financial Businesses and Professions, under the Economic and Financial Crimes Commission.<sup>38</sup> Fintech companies who provide financial services are required to comply with section 7, and report any suspicious financial transaction to the Special Control Unit.

**Central Bank of Nigeria Anti-Money Laundering/Combating Financing of Terrorism (CBN, AML/CFT) Regulations 2013:** In line with the CBN's objective of eradicating money laundering activities in Nigeria, the Regulations require financial Institutions, Fintechs inclusive, actively prevent transactions which facilitate criminal activities and terrorism.<sup>39</sup> Fintechs and third party providers must be duly licensed, and must comply with due diligence requirements, as well as ensure that policies and measures are put in place, which are needed to prevent the use of technological developments for the purpose of money

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<sup>35</sup> Ibid.

<sup>36</sup> Ibid, s 4 (1).

<sup>37</sup> Ibid, s 13.

<sup>38</sup> Ibid, s 1(1) (e).

<sup>39</sup> Central Bank of Nigeria Anti-Money Laundering/Combating Financing of Terrorism (CBN, AML/CFT) Regulations 2013, para. 1.

laundering and terrorist financing activities in respect of digital or non-face to face transactions.<sup>40</sup>

### **The Securities and Exchange Commission**

The Securities and Exchange Commission (SEC), is the apex regulator of the Nigeria capital market under the Investments and Securities Act (the Act), 2007. It aims to ensure that investors are duly protected, and market operators are in compliance with the provisions of the Act regulations, as well as regulations and Guidelines as it may make from time to time. In this vein, Fintech companies which intend to sell their securities to the public must comply with the provisions of the Act. Also, Fintech platforms where securities are traded must be registered with the SEC e.g. the Nigeria investment startup – Bamboo, which is a brokerage app, allows real-time trading of stocks.<sup>41</sup> The SEC issued certain guidelines for the regulation of virtual/digital assets via the Rules on Issuance, Offering Platforms and Custody of Digital Assets, 2022, under which it is empowered to regulate the issuance of digital assets, register platforms on which they are traded, as well as register digital asset custodians, virtual assets service providers and digital assets exchanges.<sup>42</sup> Fintech companies who offer digital assets to the public as securities. The Rules define Digital Assets as digital tokens which represent assets such as debt or equity.<sup>43</sup> Issuers of such digital assets must be public companies and foreign companies desirous of trading digital assets in Nigeria, must register

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<sup>40</sup> Ibid, paras. 1.12.1 – 1.12.4.

<sup>41</sup> Nigerian Fintech Startup Bamboo Raises \$15m Series A to Accelerate Growth <<https://www.nipc.gov.ng/2022/01/31/nigerian-fintech-startup-bamboo-raises-15m-series-a-to-accelerate-growth/>> accessed 23 November 2023.

<sup>42</sup> Fintech Laws and Regulations in Nigeria. Ibid (n 5).

<sup>43</sup> New Rules on Issuance, Offering Platforms and Custody of Digital Assets, para. 2.0.

with the SEC and comply with any other regulations as may be prescribed by the SEC.<sup>44</sup>

### **The Nigeria Deposit Insurance Corporation**

The Nigeria Deposit Insurance Corporation (NDIC) is established under the Nigeria Deposit Insurance Corporation Act, 2006. It regulates deposit insurance and guarantees liabilities of all licensed financial institutions in the event of failure. It seeks to promote confidence in the financial services sector. Fintech companies which carry on digital and mobile banking operations must be registered with the NDIC.<sup>45</sup> The NDIC also established the Fintech Innovations Unit, to meet up with the demands of technological innovations and their significance in the financial services sector. Its objective includes: to identify risks in Fintech and innovations with respect to deposit insurance, to promote supervisory measures for digital banks, to enhance consumer protection in relation to digital deposits etc.<sup>46</sup>

### **Corporate Affairs Commission**

The Corporate Affairs Commission is empowered under the Companies and Allied Matters Act, 2020 (the Act), to supervise and incorporate all companies in Nigeria, regulate their activities, as well as administer the provisions of the Act. Fintech companies must be duly incorporated in order to carry on business, except it is exempted under the Act.<sup>47</sup>

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<sup>44</sup> SEC New Rules On The Issuance, Offering Platforms And Custody Of Digital Assets – What You Need To Know <<https://uubo.org/wp-content/uploads/2022/08/series-1-the-new-sec-rule-on-the-issuance-of-digital-assets-and-the-implications-24522.pdf>> accessed 23 November 2023.

<sup>45</sup> Nigeria Deposit Insurance Corporation Act 2006, s 15.

<sup>46</sup> NDIC Establishes New Unit on Fintech and Innovation <<https://ndic.gov.ng/ndic-establishes-new-unit-on-fintech-and-innovation/>> accessed 23 November 2023.

<sup>47</sup> Companies and Allied Matters Act 2020, s 78.

