











# FINTECH REVIEW 2022

RECENT REGULATORY AND  
LEGAL DEVELOPMENTS IN NIGERIA



# OUTLINE

|   |  |    |   |  |    |
|---|--|----|---|--|----|
|    | <b>01</b> Introduction                                 | 05 |    | <b>07</b> Digital Lending              | 26 |
|    | <b>02</b> Funding and Investments                      | 07 |    | <b>08</b> Regulatory Sandbox           | 29 |
|    | <b>03</b> Payment Systems                              | 11 |    | <b>09</b> Cryptocurrency               | 31 |
|  | <b>04</b> Compliance With AML/CFT Laws And Regulations | 17 |  | <b>10</b> Data Protection              | 36 |
|  | <b>05</b> Open Banking                                 | 20 |  | <b>11</b> Startups And Digital Economy | 39 |
|  | <b>06</b> Capital Markets                              | 22 |  | <b>12</b> Other Trending Developments  | 44 |
|   |  |    |  | <b>13</b> Conclusion                   | 48 |

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# GLOSSARY OF TERMS

|                   |   |
|-------------------|---|
| <b>Agritech</b>   | Agricultural Technology   |
| <b>AML/CFT</b>    | Anti-Money Laundering and Combating the Financing of Terrorism  |
| <b>App</b>        | Application   |
| <b>ATMs</b>       | Automated Teller Machines                                       |
| <b>BOFIA</b>      | Banks and Other Financial Institutions Act                      |
| <b>CBDC</b>       | Central Bank Digital Currency                                   |
| <b>CBN</b>        | Central Bank of Nigeria   |
| <b>DEIWG</b>      | Digital Economy Industry Working Group                          |
| <b>DLT</b>        | Distributed Ledger Technology                                   |
| <b>DMB</b>        | Deposit Money Bank  |
| <b>eCommerce</b>  | Electronic Commerce   |
| <b>Edtech</b>     | Educational Technology  |
| <b>FCCPC</b>      | Federal Competition and Consumer Protection Commission          |
| <b>FinTech</b>    | Financial Technology  |
| <b>FinTechs</b>   | Financial Technology Companies                                  |
| <b>FIRS</b>       | Federal Inland Revenue Service                                  |
| <b>FMCDE</b>      | Federal Ministry of Communications and Digital Economy          |
| <b>FX</b>         | Foreign Exchange  |
| <b>Healthtech</b> | Health Technology   |
| <b>ICPC</b>       | Independent Corrupt Practices Commission                        |
| <b>NASDAQ</b>     | National Association of Securities Dealers Automated Quotations |
| <b>NDEPS</b>      | Nigerian Digital Economy Policy & Strategy                      |
| <b>NDPR</b>       | Nigeria Data Protection Regulation                              |
| <b>NESG</b>       | Nigeria Economic Summit Group                                   |
| <b>NGX</b>        | Nigerian Exchange Limited                                       |
| <b>NIBSS</b>      | Nigeria Interbank Settlement System                             |
| <b>NDPB</b>       | Nigeria Data Protection Bureau                                  |
| <b>NITDA</b>      | National Information Technology Development Agency              |
| <b>OFIs</b>       | Other Financial Institutions                                    |
| <b>NFIU</b>       | National Financial Intelligence Unit                            |
| <b>PEPs</b>       | Politically Exposed Persons                                     |
| <b>POS</b>        | Point-of-Sale   |
| <b>PSB</b>        | Payment Service Bank  |
| <b>SEC</b>        | Securities and Exchange Commission                              |
| <b>SEP</b>        | Significant Economic Presence                                   |
| <b>PSV</b>        | Payment Systems Vision  |
| <b>Tech</b>       | Technology  |

# INTRODUCTION



## SECTION 1

# INTRODUCTION

The financial technology (“FinTech”) space in Nigeria witnessed significant regulatory and legal developments in 2022. The Central Bank of Nigeria, (CBN), the Securities and Exchange Commission (SEC), the National Information Technology Development Agency (NITDA) and other relevant regulators were keen on engaging with the FinTech ecosystem. As a result, they issued several circulars, guidelines, regulations, etc. regulating FinTech entities and providing direction for the ecosystem.

A significant development in the FinTech and technology ecosystem was the enactment of the Startup Act 2022, which promises to be a gamechanger for startups in Nigeria. In this report, we examine the developments in 2022 and consider the impact these regulations have had on the FinTech ecosystem.

The report is broken into different segments as we explore developments in financial services, capital markets, cryptocurrency, data protection, startups, digital economy matters and other trending issues.

We trust that you will find this report enlightening and we look forward to further developments unfolding in 2023.



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# FUNDING AND INVESTMENTS



## SECTION 2

# FUNDING AND INVESTMENTS

## THE STATE OF THE FINTECH ECOSYSTEM

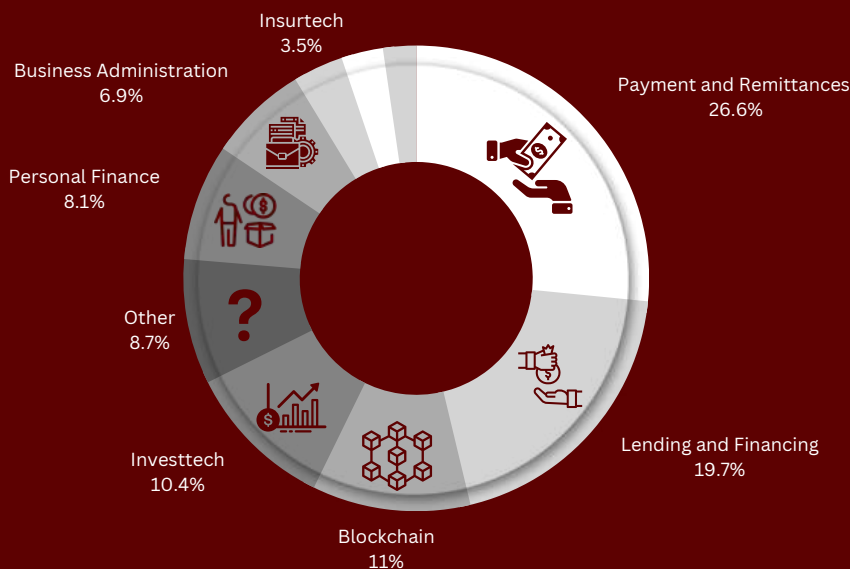
Nigeria is home to over 200 Fintech startups,[1] excluding the Fintech solutions increasingly being spun off by traditional banks and mobile network operators. Nigeria is also home to over 200 million people with a GDP of roughly \$440bn and is projected to be the third largest country by population in the world by 2050.

Nigeria has an active tech sector and in the startup ecosystem index, Nigeria ranked 61st out of 100 countries worldwide.[2] In Africa, it ranked only behind South Africa as the leading startup destination.[3] However, despite these favourable statistics, the country has historically struggled with high levels of financial exclusion as 40% of the population are estimated to be underserved or cut off from the conventional banking system.

FinTechs, by employing digital technologies and widespread telecoms infrastructure, are able to reach untouched sections of the population, enabling access to credit, facilitating seamless payment, and democratizing access to investment. It is therefore projected that FinTechs would play a crucial role in bridging the gap and is a useful segment of the financial services industry.

As at October 2022,[4] available data showed that most Nigerian FinTechs specialized in payments and remittances. This was closely followed by FinTechs in lending and financing, and then blockchain related activities.

The state of the industry is represented in the diagram below:



[1] 'Fintech in Nigeria | McKinsey' <<https://www.mckinsey.com/featured-insights/middle-east-and-africa/harnessing-nigerias-fintech-potential>> accessed 1 December 2022

[2] 'Nigeria: Startup Ecosystem Index 2022' (Statista) <<https://www.statista.com/statistics/1275775/startup-ecosystem-index-score-in-nigeria/>> accessed 1 December 2022

[3] ibid

[4] 'Nigeria: Fintech Startups by Sub-Sector 2022' (Statista) <<https://www.statista.com/statistics/1337968/share-of-fintech-startups-in-nigeria-by-sub-sector/>> accessed 8 December 2022.

## FUNDING AND EXITS

It was reported by Statista, a provider of market and consumer data, that Nigeria was the second leading investment destination for startups in Africa, after South Africa.

The total funding volume for startups in Nigeria between January to August 2022 is an estimated US\$747,908,000,[5] closing in on last year's total of US\$793,790,000.

According to the Nigerian Startup Ecosystem Report 2022 published by Disrupt Africa, Nigerian startups have raised a combined US\$2,068,709,445 between January 2015 and August 2022 – a higher total than any other country in Africa. This figure was culled from the raises of 383 tech startups. These numbers portray Nigeria as a choice investment destination.

In 2022, over 107 Nigerian startups raised funding, accounting for around one third of the continent's funded startups for 2022. FinTech was the leading sector, with more than one-third (38%) of the country's tech startups innovating in that vertical, followed closely by e-commerce and retail-tech, which accounts for 12.1% of Nigerian tech startups. Healthtech and Edtech are the third and fourth, respectively.

