Fintech Regulation in Nigeria

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01 Introduction

What is Catalyst Fund?

Catalyst Fund is an **inclusive fintech accelerator** that supports early-stage startups building solutions for underserved communities, and develops innovation ecosystems in emerging markets. Catalyst Fund is managed by BFA Global and supported by UKaid and JP Morgan Chase & Co.

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What is the Cambridge Centre for Alternative Finance?

The Cambridge Centre for Alternative Finance at the University of Cambridge Judge Business School is dedicated to the study of technology-enabled and innovative instruments, channels, and systems emerging outside of traditional finance. It is driven by its mission to "create and transfer knowledge addressing emergent gaps in the financial sector that supports evidence-based decision-making."

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Why **this deck?**

The Cambridge Centre for Alternative Finance (CCAF) and BFA Global have produced this deck to support fintech startups working in Nigeria, and those seeking to enter the Nigerian fintech market.

This deck provides **an overview of Nigeria's regulatory regime** as it relates to the fintech verticals of:

- ❑ Banking
- ❑ Credit
- ❑ Insurance
- ❑ Payments
- ❑ Investment

The deck also offers recommendations as to how startups can best engage with regulators, and tools to help them do so.

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How to **use this deck**

This deck is organized into 4 main sections:

- ❑ Country and regulatory environment
- ❑ Tips on engaging with regulators
- ❑ Specific regulations per fintech vertical
- ❑ Resources for startups

The first two and last sections of this deck are of general interest to all fintech startups. The regulations section is segmented into different legal categories based on use cases, and not all categories may be relevant for a particular business model.

Companies can map their business model(s) to the relevant legal categories on slide 10. Following this mapping, they can focus solely on specific parts of the "regulations section" that are relevant to their business model(s).

In using this deck, please note the disclaimer on slide 2.
Note: the exchange rate applied is 1 NGN/0.0026 USD -- current at 25 March 2021.

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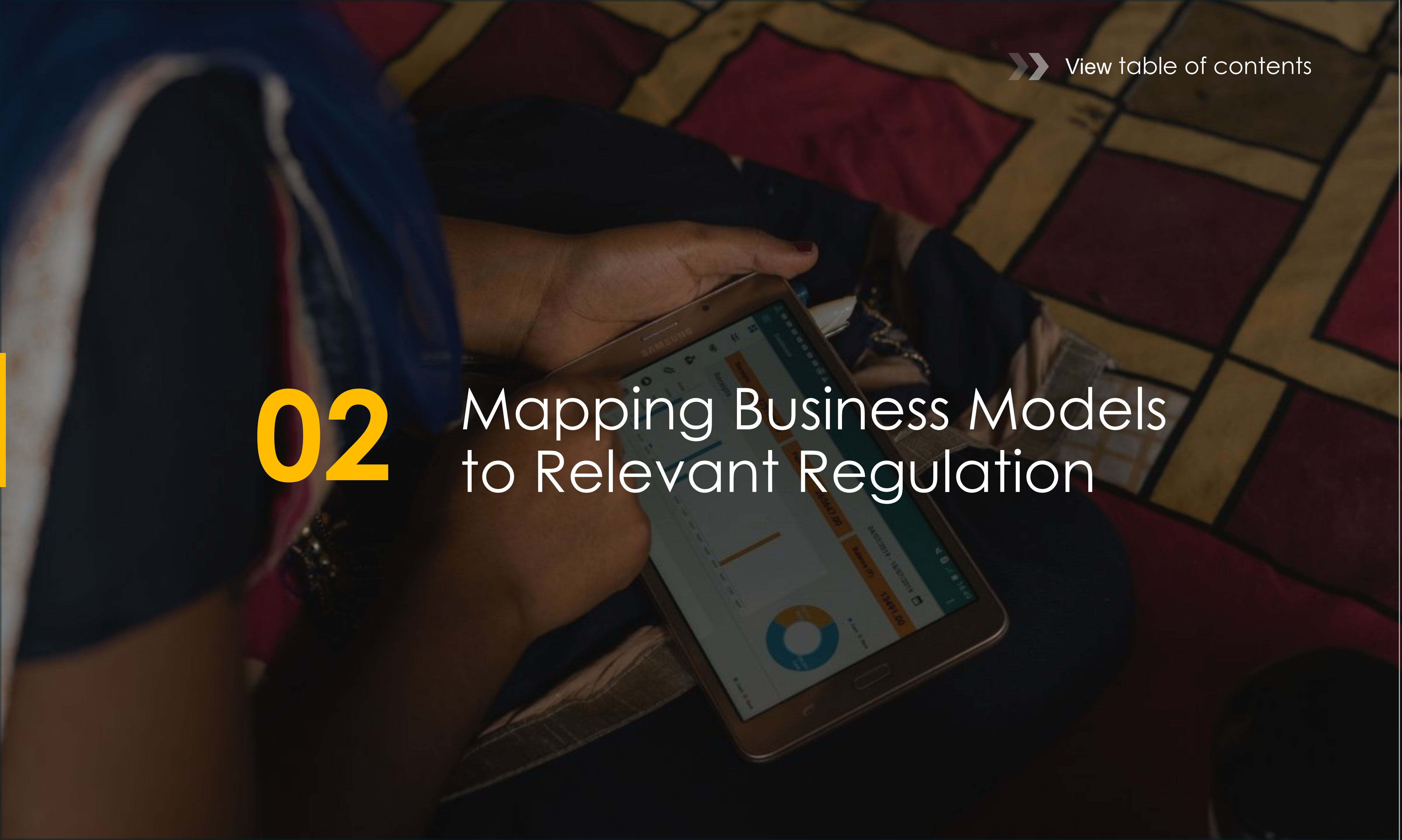