## **Nigerian Investment Promotion Commission**

The Nigerian Investment Promotion Commission (NIPC) in line with its establishment Act, the Nigerian Investment Promotion Commission Act,<sup>48</sup> makes provisions that all foreign Fintech entities desirous of carrying on business in Nigeria must be duly incorporated with the CAC and must procure all necessary licences and permits. Such Fintech companies must also register with the NIPC upon application. The Nigerian Fintech sector has witnessed considerable mergers with foreign companies acquiring Nigerian Fintechs e.g. Paystack, a Nigerian Fintech, was acquired by Stripe.<sup>49</sup>

## **National Information Technology Development Agency**

The National Information Technology Development Agency (NITDA) is established by the National Information Technology Development Agency Act, 2007 and empowered to regulate Information Technology in Nigeria, by developing guidelines and regulations. Fintech companies which collect and process data are regulated under the Act. The Nigerian Data Protection Regulations, 2019 and the Nigerian Data Protection Regulations 2019: Implementation Framework, 2020, were issued by NITDA to help in regulating and enforcing data protection and privacy requirements, and promoting safer transactions which require exchange of such data.<sup>50</sup> The NITDA regulates cloud computing services or data centres,

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<sup>48</sup> Nigerian Investment Promotion Commission Act, cap N117 Laws of the Federation of Nigeria 2004

<sup>49</sup> Stripe acquires Nigeria's Paystack for \$200M+ to expand into the African continent <<https://techcrunch.com/2020/10/15/stripe-acquires-nigerias-paystack-for-200m-to-expand-into-the-african-continent/>> accessed 23 November 2023.

<sup>50</sup> NITDA Act <<https://nitda.gov.ng/nitda-act/>> accessed 23 November 2023.

which are used for storing and processing data in Nigeria, while the NDPC regulates processing of personal data.<sup>51</sup>

### **The Nigeria Data Protection Commission**

The Nigeria Data Protection Commission (NDPC) is established under the Nigeria Data Protection Act, 2023 (the Act). The Act is the primary legislation which regulates the handling and control of personal data by data processors and data controllers in Nigeria. It aims to ensure that personal data is processed in a lawful manner.<sup>52</sup> The NDPC is mandated to implement the provisions of the Act, and empowered to issue regulations and directives pursuant to the Act, as well as conduct investigations into any violation of data privacy by data controllers or data processors.<sup>53</sup> Fintech companies, who collect, process and transfer data, are also mandated to ensure that data processing is done in accordance with the requirements of the Act and all Regulations made pursuant to the Act.

### **Nigerian Communications Commission**

The Nigerian Communications Commission (NCC) regulates the telecommunications sector pursuant to the Nigerian Communications Act, 2003. Thus, Fintech companies, whose transactions are carried out by way of mobile phone payments, must obtain the necessary licences and permits from the NCC before they can carry out financial transactions.<sup>54</sup> By virtue of the Licence Framework for Value Added Service, the NCC is empowered to supervise and

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<sup>51</sup> Fintech Laws and Regulations in Nigeria. Ibid (n 5).

<sup>52</sup> Nigeria Data Protection Act, 2023, s 1 (1).

<sup>53</sup> Ibid, s 6.

<sup>54</sup> Nigerian Communications Act, 2003, S 1.

monitor Fintech companies who make use of Value Added Services, which range from voice calls to text messages.<sup>55</sup>

### **National Insurance Commission**

The advancement of InsurTech in Nigeria has brought such Fintech companies under the regulatory purview of the National Insurance Commission (NAICOM). The NAICOM is empowered under the Insurance Act, 2003, to administer, regulate and supervise insurance business in Nigeria.<sup>56</sup> Thus, for an InsurTech company to validly carry on business in Nigeria, it must be duly licensed and registered with the NAICOM.<sup>57</sup> The NAICOM also issued the Insurance Web Aggregators Operational Guidelines, 2022, which is applicable to web aggregators who act as insurance intermediaries by maintaining websites which provide information on insurance products of different insurers.

Under the Guidelines, web aggregators must be duly registered with NAICOM, which supervise and monitor their activities.<sup>58</sup> Web aggregators must be registered companies under Companies and Allied Matters Act, 2020 and must comply with the provisions of the Insurance Act as well as data privacy laws.<sup>59</sup> The NAICOM in conjunction with FSD Africa also created a platform – BimaLab Nigeria, to facilitate the use of digital solutions in the insurance sector.<sup>60</sup>

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<sup>55</sup> Value-Added Services: examining its regulatory framework and its impact on the telecommunications sector <<https://www.aelex.com/value-added-services-examining-its-regulatory-framework-and-its-impact-on-the-telecommunications-sector/>> accessed 23 November 2023.

<sup>56</sup> Insurance Act 2003, s 1.

<sup>57</sup> Ibid, 4.

<sup>58</sup> Fintech Laws and Regulations in Nigeria. Ibid (n 5).