However, when isolated from the general startup funding space, Nigeria's FinTech deal activity was expected to reach 86 deals in 2022 based on activities in the first three quarters of 2022, a 1% increase from the previous year. FinTech Deal activity in Q3 2022 saw a sizeable 32% reduction from Q2 which seemed to tally with global trends.[6] FinTech investment was expected to reach \$340m in 2022, a dramatic 55% drop from 2021 levels – attributed to the general drop in funding globally. Nevertheless, Nigeria witnessed the biggest round on record earlier this year with Flutterwave's US\$250 million Series D round, raising its valuation to over US\$3 billion and making it the most valuable startup in Africa.

This year alone, FinTech startups (excluding FinTech adjacents and enablers) account for more than 60% of the total funding amount raised by startups in Nigeria.



## 60% IN FUNDING

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[5] 'The Nigerian Startup Ecosystem Report 2022 & Full Startup List' (Gumroad) <<https://disruptafrica.gumroad.com//rflav>> <https://disruptafrica.gumroad.com//rflav> accessed 8 December 2022

[6] 'Nigerian FinTech Deal Activity in 2022 on Track to Match Last Year's Levels' (FinTech Global, 24 November 2022) ) <<https://fintech.global/2022/11/24/nigerian-fintech-deal-activity-in-2022-on-track-to-match-last-years-levels/>> accessed 8 December 2022

Some highlights from this year include:



- TeamApt, a payment and banking platform raised \$50M in a pre-series C funding round
- Vendease, a Y Combinator-backed digital platform that allows restaurants in Africa to buy supplies, access financial services, and power their business operations raised \$30M in a Series A round, in a combination of equity and debt investments.
- Omnibiz, a Nigerian B2B e-commerce platform raised \$15M in a pre-Series A round in a combination of equity and debt.
- NowNow, a Nigerian digital banking platform, completed a \$13M seed round led by NeoVision Ventures.
- Kippa, a Nigerian provider of digital business and financial management solutions for SMEs, raised a \$8.4M seed round.
- Touch and Pay, a Nigerian NFC-enabled payments platform, raised an estimated \$3M in its seed rounds.
- Bitmama, a Nigerian blockchain payments platform, raised a \$1.65M pre-seed extension round co-led by Unicorn Growth Capital and Launch Africa.

This year also saw the acquisition of Naijacrypto, a Nigerian cryptocurrency exchange, for an undisclosed amount by PowerDFI, an American blockchain-powered platform.

Notwithstanding the attractiveness of the Nigerian technology ecosystem, exits are few and far in-between, with only about 15 since 2015 and especially when compared to other African destinations like Egypt and South Africa.

[1] 'Fintech in Nigeria | McKinsey' <<https://www.mckinsey.com/featured-insights/middle-east-and-africa/harnessing-nigerias-fintech-potential>> accessed 1 December 2022

[2] 'Nigeria: Startup Ecosystem Index 2022' (Statista) <<https://www.statista.com/statistics/1275775/startup-ecosystem-index-score-in-nigeria/>> accessed 1 December 2022

[3] ibid

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[3] *ibid*

[4] 'Nigeria: Fintech Startups by Sub-Sector 2022' (Statista) <<https://www.statista.com/statistics/1337968/share-of-fintech-startups-in-nigeria-by-sub-sector/>> accessed 8 December 2022.

# PAYMENT SYSTEMS



## SECTION 3

# PAYMENT SYSTEMS

In 2006, the CBN launched the Payment Systems Vision 2020 (PSV 2020) to provide a roadmap for the reform of the Nigerian payments system and drive the adoption of electronic payments in different sectors of the economy. The strategy has been revised with the PSV 2025, and the Nigerian payments system has experienced quite some transformation underpinned by the rapid pace of digital innovation.

Recently, the CBN unveiled seven key policies and products it intends to leverage on to actualize its goal of 95% financial inclusion in Nigeria by 2024.

The policies include the following:

- a) the revised National Financial Inclusion Strategy (3.0);
- b) the Strategy for Leveraging Agent Networks for Women's Financial Inclusion;
- c) the National FinTech Strategy;
- d) the Payment System Vision (PSV) 2025;
- e) the Nigeria Financial Services Maps;
- f) the CBN Regulatory Sandbox and;
- g) a FinTech Bridge between the Central Bank of Nigeria and the Central Bank of Egypt.

Compared to 2021, financial service regulators did not issue frequent circulars and regulations in 2022 that could be considered disruptive. The emphasis appeared to be more focused on providing regulatory clarity on existing activities.

The CBN's aim remained to facilitate an enabling environment for the delivery of financial services in an effective, efficient and sustainable manner while ensuring financial stability in Nigeria.

## **Monetary, Credit, Foreign Trade and Exchange Policy Guidelines for Fiscal Years 2022/2023 (Monetary Policy Circular No. 44)**

Issued in January 2022, the CBN set out its agenda for the 2022 and 2023 fiscal years. A review of this Circular provides an insight into the Bank's broad goals and how well they have performed in 2022, in comparison to their statement earlier in the year. Some of the relevant objectives relating to FinTech will be shared here.





### Contactless Payments in Nigeria

CBN issued the Draft Guidelines for Contactless Payments in Nigeria on 17 October 2022 (the Draft Guidelines). The Draft Guidelines identifies 11 stakeholders, including acquirers, payment schemes, switching companies, payment terminal service aggregators, terminal owners, to name a few.

The Draft Guidelines sets out a framework for contactless payments (CP) transactions in Nigeria. It also sets out the minimum standards to be set by stakeholders, while specifying specific roles for each stakeholder.

In many countries, CPs are the preferred choice of payment, with a projected global market value of USD164.15 billion by 2030. Nigeria is not left out of this global trend as NowNow, an indigenous FinTech company that offers tap-and-pay services recently raised a seed round of USD13 million, and aims to invest in accelerating CP adoption in Nigeria. In September 2022, Interswitch also partnered with Providus Bank, Mastercard, and Thales Group to introduce CP services to cardholders.

As local interest and adoption of CP picks up, it is timely and proactive of the CBN to put out guidelines, before it becomes widespread, ensuring that stakeholders factor in the attendant risk and security concerns as they roll out CP schemes.

We earlier examined the Draft Guidelines on Contactless Payments, considering its impact on the financial services market. Please read [here](#).

### Payment Service Banks (PSBs)

There were a few developments within the Payment Service Banks (PSBs) space in 2022. This area within payment systems is quite important, taking into consideration how it plays into CBN's financial inclusion policy and accelerate the growth of mobile money transactions in Nigeria.

With effective deployment, PSBs can increase 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.



### MomoMoMo and Smartcash get licences

Two leading telecommunications companies (Telcos), MTN Nigeria Communications Plc (MTN) and Airtel Nigeria (Airtel) launched their respective PSBs. While MTN launched MoMo Payment Service Bank Limited (MoMo), Airtel introduced Smartcash Payment Service Bank Limited (Smartcash).

Within a month of MTN launching MoMo, it was reported already having over 10.7 million users on the platform.[7] However, not long afterwards, MoMo,[8] in a suit filed on the 30th May 2022, sued 18 Nigerian banks for alleged fraudulent loss of N22 billion. It alleged that the said sum was wrongly transferred to 8,000 accounts, belonging to the bank's banks' customers, whereas the monies belong to it. This incident is blamed on a system glitch that triggered a debit of MoMo's settlement account to the accounts maintained by the banks. Upon becoming aware of the glitch, MoMo PSB shut the system down to mitigate the impact.[9] Working with relevant stakeholders, MoMo was able to reverse most of the transactions, while court proceedings were initiated to ensure the reversal of the rest of the funds.[10] The initial amount lost was N36 billion, with N14 billion returned by some banks in days. MoMo has however conceded that not all the funds can be recovered as some customers may have already withdrawn the funds. Notwithstanding this, MoMo wants the banks to revert whatwhatever is left unwithdrawn.

It is hoped that there will be better checks in place by the PSBs as under the CBN's supervisory framework for PSBs, sound risk management practices and the safety of consumers' funds are key issues to be adhered to.

### CBN to Launch Domestic Card Schemes

The CBN hadhas indicated it will launch a national domestic card scheme on January 16, 2023. The scheme will be launched through NIBSS in partnership with the Bankers Committee.

In explaining the rationale for this introduction, CBN and NIBSS explained thatthe benefits in introducing the domestic card scheme would include:

- Reduction in costs and use of foreign exchange (FX);
- Protection of data sovereignty;
- Enable locally relevant propositions;
- Making the cards and payments more accessible and affordable for Nigerians;
- Allowing banks and other institutions offer a variety of solutions including debit, credit, virtual, loyalty and tokenized cards; and
- The acceleration of CBN's financial inclusion policies.