02 Mapping Business Models to Relevant Regulation

Mapping business models to relevant legal categories

Business Model	Legal Category											
	Banking	Payments	Credit	Insurance	Investments	Data	Consumer protection	AML / KYC	Cybersecurity	Competition	Telecom regulation	Taxation
Digital payments & remittance*	●	●				●	●	●	●	●	If model incorporates comm. services	If mobile phone-based financial transaction
Digital lending	●		●			●	●	●	●	●	"	"
Digital savings	●					●	●	●	●	●	"	"
Digital investment					●	●	●	●	●	●	"	"
Digital insurance				●		●	●	●	●	●	"	"
Digital capital raising**	If P2P lending		●		●	●	●	●	●	●	"	"
Personal financial management	●	●	●		●	●	●	●	●	●	"	"
E-commerce & DFS platforms	●	●	●	●		●	●	●	●	●	"	"

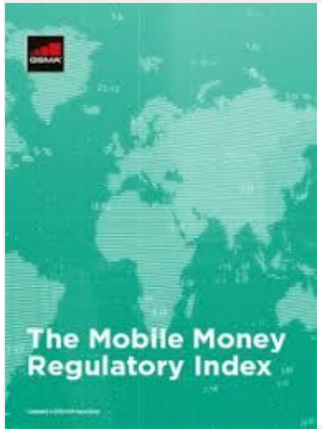
**includes mobile wallets/ e-money, payment initiation & mobile POS*
***includes P2P lending and equity crowdfunding*

03 Nigeria's Current Regulatory Environment

Nigeria ranks 17th in sub-Saharan Africa for ease of doing business

The World Bank's Doing Business rankings ranks Nigeria as **131th worldwide**, making it the **17th in Sub-Saharan Africa** in terms of ease of doing business:

- Nigeria ranks highly for the ease of getting credit
- Improvement is being seen in the ease of starting a business and trading across borders
- Difficult areas include payment of taxes



The GSMA Regulatory Index gives Nigeria an overall score of **80.67 out of 100**:

- Nigeria scores highly on regulations relating to: consumer protection (100) and KYC (92)
- The regulatory approach scores lower on less enabling regulation regarding infrastructure & investment environment, (47) and authorization/ licensing (66).

Sources: The World Bank's Doing Business 2020, The GSMA 2019 Regulatory Index.