<sup>59</sup> NAICOM'S Insurance Web Aggregators Operational Guidelines: An Examination <[https://www.gelias.com/images/Newsletter/NAICOMs\\_Insurance\\_Web\\_Aggregators\\_Operational\\_Guidelines\\_-\\_An\\_Examination.pdf](https://www.gelias.com/images/Newsletter/NAICOMs_Insurance_Web_Aggregators_Operational_Guidelines_-_An_Examination.pdf)> accessed 23 November 2023.

<sup>60</sup> Partnership between NAICOM and FSD Africa <<https://www.atlas-mag.net/en/article/partnership-between-naicom-and-fsd-africa>> accessed 23 November 2023.

## **Federal Inland Revenue Service**

The Federal Inland Revenue Service (Establishment) Act, 2007 (the Act), establishes the Federal Inland Revenue Service (FIRS) as the body tasked with the administration of taxes on behalf of the Federal Government of Nigeria. Fintech companies are required to pay companies Income Tax, Value Added Tax, Stamp duties, and such other levies as may be prescribed under the Act, to the FIRS e.g. the National Information Technology Development Levy which is chargeable on profit before tax, payable by banks and other financial institutions, Fintech companies inclusive, with an annual turnover of ₦100,000,000.00 (one hundred million naira). Employee taxes (PAYE) are however, remitted to the State's IRS where the Fintech company is domiciled.

## **Federal Competition and Consumer Protection Commission**

The Federal Competition and Consumer Protection Commission (FCCPC) is established under the Federal Competition and Consumer Protection Act (the Act), 2018 and is tasked with enforcing the Act as well as policies which deter anti-competitive practices in Nigeria.<sup>61</sup> Fintech companies which engage in digital lending are required to register with and obtain the approval of the FCCPC in line with the Limited Interim Regulatory/Registration Framework and Guidelines for Digital Lending, 2022. However, Fintechs which are under the regulatory purview of the FCCPC are those which are not covered by the CBN under the provisions of

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<sup>61</sup> Federal Competition and Consumer Protection Act (the Act) 2018, s 104.



the BOFIA, 2020 i.e. Fintechs which are not classified as banks and other financial institutions.<sup>62</sup>

### **National Office for Technology Acquisition and Promotion**

The National Office for Technology Acquisition and Promotion (NOTAP) is established under the National Office for Technology Acquisition Act,<sup>63</sup> which provides that the NOTAP is empowered to regulate and promote the acquisition, transfer and domestication of foreign technology in Nigeria. Thus, Fintech companies who acquire foreign technology must seek and obtain the relevant permits and licences before they can validly transfer such technology into Nigeria.<sup>64</sup> NOTAP issued the Revised Guidelines for Registration and Monitoring of Technology Transfer Agreements in Nigeria, 2020 in line response to technological advancements and particularly to supervise the registration and monitoring of Technology Transfer Agreements.<sup>65</sup>

### **The Nigerian Start-Up Act 2022**

Fintech companies who have been in existence for not more than 10 (ten) years and provide innovative products and services are covered by the Nigerian Start-Up Act 2022 (the Act), which seeks to create an enabling environment for technology-focused startups in Nigeria. In order for Fintech companies to qualify as startups, it must be a duly incorporated company under the Companies and Allied Matters Act, 2020. The Act also establishes the National Council for Digital

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<sup>62</sup> Fintech Laws and Regulations in Nigeria. Ibid (n 5).

<sup>63</sup> National Office for Technology Acquisition Act, Cap N62 Laws of the Federation of Nigeria 2004, s 1.

<sup>64</sup> Ibid, s 4.

<sup>65</sup> Foreword to the Revised Guidelines for Registration and Monitoring of Technology Transfer Agreements in Nigeria, 2020.

Innovation and Entrepreneurship,<sup>66</sup> to administer its provisions. Additionally, For Fintech companies to qualify as a startup, its objectives must include the innovation, development, production, improvement, and commercialisation of an innovative digital technology product or process.<sup>67</sup> Fintech companies which are granted startup certificates upon application, and which comes under the Pioneer Status requirements are entitled to tax reliefs and incentives, upon application to the NIPC.<sup>68</sup>

### **Conclusion**

The Fintech sector is currently on a upward trend and it is laudable that the sector is widely regulated which is essential, particularly with the creation of more complex technological products. However, there is need for a uniform body of law and regulations, to supervise, monitor and regulate Fintech activities in Nigeria. The sector is subject to proliferation of laws which only create bottlenecks for Fintech companies. Also, the issue of regulatory tussle between the FCCPC and the CBN with respect to regulation of digital lending Fintech companies must be addressed timeously. Fintech companies may face regulatory hardships in situations where both the FCCPC and the CBN make regulations on the same subject which may result in a dilemma on which to comply with. Ultimately, it is agreed that the various legal and regulatory considerations arising out of Fintech services in Nigeria i.e. KYC-AML requirements, licensing and registration, and cyber security considerations, have been infused into the various regulations and guidelines which govern the Fintech sector in Nigeria.

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<sup>66</sup> Start Up Act 2022, s 3.

<sup>67</sup> Ibid, s 13 (b).

<sup>68</sup> Ibid, s 24.