It was further disclosed that the scheme will be delivered through NIBSS in conjunction with the Bankers' Committee and other stakeholders. The CBN spokesman was also quoted as saying the following:

[7] 'Reviewing MTN's MoMo PSB — What It Is and How It Works' (USSD by Stax, 30 July 2022) <<https://blog.ussd.directory/mtn-momo-psb-review/>> accessed 1 December 2022

[8] MoMo Payment Service Bank Statement, 28 June 2022 <https://momo.mtn.com/wp-content/uploads/sites/15/2022/06/MoMo-PSB-Statement.pdf> accessed 1 December 2022

[9] Sehloho M, 'MTN MoMo Sues 18 Nigerian Banks for Alleged Fraud' (Connecting Africa) [http://www.connectingafrica.com/author.asp?section\\_id=816&doc\\_id=778625](http://www.connectingafrica.com/author.asp?section_id=816&doc_id=778625) accessed 1 December 2022

[10] 'MTN's MoMo PSB Breach Underscores Spike in Cyber Fraud in Nigerian Banking' (Quartz, 29 June 2022) <https://qz.com/africa/2183438/mtn-nigerias-momo-psb-is-suing-banks-after-53-million-breach/> accessed 1 December 2022

*“The CBN recognises the significant benefits from delivering Africa's first central bank-driven, domestic card scheme, which, when delivered at scale, has the potential to become the largest in Africa and one of the largest in the world.[11]”*

Although the CBN has not provided full details of how the scheme will work, it is expected that the national domestic card will rival some of the present card schemes being used in Nigeria. Thus, banks may offer a variety of solutions including debit, credit, virtual, loyalty and tokenized cards amongst others.

We earlier examined the possible impact of the payment scheme on Nigeria's financial services market. Please read here.

### **Naira Redesign Policy & Revised Cash Withdrawal Limits**

Following a redesign of the N200, N500, and N1000 notes, with new versions of these currencies launched on November 23, 2022 by the President, the CBN, in line with its cashless policy drive, introduced stricter withdrawal limits. These limits are to take effect from January 9, 2023.

The weekly cash withdrawal limit for individuals was revised downwards from N500,000 to N100,000; while it was reviewed from N3 million to N500,000 for corporates. Where a withdrawal had to be made exceeding these limits, a 5% and 10% processing fee would be applicable for individuals and corporates, respectively.

The maximum withdrawal over automated teller machines (ATMs) would be N100,000 weekly, subject to a daily limit of N20,000. Also ATMs will only be loaded with denominations of N200 and below. The daily maximum withdrawal limit for ATMs would also apply for point of sale (POS) terminals. The CBN encouraged customers to embrace online channels like the eNaira, internet banking, mobile banking, USSD, and cards/POS transactions.



[11] 'Deepening Financial Inclusion with Domestic Payment Scheme – THISDAYLIVE' <https://www.thisdaylive.com/index.php/2022/11/14/deepening-financial-inclusion-with-domestic-payment-scheme/> accessed 1 December 2022

[12] Majeed B, 'UPDATED: Reps Summon Emeifele, Ask CBN to Suspend New Cash Withdrawal Policy' (Premium Times Nigeria, 8 December 2022) <https://www.premiumtimesng.com/business/business-news/569619-updated-reps-summon-emeifele-ask-cbn-to-suspend-new-cash-withdrawal-policy.html> Accessed 8 December 2022

[13] 'Cash Limit: Mobile Money, POS Operators Write CBN for Exemption, Plan Protests' (Gazette Nigeria, 8 December 2022) <https://gazettengr.com/cash-limit-mobile-money-pos-operators-write-cbn-for-exemption-plan-protests/> Accessed 8 December 2022

However, since its announcement, the policy has received several criticisms with the House of Representatives summoning the CBN Governor to appear before it and suspend the proposed policy. [12] Mobile money and POS operators have also written in protest to the CBN as it significantly impacts on their business model, requesting for exemption. Describing the new withdrawal limits as inconsiderate, POS operators have been said to carry out transactions worth N200,000 per day. The policy as it stood, could kill the business of over 1.4 million persons engaged in the mobile money and POS business.[13]

To accommodate these concerns, the CBN reviewed these limits upward for individuals to N500,000 weekly, and corporates to N5 million weekly. The processing fee where withdrawal exceeds the limit still applies.

### **eNaira Adoption**

Nigeria introduced the Central Bank Digital Currency (CBDC), the eNaira on 25th October 2021 and issued the Regulatory Guidelines on the eNaira, 2021 (the eNaira Guidelines), which provide, among other things, that the eNaira is the digital form of Nigeria's fiat currency. It was only the second CBDC launched after that of Bahamas, and uses similar distributed ledger technology (DLT) to cryptocurrencies.

However, as at October 2022, one year after its launch, it was reported by Bloomberg that less than 0.5% of the Nigerian banking population have adopted the currency.[14] This is in stark contrast to the data that shows that Nigeria has the highest number of active crypto traders in the world,[15] with over 27% of internet users in Nigeria trading in cryptocurrency.[16]

Furthermore, as at August 2022, while there were reported to be 840,000 users of the eNaira, with only 270,000 active users, in contrast to the 33.4 million Nigerians that have either owned or traded cryptocurrencies.[17]

The difference in adoption probably rests on the fact that although the eNaira uses similar DLT to Bitcoin or Ethereum and can be saved in digital wallets, cryptocurrency has typically served as a hedge against inflation and currency depreciation, while the eNaira suffers the same fate as the fiat currency. For instance, the Naira has lost value over six times since 2015, and economists predict a further 20% loss in value next year as the economy is further hampered by soaring inflation. Consequently, the appeal for the eNaira remains low.

However, in order to increase the adoption to up to 8 million users, the CBN stated that persons without bank accounts will be able to download and open an active eNaira wallet by using the unstructured supplementary service data (USSD), and dialling \*997# from their mobile phones. Accordingly, merchants and consumers with or without bank accounts can now use the nation's existing payment mechanism to transfer and receive eNaira.

CBN is also involving tricycle operators (Keke Napep) to speed the adoption of the eNaira as it has offered 5% discount to drivers and passengers of Keke Napep who use the eNaira.[18] It is therefore left to see if there will be an upsurge in the adoption of the eNaira in light of recent policies that have been rolled out by the CBN.

[14] Anthony Osae-Brown, 'Digital-Currency Plan Falters as Nigerians Defiant on Crypto', Crypto(Bloomberg, 25 October 2022) <https://www.bloomberg.com/news/articles/2022-10-25/shunned-digital-currency-looks-for-street-credibility-in-nigeria?sref=zNmRQ0gk> Accessed 8 December 2022

[15] 'The Share of Active Crypto Traders among Nigerian Adults Is the World's Highest' (Quartz, 12 July 2022) <<https://qz.com/africa/2187447/more-than-half-of-nigerias-adults-are-monthly-active-crypto-traders/>> Accessed 8 December 2022

[16] '27% of Nigerian Internet Users Own Cryptocurrency – Report' (Punch Newspapers, 6 September 2022) <https://punchng.com/27-of-nigerian-internet-users-own-cryptocurrency-report/> Accessed 8 December 2022

[17] 'Nigeria Eyes Unbanked to Boost Enaira as Uptake Languishes' (BusinessLIVE) < <https://www.businesslive.co.za/bloomberg/news/2022-08-18-nigeria-eyes-unbanked-to-boost-enaira-as-uptake-languishes/>> accessed 28 December 2022

[18] *ibid* 14



**COMPLIANCE WITH  
AML/CFT LAWS AND  
REGULATIONS**

## SECTION 4

# COMPLIANCE WITH AML/CFT LAWS AND REGULATIONS

Banks and other financial institutions (OFIs) are expected to continue observing ethical standards and compliance with the relevant laws and regulations touching on AML/CFT.

To support these efforts, the CBN issued the Guidance Note on Anti-Money Laundering and Combating the Financing of Terrorism (AML/CFT) Regulations (Guidance Note) for other Financial Institutions (OFIs) on April 25, 2022. The aim of the Guidance Note is to assist OFIs in identifying, assessing, and mitigating money laundering and terrorism financing (ML/TF) risks in their operations.

The Guidance Note aligns with the CBN AML/CFT Regulations 2013 that captures banks. The Guidance Note is needed as it identifies the relevant risk management procedures that are tailored to OFIs. OFIs are advised that the other competent authority for AML/CFT is the National Financial Intelligence Unit (NFIU) which also issues directives that if implemented, can improve AML/CFT compliance.

OFIs are expected to develop an AML/CFT programme that at the minimum caters for board and senior management oversight, risk management, policies and procedures, monitoring and suspicious transaction report, internal control, compliance function, and training. OFIs should also only initiate business relationships with customers after customer due diligence (CDD) has been conducted.

Enhanced due diligence may be required where the customers have higher risk profiles like non-resident customers, private banking, asset holding entities, politically exposed persons (PEPs), cross-border banking, companies with nominee shareholding, etc. OFIs are required to render currency transaction reports to the NFIU for each transaction in cash of N5 million and above for individuals and N10 million and above for corporate bodies.