Below average enabling environment for financial inclusion and high corruption perceptions

The Economist Intelligence Unit Global Microscope 2019 ranked Nigeria **40th out of 55 countries**, and 9th in sub-Saharan Africa.

- Key strengths included ease of customer due diligence and account opening.
- Nigeria was below average regarding infrastructure, stability, government and policy support, consumer protection, and products; weakness included supervisory capacity among regulators.

Transparency International ranked Nigeria as **149th out of 180** on their 2020 Corruption Perceptions Index.

Nigeria's score of 25/100 was lower than the regional average of 32/100 for sub-Saharan Africa.

Sources: The Economist Intelligence Unit Global Microscope 2019, 2020 Corruption Perceptions Index

High phone penetration and large urban population with low levels of savings and borrowing from formal financial institutions present opportunities for fintech

According to the World Bank's 2017 Global Findex report:

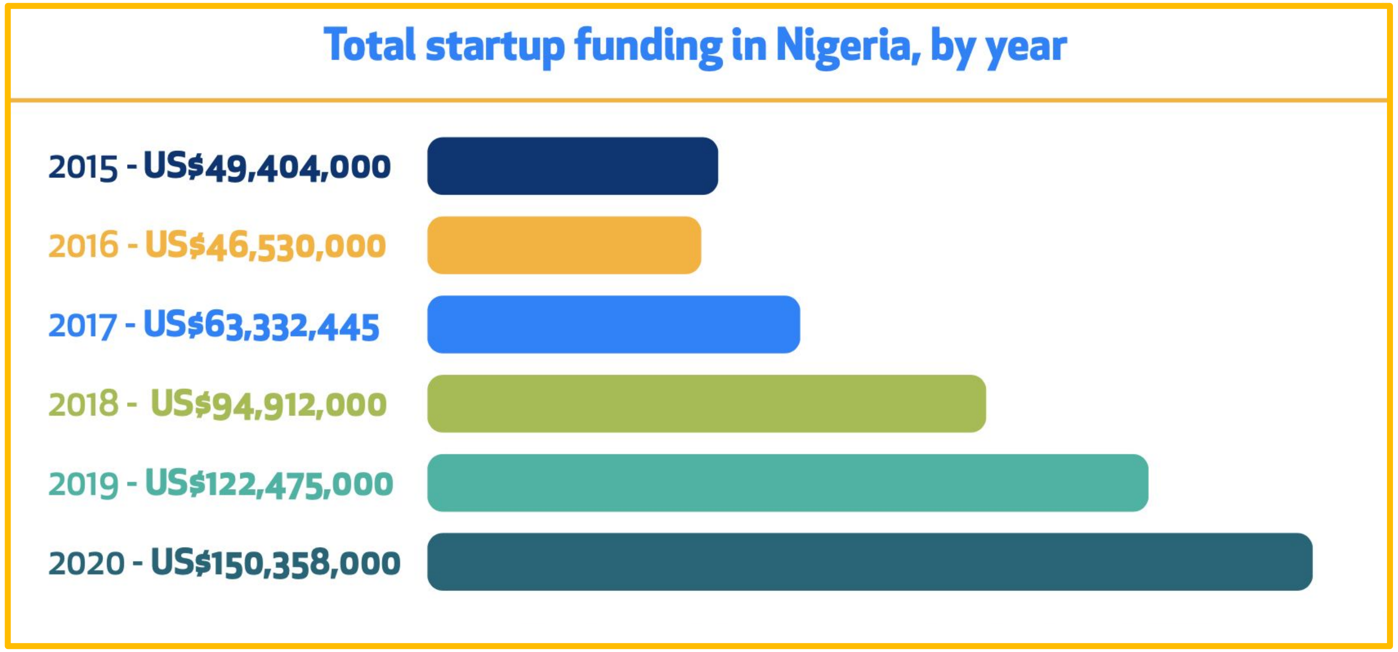
- 5.6% of Nigerians over the age of 15 had a mobile money account.
- Overall access to all accounts is at 39.7% for adults.
- 29.7% of Nigerians over the age of 15 had sent or received domestic remittances through an account.
- 62% reported having saved any money, with 20.6% having been savings in a financial institution.
- Although 39.6% had borrowed any money, only 5.3% had borrowed from a financial institution, suggesting a greater frequency in informal borrowing.