The Guidance Note refers to some provisions of the AML/CFT Regulations 2013, extending them to OFIs. For instance, it requires OFIs to take steps to identify, assess, and understand the ML/TF risks of their customers, areas of operation, products, services, and delivery channels. After identifying these risks, policies, controls, and procedures for management and mitigation should be developed and approved by senior management.

The Guidance Note also places the responsibility for approving the AML/CFT programme, ensuring an effective AML/CFT internal control structure, suspicious activity monitoring and reporting; on the board of directors. OFIs are also to render AML/CFT returns to the CBN and the NFIU as appropriate.



# OPEN BANKING

# OPEN BANKING

In February 2021, the CBN released the Regulatory Framework for Open Banking in Nigeria (Regulatory Framework), which established Nigeria as the first African country to address open banking in a regulatory framework. The Regulatory Framework introduced principles for data sharing across the banking and payments system. It requires participants that use open banking application programme interfaces (APIs) to make data available to another participant, to execute a data access agreement. FinTechs that provide services leveraging these APIs should ensure that modifications to the APIs are based on the provisions of the data access agreement.

The Regulatory Framework also introduced risk ratings for financial data, ranging from low, moderate, high, then high & sensitive. We considered the provisions of the Regulatory Framework, and the opportunities it presented in an article published earlier this year. Please read [here](#).

Building on the Regulatory Framework, the CBN in May 2022, released the Exposure Draft of the Operational Guidelines for Open Banking in Nigeria. (Operational Guidelines). With respect to credit scoring or supporting a central data depository, the Operational Guidelines does not provide further details. It however introduces additional data protection requirements. It recognizes that ownership and control of data lies with the customer, and they have the right to grant authorization to service providers for the purpose of accessing financial products and services. As such, consent is the lawful basis of processing data here.

The Operational Guidelines requires API providers and consumers to factor in the possibility of in-flight data loss when developing redundancies and recovery procedures in their service level agreements. A data governance policy should be approved by a committee of the Board of Directors or an executive management committee of the API consumer.

Where an API provider receives customer consent to provide customer's data to an application consumer, they are to verify that the consent emanated from the consumer, using two-factor authentication (2FA).

In an article published earlier this year, we considered the provisions of the Operational Guidelines. Please read [here](#).





# **CAPITAL MARKETS**

# CAPITAL MARKETS

The capital markets space witnessed a number of developments in 2022. The regulator of the sector, the Securities and Exchange Commission (SEC) has been pro-active in engaging with FinTech stakeholders to better understand how to regulate digital solutions which affect investment businesses and securities in Nigeria.

## 6.1. SECURITIES AND EXCHANGE COMMISSION ISSUES RULES ON ISSUANCE, OFFERINGS AND CUSTODY OF DIGITAL ASSETS

In May 2022, the SEC issued the Rules on Issuance, Offerings and Custody of Digital Assets (SEC Rules/Rules). The SEC Rules are divided into five parts and include:

1. Rules on Issuance of Digital Assets as Securities;
2. Rules on Registration Requirements for Digital Assets Offering Platforms;
3. Rules on Registration Requirements for Digital Assets Custodians; and
4. Rules on Virtual Assets Service Providers.[19]

Pursuant to the SEC Rules, SEC is empowered to register qualified entities as Virtual Assets Service Providers and issue applicable licenses. However, it is noteworthy that since the issuance of the SEC Rules in May 2022, SEC has declined applications for registration/licensing under any of the categories, citing its unreadiness to process applications.

### SEC backtracks on cryptocurrencies

Following SEC's issuance of the Rules, it was generally understood that the operation of the Rules would cover and regulate crypto-related businesses. In fact, it was predicted that as a result of regulation by SEC, the already impressive adoption of cryptocurrencies in Nigeria would experience a boost.



However, the Director General of SEC recently stated his uncertainty over the regulation of cryptocurrencies.[20] This marks a departure from SEC's former welcoming stance as deducible from the setting up a department to study the crypto market and aid in the creation of informed regulatory policies for the sector.[21]

Other digital assets that SEC may promote investments in include Central Bank Digital Currencies (CBDCs) like the e-Naira, security tokens, and tokenised assets.

## 6.2 WEALTHTECH PLATFORMS AND DEVELOPMENTS

Wealthtech platforms are FinTechs that offer digital tools and services to increase efficiencies and accelerate the growth of financial service providers serving individual investors. These include online financial advisors, Robo-advisors, digital wealth managers, and digital investment platforms.

In 2022, there were no significant developments in the wealthtech space in Nigeria. Although SEC had issued the Robo Advisory Rules in August 2021, there were no indications that interested FinTechs had chosen to take up this licence.

Furthermore, in 2021, SEC had indicated that investment tech firms such as Bamboo, Trove and Risvest were operating without the requisite licence and warned operators in the capital market to desist from operating with them.[22] According to SEC, "only foreign securities listed on any exchange registered in Nigeria may be issued, sold or offered for sale or subscription to the Nigerian public". Moreover, although SEC had stated that a licence would be issued to cater to these category of service providers, none had been issued as at the time of this report. Similarly, the CBN had described these companies as unlicensed, freezing their bank accounts for a while.[23]

### Bamboo expands to Ghana

However, in spite of these developments in Nigeria, Bamboo expanded its operations into Ghana in 2022, making it the first trans-national West African brokerage app.[24] Through a partnership with a licensed Ghanaian firm, 10th Capital Investments, Ghanaians will now be able to buy and invest in stocks from US companies through the Bamboo platform.



[20] Emèle Oni, 'Nigeria SEC to Avoid Cryptocurrencies in Digital Assets Push' (Bloomberg, 27 November 2022) <https://www.bloomberg.com/news/articles/2022-11-27/nigeria-sec-to-avoid-cryptocurrencies-in-digital-assets-push> accessed 28 December 2022

[21] Dosunmu D, 'SEC Creates a Special Division to Study the Crypto Market' (TechCabal, 3 September 2021) <https://techcabal.com/2021/09/03/sec-to-study-crypto-market/> accessed on 7 January 2022.

[22] 'Nigeria's SEC Bars Risevest, Bamboo, Others from Providing Foreign Investments' (9 April 2021) <https://technext.ng/2021/04/09/nigerias-sec-bars-investment-tech-platforms-from-selling-foreign-stocks/> > accessed 28 December 2022

[23] 'CBN Freezes Bank Accounts of Bamboo, Risevest, Two Other Fintechs for FX Infractions' (Arise News, 18 August 2021) <https://www.arise.tv/cbn-freezes-bank-accounts-of-bamboo-risevest-two-other-fintechs-for-fx-infractions/> accessed 28 December 2022.

[24] Bamboo expands into Ghana < <https://www.benjamindada.com/bamboo-expands-into-ghana/#:~:text=Today%20%28September%2022%2C%202022%29%2C%20Bamboo%20has%20officially%20launched,firm%2C%2010th%20Capital%20Investments%20to%20enable%20its%20expansion.>> accessed 28 December 2022.

This development follows two raises of \$15 million and \$17.4 million, respectively in 2022. On the regulatory front, Bamboo's CEO stated that Bamboo received a No Objection Letter from Ghana's Securities and Exchange Commission (Ghana's SEC) to operate in the country, enabling it to launch successfully. Bamboo has also committed to working with Ghana's SEC on an ongoing basis to develop a standard regulatory framework for the retail investment industry Bamboo is pioneering.

Bamboo's seemingly smooth regulatory experience in Ghana contrasts with its regulatory challenges in Nigeria.

### 6.3 NGX TO LAUNCH A NASDAQ-STYLE BOURSE FOR TECH COMPANIES



The Nigerian Exchange Limited (NGX) announced its intention to introduce a new listing category, to be called the Technology Board, to attract more listing from the tech sector. Reports concerning this new category stated that NGX plans to mould the technology board after the United States NASDAQ index (which is dominated by some of the biggest tech organisations in the world), the goal being to avoid losing most Nigerian tech companies to foreign exchanges, the same way the London Exchange softened rules for UK companies in 2021 to achieve the same goal.

While the proposed rules for listing on the Tech Board have been published as far back as 2021, the final rules were approved by SEC on 15 December 2022 and will soon be operational.

There is the possibility that the operationalization of this Technology Board may see FinTechs going public and seeking to list on the exchange.

[20] Emèle Oni, 'Nigeria SEC to Avoid Cryptocurrencies in Digital Assets Push' (Bloomberg, 27 November 2022) <https://www.bloomberg.com/news/articles/2022-11-27/nigeria-sec-to-avoid-cryptocurrencies-in-digital-assets-push> accessed 28 December 2022

[21] Dosunmu D, 'SEC Creates a Special Division to Study the Crypto Market' (TechCabal, 3 September 2021) <https://techcabal.com/2021/09/03/sec-to-study-crypto-market/> accessed on 7 January 2022.

[22] 'Nigeria's SEC Bars Risevest, Bamboo, Others from Providing Foreign Investments' (9 April 2021) <https://technext.ng/2021/04/09/nigerias-sec-bars-investment-tech-platforms-from-selling-foreign-stocks/> accessed 28 December 2022

[23] 'CBN Freezes Bank Accounts of Bamboo, Risevest, Two Other Fintechs for FX Infractions' (Arise News, 18 August 2021) <https://www.arise.tv/cbn-freezes-bank-accounts-of-bamboo-risevest-two-other-fintechs-for-fx-infractions/> accessed 28 December 2022.

[24] Bamboo expands into Ghana < <https://www.benjamindada.com/bamboo-expands-into-ghana/#:~:text=Today%20%28September%2022%2C%2022%29%2C%20Bamboo%20has%20officially%20launched,firm%2C%2010th%20Capital%20Investments%20to%20enable%20its%20expansion.>> accessed 28 December 2022.



# DIGITAL LENDING

# DIGITAL LENDING

There are two categories of entities in Nigeria that are permitted to carry out the business of digital lending. They include:

- Banks and OFIs licensed by the CBN to provide loans and consumer lending services such as deposit money banks (DMBs), finance institutions, microfinance banks (MFBs), etc. The Bank and Other Financial Institutions Act (BOFIA) and the various CBN Guidelines for banks and OFIs etc., regulate the lending activities of these entities.
- Moneylending institutions licensed by the moneylending authorities of the various states in Nigeria. Some of the applicable regulatory framework per state include:
  - Moneylenders Law, Chapter M7, Laws of Lagos State and other Moneylending Laws of individual states.
  - The Moneylenders Act, FCT.

Additionally, the Federal Competition and Consumer Protection Commission (FCCPC) in August issued the Limited Interim Regulatory/Registration Framework and Guidelines for Digital Lending (the FCCPC Guidelines).

Some of these platforms have seen a surge in customers as their onboarding processes are quite simple. A number of the more stable platforms like FairMoney also carried out substantial activities in 2021 with the FinTech securing an MFB licence and raising \$42 million in a Series B round.[27]



However, besides from the traditional methods of loan enforcement i.e., the enforcement of security, most digital lending platforms do not require security, and a legal action for the recovery of the loan. Furthermore, the moneylenders' laws of the various states do not provide for other viable methods of loan enforcement.

As a result, digital money lenders have resorted to illegal debt recovery methods such as unlawfully locking down mobile devices of defaulters through ransomware, sending defamatory messages to tarnish the defaulters' images, cyberbullying, and data privacy breaches.

While the moneylenders' laws have not addressed this illegality yet, the CBN, NITDA, and FCCPC have taken steps to clamp down on these illegal debt recovery methods of digital lending entities.

Subsequently, officials of the FCCPC, NITDA and the Independent Corrupt Practices Commission (ICPC) raided the offices of several money lenders and shut down their operations as they were deemed to be exploiting customers and violating their privacy rights.[28] The FCCPC also froze the accounts of the moneylenders and directed Google LLC and Apple Inc., owners of Google Play Store and App store, to remove the moneylenders' apps from their online stores so unsuspecting customers do not subscribe to their services.

Additionally, the FCCPC, as a precursory step to establishing a clear regulatory framework for the sector, issued the FCCPC Guidelines[29] in August 2022. The Guidelines, without making substantive provision on the conduct of the lending business, directs intending and existing digital lenders to register and obtain authorisation from the FCCPC.

It is expected that these measures may bring some level of integrity to the sector and lead to further growth for the ecosystem.

[28] 'FCCPC, ICPC and NITDA Raid Illegal Online Lenders Offices – THISDAYLIVE' <<https://www.thisdaylive.com/index.php/2022/03/12/fccpc-icpc-and-nitda-raid-illegal-online-lenders-offices/>> Accessed 8 December 2022.

[29] 'FCCPC Limited Interim Regulatory/Registration Framework and Guidelines for Digital Lending, 2022' [https://fccpc.gov.ng/wp-content/uploads/2022/08/LIMITED-INTERIM-REGULATORY\\_REGISTRATION-FRAMEWORK-FOR-DIGITAL-LENDING-2022-1.pdf](https://fccpc.gov.ng/wp-content/uploads/2022/08/LIMITED-INTERIM-REGULATORY_REGISTRATION-FRAMEWORK-FOR-DIGITAL-LENDING-2022-1.pdf)



71.0473

97.1913

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14.3139

82.7887

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6927

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# REGULATORY SANDBOX

## SECTION 8

# REGULATORY SANDBOX

Following the issuance of the Framework for Regulatory Sandbox Operations in January 2021, the CBN launched the Sandbox on December 13, 2022, accessible via <https://sandbox.cbn.gov.ng>. Regulatory sandboxes are set up by regulators to allow innovators conduct experiments in a controlled environment, while the regulator supervises.

With the call for application and the operationalization of the regulatory sanboxsandbox framework, it is expected that various innovative solutions will be tested in a controlled environment and subsequently released into the market. It is unclear at this time if entities operating in the cryptocurrency space will be admitted to the sandbox.

In any case, interested applicants can apply via the link and access the criteria for eligibility.

Ordinarily, the sandbox is open to existing CBN licensees and local companies that want to test an innovative payment service or product, whether or not it is covered by existing regulation, or if it deploys emerging technologies (AI, blockchain, robotics, AR/VR etc).





# CRYPTOCURRENCY

The Nigerian cryptocurrency space did not witness many significant changes, as other than the SEC Rules, the regulators largely maintained their stance from 2021. The international cryptocurrency space however witnessed a heavy blow in the last quarter of the year, with the collapse of FTX Exchange, one of the world's largest cryptocurrency exchanges, which also had a ripple effect on the Nigerian cryptocurrency space.

## 9.1. CBN MAINTAINS AND ENFORCES ITS CRYPTO POSITION

In 2017, the CBN ordered all commercial banks “not to use, hold, trade and/or transact in cryptocurrencies” and in 2021, it reinforced this stance citing reasons such as insecurity and deregulation of the sector. Further to this, in 2022, the CBN fined 3 of Nigeria’s commercial banks - Stanbic IBTC, Access Bank, and United Bank for Africa (UBA) a total of ₦800 million (\$1.7 million), for flouting the cryptocurrency trading restriction by operating accounts used for crypto trading.[31]

The CBN’s rationale is that most crypto users value anonymity, obscurity and concealment. As a result, the apex bank believes that cryptocurrencies have become well-suited for conducting many illegal activities including money laundering, terrorism financing, purchase of small arms and light weapons, and tax evasion.

It is important to clarify that the CBN did not ban cryptocurrencies in Nigeria; therefore Nigerians can still buy and trade cryptocurrencies, just not through any Nigerian bank or FinTech regulated by the CBN. Indeed, crypto exchange platforms operating in Nigeria have devised new ways to circumvent the restriction including the adoption of peer-to-peer (P2P) exchanges for transactions, which saw the growth in crypto adoption go up by 21% following CBN's actions.

It was reported that since the beginning of 2021 to June 2022, Nigerians traded ₦497.35bn (\$1.16bn) worth of Bitcoin on Paxful, a P2P crypto platform, with data showing that Nigeria was the country with the largest trade volume with over six million successful trades within that period.



## 9.2 FTX COLLAPSE AND ITS FALLOUTS

### FTX collapse explained



FTX Exchange, a centralized cryptocurrency exchange founded in 2018 by Sam Bankman-Fried, was the third largest cryptocurrency exchange as at July 2021. However, over a course of 10 days spanning November 2 2022 to November 12 2022, the platform collapsed.

FTX was incorporated in Antigua and Barbuda and headquartered in the Bahamas after moving from Hong Kong in September 2021. FTX offered a range of trading products including derivatives, options, volatility products, and leveraged tokens, and had its own native token called “FTT”. Note that, for regulatory compliance issues, FTX US was incorporated in the US which provided the same offerings to US residents.

Closely associated with FTX is Alameda Research, an investment company co-founded by Sam Bankman-Fried. As of June 30 2022, Alameda’s assets amounted to USD14.6 billion. However, a November 2 2022 scoop by Coindesk revealed that USD5.82 of its assets are FTT tokens. While this in itself is not a problem, it did raise issues that a fall in the value of FTT can significantly affect Alameda, possibly triggering insolvency. In addition, it triggered concerns across the cryptocurrency industry regarding Bankman-Fried’s companies’ undisclosed leverage and solvency and some customers began taking their money out of FTX. There were also rumors that Alameda was trading with FTX customer funds.

While these concerns/rumors were lurking, Binance, the world’s biggest crypto exchange and an early-investor in FTX, announced on November 5 2022 that it would sell its entire position in FTT tokens, worth roughly about USD530 million. Binance’s CEO explained that the decision to sell was reached based on risk management following the collapse of Terra/Luna. The announcement by Binance, the already existing concerns about the solvency of FTX and the series of crypto platforms collapse that had already put the entire crypto community on edge triggered a bank run with most investors trying to get their investments out of FTX in case the platform is indeed insolvent.