Insight2impact (2019 study) found that:

- Nigeria has the highest number of platforms offering financial services in the region, and a key opportunity is its large urban population (50%).
- A key challenge for platforms was the low levels of economic growth and the high unemployment rate.
- 70% of the population had a basic and/or feature phone in 2018, while 30% owned a smartphone.

Sources: The World Bank's 2017 Findex, Insight2Impact 2019 Study

Regulation lags behind the fast growth of tech innovation in Nigeria



$35M Series B investment in **Flutterwave** was the largest deal in 2020

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In 2020

- Nigeria’s 85 funded tech startups, the highest number across the continent, captured over 21% of total tech startup funding in Africa
- 23% increase in total funding vs. 2019
- Ticket sizes are on a downward trend with average deal size decreasing ~30% vs. 2019

Sources: Disrupt Africa [African Tech Startups Funding Report]

Regulatory approach to fintech in Nigeria

No Specific Fintech Laws

There are generally no fintech-specific laws, though this may change in the medium term. Fintechs should comply with relevant legislation and regulation produced by sectoral regulators.

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Regulator's Approach to Mobile Money is Instructive for Fintech

The regulatory treatment of mobile payments and mobile money may be instructive for understanding the regulatory approach to fintech. The use of mobile money is still limited in Nigeria, partly due to complications in the approach during the 2011-2012 licensing process. Payment Service Banks were subsequently established in 2018.

Sources: [The Hold Up with Mobile Money in Nigeria]

Nigeria's regulators in **practice**

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Firms will often need to **engage with multiple regulators** simultaneously, in order to determine under which jurisdiction they fall and/or which license(s) they require.

The **two primary regulators** with jurisdiction over fintech are the Central Bank of Nigeria (CBN) and the Securities and Exchange Commission (SEC). They are proactively involved in fintech-related initiatives, such as regulatory sandboxes.

Regulations in practice change slowly, with the pace of **regulatory change lagging** developments in the industry.

Regulatory Barriers (as perceived by firms)

- **Fragmentation in the regulatory framework**. There has been confusion in the past as to which laws are applicable, exacerbated by disjointed efforts in policy formulation as it relates to the regulation of fintech. This has inhibited the growth of the fintech sector. Fintech has been moving ahead of both regulators and regulation, and regulators are perceived by some as slow moving, and not sufficiently engaged with firms before issuing new guidelines or regulations.
- **Too high capital requirements for fintech start-ups.** Some fintechs have therefore opted to (i) partner with or be sponsored by existing licensed companies, (ii) acquire licensed microfinance banks/microfinance institutions, or (iii) utilize state lending licenses.
- **Challenges relating to licensing.** To address this, some Nigerian fintechs have opted to acquire, or be acquired by, a pre-existing company in order to obtain their license, given that the licensing process – which fintechs have stated is often slow – increases the time and cost of coming to market. Uncertainty around the licensing framework has also resulted in providers competing in the same market while operating under different licenses from different regulators, meaning competitors may each have a different license even if they are competing in the same market.

Sources: Report of the Fintech Roadmap Committee of the Nigerian Capital Market, The Future of Fintech in Nigeria

Strengths **in Nigeria's regulatory environment**

Strengths

1. Nigerian regulators are generally supportive and encouraging of innovation and fintech, and have a genuine desire to see the sector in Nigeria grow. This is reflected in their openness to engaging with innovators and fintechs, and through recent and forthcoming initiatives such as new regulatory frameworks, innovation offices, and potential regulatory sandboxes.

2. Regulators are keen for the fintech industry to identify regulatory barriers to innovation to help inform their approach.

3. An industry innovation sandbox was launched in December 2019 by the Financial Services Innovators (FSI), a non-regulatory body of fintech supporters. As a result of this industry innovation sandbox, both the CBN and SEC began considering the development of a regulatory sandbox.

Sources: Financial Service Innovators launches first Nigerian Industry Innovation Sandbox with backing from Flourish, EFInA, NIBSS, and CBN, Exposure Draft for Regulatory Framework For Sandbox Operations

Challenges **in Nigeria's regulatory environment**

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Challenges

1. **Regulatory overlap** exists as a result of a plurality of regulatory authorities with overlapping oversight of different segments of the financial sector.

2. **No unified approach to fintech regulation**
The unclear regulatory environment for fintech has been identified as a challenge that has inhibited the growth of the sector.

3. **Lack of clear regulatory processes** and timelines which make it hard for fintechs to plan or engage with regulators.

4. **Issues with data**
Fintech firms may be constrained by limited access to consumer data as a result of the Nigeria Data Protection Regulation of 2019. The SEC's Fintech Roadmap Committee (FRC) has recommended that measures be introduced to prevent the creation of data provider monopolies. Additionally, the CBN has recently indicated interest in open banking, which may help to address some the challenges around access to data by fintechs.

5. **Cyber Security** is a challenge that has been highlighted by the SEC, specifically with regards to how fintechs can protect data from cyber-attacks as well as improper data usage. The SEC has stated that the cost associated with establishing cyber security measures to ensure protection of data is prohibitive for some fintechs in Nigeria.

6. **Arbitrary deployment of regulation** without wide consultation or prior notice. Examples of this are the crypto ban by the CBN and the barring of foreign portfolio investment solutions by the SEC.

Sources: Report of the Fintech Roadmap Committee of the Nigerian Capital Market, The Economist Intelligence Unit: State of Play - Fintech in Nigeria,

04 How to Engage with Regulators

How can startups **effectively engage with regulators?**

Do your research

Do your research before approaching the relevant regulator(s). Consider which laws and regulations might apply to you. Note that these may be broader than just financial regulation and may include topics such as data protection, cyber security, company structure, and tax. It is easier to build these requirements into your company from the start than to add them on later. Consider also future regulatory developments and how these may impact you.

Engage with the regulator early

The financial regulators in Nigeria are generally supportive and encouraging of innovation in financial services and want to support innovative providers. There are a number of mechanisms and tools in place to facilitate this dialogue. In particular, the SEC has established an Innovation Office which seeks to engage with the fintech industry. The main takeaway is to engage with the relevant regulator(s) early to familiarize them with your company and products/services. This will also enable them to provide you with informal guidance and clarification regarding your regulatory requirements.

Think like a regulator

Consider the regulators' objectives because these guide their priorities. Meet their requirements by giving them all the information they need to answer your questions, or to grant you a license. Be mindful of regulators' timelines and build this into your business plan. They won't be able to speed up your application just because your investors want it. Remember, the more prepared you are, the quicker you will get a license, and the fewer hurdles you will encounter further on in your journey.

Thinking like a regulator also demands considering broader policy goals. For example, Nigeria's National Financial Inclusion Strategy seeks to promote financial inclusion and access to financial products in the formal sector.

Source: National financial Inclusion Strategy

Engaging with the **Securities and Exchange Commission**

The SEC encourages firms to approach them at an early stage. There are a **number of channels through which fintechs may engage** with the SEC:

1. The SEC has utilized a sandbox consultation as a way of engaging with different companies via a regulatory assessment form.
2. There is a dedicated email for fintech-related enquiries: innovation@sec.gov.ng
3. The SEC contains a Fintech and Innovation Office. Firms can arrange an appointment through the dedicated email address above.
4. Firms engaging with the SEC are encouraged to share the following:
   - Nature of corporate structure
   - Business model, including client base
   - Whether the company is already operational or are in the initial stages of setting up
   - Organogram
   - The relevance of the proposition to the jurisdiction of the SEC and capital markets
5. Where a product falls within the remit of multiple regulators, the SEC will inform the firm which other regulators involved. However, there is currently no formal referral mechanism.