On November 8 2022, FTX stopped allowing customers take money out of the platform. This worsened the concerns that FTX was in fact insolvent. In addition, media organizations such as Bloomberg, the Financial Times and the Wall Street Journal cited anonymous sources saying that FTX needed USD 8 billion to cover the gap between what it owed and what it could pay out. On the same day, Binance announced it had reached a non-binding agreement to buy FTX for an undisclosed sum.

On November 9 2022, Binance backed out of the agreement. It was explained that Binance canceled the FTX deal after corporate due diligence raised concerns about the mishandling of customers funds, among other issues. This was taken as proof that the rumors are true.

[31] ‘CBN Fines Three Banks N800m over Crypto Transactions’ (Punch Newspapers, 7 April 2022) <<https://punchng.com/cbn-fines-three-banks-n800m-over-crypto-transactions/>> accessed 28 December 2022

On November 10 2022, the Bahamas securities regulator froze the assets of FTX Digital Markets, FTX's Bahamian subsidiary, following news that Bankman-Fried was seeking up to \$8 billion in capital to bail out the exchange. On the same day, the California Department of Financial Protection and Innovation announced that it had initiated an investigation of FTX. Bankman-Fried apologized the same day for the liquidity crisis and admitted on Twitter that FTX's non-U.S. exchange had insufficient funds to meet customer demands. Bankman-Fried said that "poor internal labeling" caused FTX to miscalculate leverage and liquidity. In the same thread, he said Alameda would wind down trading.

On November 11 2022, Bankman-Fried stepped down as CEO of FTX and FTX filed for bankruptcy. The bankruptcy filings indicated that FTX had assets in the range of \$10 billion to \$50 billion and liabilities in the range of \$10 billion to \$50 billion. Within hours of filing for bankruptcy, FTX said it was the victim of "unauthorized transactions" and that it would move its digital assets to cold storage for security purposes. Outside analysts said they suspect that about \$477 million was stolen from FTX in the suspected hack.

### **Fallout from the collapse**

The collapse of FTX brought a variety of fallouts. The value of FTT fell by 92% from the date of the Coindesk report to the date of bankruptcy filing. It is highly unlikely that customers who were unable to get their money out of the platform will ever get their money back.

Genesis Global Capital, Gemini crypto exchange, and BlockFi, have all been impacted by the FTX bankruptcy. The lending unit of cryptocurrency investment bank Genesis suspended redemptions and new loans due to the collapse of FTX on November 16 2022. Following the news, Gemini, a crypto exchange, announced delays in withdrawals from its Earn product, in which Genesis is a lending partner. BlockFi, a crypto lending platform with significant exposure to FTX, suspended withdrawals and, on November 28 2022, filed for bankruptcy.

Former FTX CEO Sam Bankman-Fried and celebrities like Tom Brady, Larry David, and others have been named in a class-action lawsuit on behalf of FTT purchasers. Plaintiffs in the proposed class action claim that FTX yield-bearing accounts were illegally sold in the U.S. as unregistered securities. The U.S. House Financial Services Committee held a hearing on December 13 2022 on the collapse of FTX. The U.S. Attorney for the Southern District of New York, Damian Williams announced on December 13 2022, an eight-point indictment of interrelated fraud schemes against Bankman-Fried in which the former CEO allegedly defrauded customers and investors of FTX, defrauded lenders to Alameda and violated campaign finance laws. He added that it was one of the biggest frauds in financial history. Bankman-Fried was indicted by the U.S. District Court in Manhattan on eight counts, including securities fraud and money laundering. Following a court hearing on December 22 2022, a federal judge decided to release Bankman-Fried from custody after his attorneys and federal prosecutors agreed to a \$250 million bond, the largest in history. Bankman-Fried's next court hearing is in January 2023.

### **The FTX collapse and Nigeria**

It has been confirmed that the FTX collapse affected the operations of at least two major companies in Nigeria. Nigerian crypto startup, Nestcoin has confirmed it lost its stablecoins (used to manage operational expenses) to the collapse of FTX and consequently had to let go of some of its staff. Nestcoin had received investments from Alameda and used FTX as a custodian to store a significant proportion of the stablecoin investment raised. With the collapse of FTX, it is unlikely that Nestcoin will ever be able to recover the Stablecoins in question.

Similarly, AAX, a cryptocurrency exchange platform somewhat associated with FTX had to suspend withdrawals in Nigeria. As at May 2022, AAX was introducing various functionalities such as adding Naira to its peer-to-peer trading platform and introducing student ambassadors across campuses in a bid to gain a foothold in the Nigerian crypto market. However, by November 12 2022, AAX had to suspend withdrawals and there are no indications that withdrawals have been reinstated. Rather, there are reports that AAX officials and ambassadors are facing possible suits for investment fraud.

There have also been speculations regarding the operations of Mara and Chipper Cash who have both received some funding from Alameda/FTX. However, it does seem that both companies have come away unscathed by the FTX collapse.

From a regulatory perspective, the FTX collapse has sparked conflicting reactions in Nigeria. It will be recalled that the CBN has been increasingly hostile towards cryptocurrencies and, in February 2021, not only prohibited DMBs, non-bank financial institutions and OFIs (collectively referred to as “regulated institutions”) from dealing in cryptocurrencies or facilitating payments for cryptocurrency exchanges, but also directed regulated institutions to identify and close the account of persons and/or entities transacting in or operating cryptocurrency exchanges. Some people have taken the FTX collapse as further justification for the CBN’s stance, asserting that cryptocurrencies are a bubble and a scam which should not be encouraged in any way. Others have maintained that the collapse of FTX is further proof as to the need for a clear regulatory regime to prevent bad actors from taking advantage of the investing public.

It will also be recalled that the SEC had previously published the SEC Rules and it was generally understood that the rules will apply to cryptocurrencies; however, following news reports from November 2022, it has now been stated that the SEC Rules will not apply to cryptocurrencies and will only apply to “*sensible digital assets.*” It is conceivable that the change in tone of the SEC can be attributed to the FTX collapse and its attendant fallouts.

[ DATA PROTECTION ]



**DATA PROTECTION**

# DATA PROTECTION

The Minister of the Federal Ministry of Communications and Digital Economy (FMCDE) stated that the Nigeria Data Protection Regulation (NDPR) has become the cornerstone regulation of the Digital Economy in the past three years.[32]

The NDPR indeed can be described as a transformational regulation which has brought discussion on data protection and privacy to the fore in Nigeria. The impact of the NDPR and its implementation framework transcends the FinTech sector and covers virtually all sectors of the economy. The NDPR Performance Report 2020-2021 issued by the NITDA (the NITDA Report), highlights a number of developments recorded within the stated timeframe. The year 2022 also witnessed some significant legislative and regulatory developments in the data protection and privacy space.

## 10.1. NIGERIA DATA PROTECTION REGULATION PERFORMANCE REPORT- 2020-2021

In the report, NITDA highlighted its achievements for the year 2021 some of which include:

- Active contribution to the AU Data Protection framework
- Training of over 5,746 people by NITDA, DPCOs and other stakeholders making the NDPR the regulation with the highest engagement in Nigeria
- Strategic partnership with the Lagos State Government to develop a set of toolkits to enable the health sector to comply easily with data protection requirements
- N4,080,000,000 - cumulative earning for the Data Protection sector in 3 years.
- N34,500,000 - earned by the Federal Government through audit filings and licensing fees
- 135 data protection events were facilitated
- 7 Investigations were concluded, and sanctions imposed on 3 entities
- 7,680 jobs and roles were created
- 103 DPCOs were licensed
- Issuance of WhatsApp Advisory
- Twitter engagement & agreement to comply with the NDPR
- Nigeria gained Full Membership of Network of African Data Protection Authorities (NADPA)



[32] This was stated in [https://www.ndpb.gov.ng/Files/hhNITDA\\_Compiled%20NDPR%20Draft%202020-2021\\_0701.pdf](https://www.ndpb.gov.ng/Files/hhNITDA_Compiled%20NDPR%20Draft%202020-2021_0701.pdf)

A total of 1229 audit reports were filed in 2021 with the finance industry having the most reports filed (515).

## 10.2. ESTABLISHMENT OF THE NIGERIA DATA PROTECTION BUREAU

On 4 February 2022, the FMCDE announced the establishment of the Nigeria Data Protection Bureau (the “NDPB” or “Bureau”) as the new data protection regulation agency, taking over from NITDA.

The Bureau which is headed by the National Commissioner/CEO – Dr. Vincent Olatunji, is mandated to, inter alia, oversee the implementation of the NDPR and the NDPR Implementation Framework.[33] It is also now responsible for the registration and renewal of DPCO licences and data protection audit reports are now to be filed with the Bureau.

## 10.3. DATA PROTECTION BILL

As part of the efforts to establish a uniform and robust data protection instrument in Nigeria, the Data Protection Bill was released in October 2022. The Bill proposes some reforms to the current instrument – the NDPR, as well as some novel additions to the legal framework for data protection such as the establishment of the Nigeria Data Protection Commission and a governing council, the recognition of legitimate purpose as a legal basis for processing data, among others. It also expounds on the rights of data subjects, sensitive personal data and provides an elaborate approach to cross border transfer of personal data. You can read more on the Bill in our appraisal here.

## 10.4. NDPB COMPLIANCE NOTICE

The NDPB released a compliance notice (Notice) in October 2022, which contained additional compliance requirements for data controllers under the National Data Protection Adequacy Programme (NaDPAP) Whitelist.

### Highlights of the Compliance Notice

10.4.1. The Notice reiterated the objectives of the NDPR, which include to:

- Safeguard the rights of natural persons to data privacy.
- Foster safe conduct for transactions involving the exchange of Personal Data.
- Prevent manipulation of Personal Data; and
- Ensure that Nigerian businesses remain competitive in international trade through the safeguards afforded by a just and equitable legal regulatory framework on data protection.

10.4.2. The Notice also stated that adequate technical and organizational measures for data protection are obligatory for every organization (as data controllers/processors) in Nigeria.

10.4.3. The Notice further highlighted additional requirements that every data controller in Nigeria is expected to meet.

You can read more on the Compliance Notice here.

The outcome of the bills put forward this year is definitely something to look forward to. The Data Protection Bill and the proposed amendments by stakeholders will, if passed into law, be a game changer for the data protection space in Nigeria. We look forward to the implementation days and possible reforms that may take place in the new year and how they will affect the FinTech ecosystem.

[33] <https://ndpb.gov.ng/Home/about>



# STARTUPS AND DIGITAL ECONOMY

# STARTUPS AND DIGITAL ECONOMY

## 11.1. THE NIGERIA STARTUP ACT

Following in the footsteps of other countries that have enacted startup-specific laws, Nigeria enacted the Nigeria Startup Act on 19th October 2022. While not Fintech-specific, the Act holds great promise for Fintech startups (which dominate the Nigerian startup ecosystem) once implementation and state-level domestication kicks off.

One issue that has plagued the Nigerian startup ecosystem is poor consultation leading up to regulations that impact their businesses. If faithfully implemented, robust consultations are likely to take precedence before future Fintech-related regulations are issued, as the Act establishes the National Council for Digital Innovation and Entrepreneurship (the Council).

The Council is headed by the President, while the Governor of the CBN is a statutory member, amongst other heads of government agencies. It also draws membership from the Startup Consultative Forum (the Forum), a consultative body made up of industry stakeholders and representatives of labelled startups, venture capitalists, angel investors, incubators, accelerators, innovation hubs, and tech-focused civil society groups.

The Act specifically provides that the CBN and SEC will collaborate with the Council in ensuring that Fintech startups are duly notified before new rules and regulations that affect their operations are issued. CBN and SEC are also to consider giving favourable treatment to FinTechs that are desirous of obtaining licences from the regulators. In addition, FinTechs that seek to exit through any of the stock exchanges will receive assistance from NITDA and other government stakeholders.



The Act also introduces a startup labelling process. Labelled startups will be eligible for the benefits provided by the Act and representation on the Council. Labelled Fintech startups would be eligible for the following benefits:

- Early stage financing from the Startup Investment Seed Fund
- Pioneer Status Incentive under the Industrial Development (Income Tax Relief) Act where the startups offer real estate investment vehicles or mortgage-backed securities as products. Where granted, such startups will be free from paying corporate income tax for an initial period of three years, extendable for an additional one or two years.
- Benefiting from the Credit Guarantee Scheme, which seeks to create a credit guarantee framework and providing credit information
- Access to dedicated Startup Portal that offers a one-stop opportunity for interfacing with government agencies, like those involved in
  - company incorporation,
  - IP registration,
  - raising funds from crowdfunding intermediaries and commodities investment platforms registered with the portal,
  - registration of technology transfers
  - participation in CBN and SEC respective regulatory sandbox programs, through a fast-track process.
  - investors engaged in commodity investing and crowdfunding can register with the Startup Portal to provide funding to Fintech startups
  - a distinct section of the Startup Portal dedicated to Fintech startups

The Nigeria Startup Act is a federal law and only provides incentives and support systems within the federal competence. Certain incentives and support can only be provided at a State Government Level.

In light of this, as well as a desire to enhance the development of the startup ecosystem at the State Level, various States in Nigeria such as Lagos, Rivers and Kaduna are reportedly currently working on introducing a domestic Startup Law/Policy taking cognizance of the individual State's unique considerations.

It is widely believed that if the provisions of the Act are implemented and domesticated across all Nigerian states, the effects can trigger a new spurt of growth in the Nigerian startup ecosystem from 2023 onwards, whilst putting an end to the regulatory uncertainty that has affected funding to the space.

An analysis of the background and benefits of the Act can be found here.

## 10.2. DIGITAL ECONOMY DEVELOPMENTS

### The NITDA Bill

The Joint Committee of the Senate and House of Representatives on ICT and Cyber Security invited stakeholders and members of the general public to a public hearing on *"A Bill for an Act to Repeal the National Information Technology Development Agency Act No. 28, 2007 and Enact the National Information Technology Development Agency Act to Provide for the Administration, Implementation and Regulation of Information Technology Systems and Practices As Well as Digital Economy in Nigeria and for Related Matters, 2022."*<sup>[34]</sup>

## 10.2. DIGITAL ECONOMY DEVELOPMENTS



The Joint Committee of the Senate and House of Representatives on ICT and Cyber Security invited stakeholders and members of the general public to a public hearing on *“A Bill for an Act to Repeal the National Information Technology Development Agency Act No. 28, 2007 and Enact the National Information Technology Development Agency Act to Provide for the Administration, Implementation and Regulation of Information Technology Systems and Practices As Well as Digital Economy in Nigeria and for Related Matters, 2022.”*<sup>[34]</sup>

The bill, which was presented on 23 December 2022 was however, not discussed, because some committee members observed that it was not proper to hold public hearing on such bill, when the promoters of the bill were absent from the public hearing.

Recall that the NITDA Bill was first proposed in August 2021, with the objective of creating an effective, impartial, and independent regulatory framework for the development of the Nigerian information technology sector and support the development of the digital economy.<sup>[35]</sup> The NITDA Bill empowers the Agency to issue regulations that provide for licensing and authorisation criteria including renewal, suspension, and revocation conditions to promote free market operation and competition, among other things within the sector.<sup>[36]</sup>

The NITDA Bill has sparked lots of controversies amongst stakeholders since 2021, particularly its creation of a fund - the NITDA Fund, which requires all companies with annual turnovers of over N100 Million to pay 1% of their profit (before tax) as annual levy.<sup>[37]</sup> This has been tagged as double taxation, contradictory to the Nigeria Startup Act and detrimental to Nigerian startups.<sup>[38]</sup> Stakeholders have therefore, called for its abandonment.

### Regulatory Steps

The Digital Economy has been the object of various regulatory steps. In 2020, the Federal Inland Revenue Service published the Significant Economic Presence Order (the SEP Order) detailing the framework for the taxation of Non-Nigerian Companies and the digital economy. In addition, the Finance Bill 2022 contains provisions that support taxing of all properties, physical or digital, thus providing a basis for taxing cryptocurrency transactions.

<sup>[34]</sup> The National Information Technology Development Agency Bill (“The NITDA Bill”)

<sup>[35]</sup> Section 1, The NITDA Bill

<sup>[36]</sup> Section 15, The NITDA Bill

<sup>[37]</sup> Section 16, The NITDA Bill

<sup>[38]</sup> <https://techcabal.com/2022/12/22/mitda-new-bill-hearing/>

Similarly, the Nigeria Economic Summit Group (NESG) set up the Digital Economy Industry Working Group (DEIWG) as a public-private partnership charter for the Nigerian digital economy. Co-chaired by the Minister of Communications & Digital Economy and the NESG CEO, its core mandate is to drive the implementation of the Nigerian Digital Economy Policy & Strategy (NDEPS). The DEIWG will also work with various government agencies for the delivery of initiatives under the NDEPS, and facilitate the involvement of the private sector and international organisations in driving the development of Nigeria's digital economy.

SEC is also heavily invested in the regulation of the digital economy. Understanding that there are digital economy solutions that touch on securities transaction but are not necessarily covered under the extant regulatory framework, SEC in 2021 introduced the Regulatory Incubation Framework designed to address the needs of new business models and processes that require regulatory authorisation to continue carrying out full or ancillary technology-driven capital market activities. With the looming importance of digital and virtual assets, SEC also introduced the SEC Rules on Issuance and Custody of Digital Assets, making provisions for issuers, digital asset custodians, digital asset exchanges and virtual assets service providers.

It should be recalled that the CBN has directed DMBs and OFIs to identify and close the accounts of persons transacting in or operating cryptocurrency exchanges within their system. It was hoped that when the SEC Rules became operational, the above referenced imposition will not apply to entities who obtain registration with SEC. However, unconfirmed news reports from November 2022 state that SEC clarified that the Rules would not be applicable to cryptocurrencies.

We note that the reported position of the Minister of Finance on taxation of cryptocurrencies appear to oppose the position of the CBN that appears to be against the adoption of cryptocurrencies in Nigeria. It is expected that clarity on this position will be unveiled in 2023.