Engaging with the **Securities and Exchange Commission (cont.)**

The SEC encourages an open approach and a desire to provide clear direction and feedback

Any information shared is for a regulatory purpose only

Firms are not required or encouraged to utilize an intermediary when engaging with the SEC

Firms are encouraged to consider the SEC's primary objectives when engaging with them:

- Investor protection: new entrants should take this into account when engaging with SEC — a particularly important provision is a valid risk management framework
- Market development: the SEC has a responsibility to encourage innovation and to assist and promote better markets both for both investors and investees

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05 Relevant Regulations

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5.1 Banking regulations

Banking: **General overview**

Main regulator:
The Central Bank of Nigeria (CBN) is the primary regulator governing financial services, with the mandate to regulate banks and other financial institutions.

Key regulation:
Banks and Other Financial Institutions Act 2020 (BOFIA, as amended), which sets out licensing requirements

Scope:
Banking business is defined as "accepting deposits from the general public as a feature of business or soliciting for deposits orally, electronically, or through any form of advertisement or otherwise…"

Compliance obligations:
Those carrying out the "business of other financial institutions"* are required to be incorporated and their proprietors must hold a valid license issued under the Act. The "business of other financial institutions" is defined as including those that only operate electronically, virtually or digitally (Section 57(2)].)

All fintechs businesses (except those involved in insurance, pension fund management, collective investment schemes, and capital market business)are required to be incorporated and licensed by the CBN.

*"Business of other financial institutions" include: business of a discount house, bureau de change, credit bureau, finance company, money brokerage, international money transfer services, mortgage refinance company, mortgage guarantee company, credit guarantee, financial holding company, or payment service providers and businesses whose objects include factoring, project financing, equipment leasing, debt administration, private ledger services, investment management, local purchases order financing, export finance, and such other business as the Bank may from time to time, designate, regardless of whether such businesses are conducted digitally, virtually, or electronically only. (See Section 57 of BOFIA)

Sources: Banks and Other Financial Institutions Act 2020

Banking: **Financial institution licensing**

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Who:
Applies to banks and all other financial institutions (OFIs) including **fintech businesses** (except those involved in insurance, pension fund management, collective investment schemes and capital market business)

Capital requirements:
A bank shall maintain, at all times, capital funds unimpaired by losses, in such ratio to all or any assets, or to all or any liabilities, or to both such assets and liabilities of the bank and all its offices in and outside Nigeria, as may be specified by the Bank.

There are no capital requirements for OFIs set out in the BOFIA 2020.

How:
Applications for a license are made by writing to the CBN's governor, and include the provision of various documents, including:

- A feasibility report of the proposed financial business
- A draft report of its memorandum and articles of association
- A list of its shareholders, directors and principal officers
- The prescribed application fee (see Section 58 of the BOFIA)

Sources: Banks and Other Financial Institutions Act 2020

Banking: **Commercial banks**

Main regulator:

The Central Bank of Nigeria (CBN) regulates commercial banks

Key regulation:

Commercial Bank licensing Regulations (2010)

Licensing requirements for Commercial banks:

- Paid-up capital:
  - Those operating on a regional basis should maintain a paid-up share capital of N10 billion ($26,283,040)
  - Banks operating nationally should maintain a paid-up share capital of N25 billion ($65,707,749)
  - Those operating internationally should maintain a paid-up share capital of N50 billion ($131,414,062)

- Commercial banks can be licensed either on a regional, national, or international basis, depending on the scope in which they intend to operate

Allowed activities:

Commercial banks are allowed to, amongst other activities, take deposits, offer loans and credit to retail consumers, and provide foreign exchange services

Sources: Commercial Bank licensing Regulations (2010),

Banking: **Finance companies**

Main regulator:

The Central Bank of Nigeria (CBN) regulates finance companies

Key regulation:

Revised Guidelines for Finance Companies in Nigeria (2014)

Licensing requirements for finance companies:

Applicants are required to apply to the CBN for a license

- License Fee: N100,000 ($263) non-refundable application fee, and a deposit of N100 million ($262,837)
- Information to be submitted:
  - A detailed business plan/feasibility study
  - A letter of intent to subscribe in shares to the finance company, signed by each subscriber
  - A list of proposed shareholders, indicating residential addresses and names and their bank addresses
  - Personally signed and dated CVs of the proposed Board of Directors, including directorships held (See Section 3 of the Guidelines)
- Licenses are renewable on an annual basis

Allowed activities:

Finance Companies can carry out activities such as consumer and business loans, fund management, and loan syndication. They cannot accept deposits or carry out foreign exchange transactions themselves.