# OTHER TRENDING DEVELOPMENTS

# OTHER TRENDING DEVELOPMENTS

## Noteworthy Events Surrounding Layoffs and Restructuring

In the face of a global economic downturn, technology companies are downsizing to meet with these realities. Some of the biggest technology companies in the world have downsized in a bid to cut down on spending and operate with a leaner team. Most notable of this is Meta which cut back by 11,000 jobs, representing the biggest layoff in 2022[1]. Stripe reduced its internal valuation from \$95 billion valuation to \$74 billion in July 2022 and laid off 1,100 staff. It should be recalled that Stripe acquired Nigerian Fintech company Paystack in 2020 in a deal estimated at \$200 Million[2]. Coinbase also laid off about 1,100 employees, Netflix cut around 450 jobs amidst a 58% drop in its stock price and Jumia announced plans to operate a leaner team in the face of an impending recession.[3]

In Nigeria; Nestcoin announced layoffs a few days after popular cryptocurrency exchange FTX crashed as it held assets on the exchange[4]. Lazerpay, a startup funded by Nestcoin also announced a downsizing as its lead investor pulled out of its seed round due to market conditions and disagreement on the terms[5]. Nigerian cryptocurrency exchange Quidax[6] and Kuda[7] also announced a 25% and 5% downsizing, respectively[8]. The downsizing in the Nigerian tech ecosystem represents a small percentage of the global downsizing occurring in the industry.

While many companies cite the economic downturn as the reason for cutting back on the size of their teams, analysts also say that most companies over-hired during the COVID-19 pandemic when revenue was at an all-time high and now, an adjustment has become necessary. Experts project more downsizing in the coming year.



## Impact of FX Availability and Card Issuer Limitations on cross-border payments



While Fintechs may be far removed from the oil & gas industry in Nigeria, it is not locally immune from its vagaries, especially for Fintechs that offer cross-border payment products. As the major FX earner, ups and downs in the global price of oil and disruptions in local production have real impact on the local availability of US Dollars at official rates to settle customer transactions.

Nigeria earns 90% of its FX from oil sales.[39] The Covid-19 pandemic induced a sharp drop in oil prices which Nigeria is yet to recover from due to local production challenges. In May 2020, the Director of the Budget Office reported that the country had lost 80% of its oil revenue and that foreign portfolio investment, another significant source of FX, had crashed by 75%.[40]

As customer demand for US Dollars to settle international transactions outstripped supply, financial institutions in Nigeria (traditional banks and Fintechs alike) have responded by reducing the spending limits on Naira-denominated cards for cross-border transactions. In some cases, they have completely scrapped it.

United Bank for Africa (UBA) and Zenith Bank respectively reduced their limits to \$20 in March 2022, while First Bank reduced its limit to \$50.[41] Furthermore, customers could usually spend up to \$100 on their Naira cards for international transactions. However, by September 2022, First Bank completely suspended international transactions on Naira cards.[42] Other traditional banks have also followed suit since then. Subsequently, customers who require higher spending limits have been advised to request for foreign currency debit or prepaid cards from their banks which have limits of up to \$10,000 in some cases.

Fintechs that offer virtual Dollar cards have also not been immune to this. As a result, Flutterwave, suspended its virtual Dollar card, Barter. Chipper Cash also stopped offering virtual Dollar cards to its customers.[43]

[39] <https://www.thisdaylive.com/index.php/2022/08/31/replacing-oil-as-mainstay-of-nigerian-economy/#:~:text=Oil%20and%20gas%20accounted%20for,dependency%20on%20oil%20and%20gas> accessed 3 December 2022

[40] Adegboyega A, 'More Nigerian Banks Limit Foreign Currency Spending on Naira Cards' (Premium Times Nigeria, 14 March 2022) <https://www.premiumtimesng.com/news/top-news/517128-more-nigerian-banks-limit-foreign-currency-spending-on-naira-cards.html> accessed 1 December 2022

[41] Adegboyega A, 'More Nigerian Banks Limit Foreign Currency Spending on Naira Cards' (Premium Times Nigeria, 14 March 2022) <https://www.premiumtimesng.com/news/top-news/517128-more-nigerian-banks-limit-foreign-currency-spending-on-naira-cards.html> accessed 1 December 2022

<https://www.thecable.ng/first-bank-to-suspend-intl-transactions-on-naira-cards-sep-30> accessed 1 December 2022

[42] 'First Bank to Suspend Int'l Transactions on Naira Cards Sep 30' (TheCable, 21 September 2022) <https://www.thecable.ng/first-bank-to-suspend-intl-transactions-on-naira-cards-sep-30> accessed 1 December 2022

[43] Obarayese S, 'Uncertainty as Dollar Spending Limit, Suspension of Virtual Cards Ground Businesses in Nigeria' (Daily Post Nigeria, 6 September 2022) <https://dailypost.ng/2022/09/06/uncertainty-as-dollar-spending-limit-suspension-of-virtual-cards-ground-businesses-in-nigeria/> accessed 1 December 2022

Because of these changes, some customers have reported being unable to pay for international subscription services, like Netflix.[44] Businesses that rely on foreign software providers like cloud infrastructure, web hosting, and online design resources have found themselves stranded and unable to pay for the needed services.[45]

Any improvement in this situation is contingent on macro-economic reforms that boost local oil production, inspire confidence in foreign portfolio investors, and diversify Nigeria's export base beyond oil.

### Challenges in Foreign Markets

Nigerian Fintech startups have increasingly expanded operations beyond the country. Doing so has helped expand their revenue base, and also reduce their local risk exposure. However, each new country comes with its regulatory hurdles to scale, and Nigerian startups in the Fintech space have had their fair share of regulatory run-ins. Two prominent examples are Flutterwave and Korapay.

In April 2022, Kenya's Assets Recovery Agency (ARA) launched investigations into several firms and froze their bank accounts for alleged involvement in international money laundering. Flutterwave was one of those affected. The Kenyan high High Court froze 52 bank accounts owned by Flutterwave with a total balance of \$45 million and 10 bank accounts linked to the company but operated by other entities. Some of these entities have directors who are co-founders of venture capital firm that invested in Flutterwave, and have been said to have links to Kenyan politicians.[46]

In August 2022, another Kenyan high High Court ordered \$3.3 million belonging to Flutterwave be seized. Authorities have said that Flutterwave is not licensed to carry out cross-border transactions in the country. The court also ordered that bank accounts of some Nigerian traditional banks operating in Kenya, like Guaranty Trust Bank, be frozen.[47]

In response to these allegations, Flutterwave put out a communication, stating that their entry into the Kenyan market was via partnerships with banks and mobile network operators licensed by the Central Bank of Kenya (CBK), and in 2019, they applied for a Payment Service Provider licence, which is yet to be approved, although engagement has continued.[48]

All this is part of a larger operation by the ARA, seeking to crack down on money laundering carried out under the guise of merchant services.

[44] Adegboyega A, 'More Nigerian Banks Limit Foreign Currency Spending on Naira Cards' (Premium Times Nigeria, 14 March 2022) <https://www.premiumtimesng.com/news/top-news/517128-more-nigerian-banks-limit-foreign-currency-spending-on-naira-cards.html> accessed 1 December 2022

[45] Obarayese S, 'Uncertainty as Dollar Spending Limit, Suspension of Virtual Cards Ground Businesses in Nigeria' (Daily Post Nigeria, 6 September 2022) <https://dailypost.ng/2022/09/06/uncertainty-as-dollar-spending-limit-suspension-of-virtual-cards-ground-businesses-in-nigeria/> accessed 1 December 2022

[46] 'Nigeria's Flutterwave Faces Kenya Fraud Allegations' (Rest of World, 25 July 2022) <https://restofworld.org/2022/flutterwave-fraud-allegations-kenya/> accessed 1 December 2022

[47] Adegboyega A, 'Flutterwave Loses More Money as Kenya Court Freezes Another \$3.3 Million' (Premium Times Nigeria, 30 August 2022) <https://www.premiumtimesng.com/business/business-news/551503-flutterwave-loses-more-money-as-kenya-court-freezes-another-3-3-million.html> accessed 1 December 2022

[48] 'Communication Regarding Flutterwave Kenya's Operations | The Flutterwave Blog' (Communication regarding Flutterwave Kenya's Operations | The Flutterwave Blog) <<https://flutterwave.com/ke/blog/communication-regarding-flutterwave-kenyas-operations>> accessed 1 December 2022



# CONCLUSION

# CONCLUSION

The FinTech ecosystem in Nigeria witnessed a number of significant developments, changes and proposed reforms which impact directly/indirectly on it; most of which have been discussed in this report.

There should be a lot of developments that will be unpacked with the implementation of the Startup Act and several CBN policies, the operationalisation of the SEC Rules, the proposed taxation of digital assets and other notable matters.

We look forward to the growth and development of the ecosystem in 2023 based on some of these changes, as they gradually unfold.



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