Sources: Revised Guidelines for Finance Companies in Nigeria (2014)

Banking: **Corporate governance**

- The **Code of Corporate Governance for Banks and Discount Houses** applies to banks and discount houses. It sets out provisions for matters such as board management (Part 2), shareholders (Part 3), risk management (Part 6), and sanctions (Part 8).

- The **Code of Corporate Governance for Other Financial Institutions** issued by the CBN is also relevant for fintech firms and all licensed finance companies including microfinance banks and bureaus de change. It prescribes matters relating to the Board of Directors and management (Part 2), shareholders (Part 3), risk management (Part 6), and compliance and sanctions (Parts 8 and 9 respectively).

Sources: Code of Corporate Governance for Banks and Discount Houses, Code of Corporate Governance for Other Financial Institutions

Banking: **Agent banking guidelines**

Regulation:

Agent banking is permitted under CBN's **Guidelines for the Regulation of Agent Banking and Agent Banking Relationships in Nigeria**.

Scope:

Entities covered include:

- Licensed deposit taking financial institutions
- Mobile money operators

Content

The Guidelines include:

- Application and approval requirements (Section 2)
- Minimum requirements for the agent banking contract (Section 3)
- Establishment of agent banking relationship (Section 4)
- Key roles and responsibilities for financial institutions (Section 6)
- Rules on exclusivity of agents (Section 7)

Notably, agent exclusivity in contracts between Financial Institutions and agents is not prohibited.

Sources: [Guidelines for the Regulation of Agent Banking and Agent Banking Relationships in Nigeria].

Banking: **Deposit insurance**

Key regulation:

- The **Nigeria Deposit Insurance Corporation Act** established the Nigeria Deposit Insurance Corporation (NDIC). The Corporation is responsible for insuring all deposit liabilities of licensed commercial banks and helping insured institutions in the interest of depositors in cases of financial difficulties.

Institution obligations:

- All licensed banks and other financial institutions who engage in deposit taking are required to participate in the deposit insurance scheme.
- The annual premium for banks is maximum 15/16 of 1% of total deposit liabilities, and 8/16 of 1% of total deposit liabilities for other deposit taking financial institutions.
- The NDIC can vary the rate and basis of assessment of the premium payable.
- The Act specifies in Section 16 the nature of insurable deposits, and what is excluded e.g., those of staff including directors of insured institutions.

Customer protection:

- A depositor shall receive from the NDIC a maximum of N200,000 ($526) for a deposit held in a bank, and a maximum of N100,000 ($263) for a deposit held in an other deposit taking financial institution, in the event of the revocation of the operating license of a bank or other deposit taking financial institution.

Sources: Nigeria Deposit Insurance Corporation Act


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5.2 Payments

Payments: **General overview**

Main regulator:
Central Bank of Nigeria (CBN) has a commitment to promote a strong and credible payment system.

Key regulations:

- **New Licensing Categories for the Nigerian Payments System (2020)**
- **Guidelines on Licensing and Regulation of Payment Service Banks in Nigeria (2020)**

There are two routes to operating a mobile money service in Nigeria: a firm can set up either as a (i) Mobile Money Operator (MMO) under the New Licensing Categories, or as a (ii) Payment Service Bank (PSB) under the Guidelines on Licensing and Regulation.

Scope:

- New Licensing Categories for the Nigerian Payments System includes:
  - Switching and processing
  - Mobile money operations
  - Payment solution services
  - Regulatory sandbox
- The Guidelines on Licensing and Regulation of Payment Service Banks creates a new category of bank with limited functionality, focused on high-volume, low-value transactions in remittance services, micro-savings and withdrawal services.

Sources: New Licensing Categories for the Nigerian Payments System (2020), Guidelines on Licensing and Regulation of Payment Service Banks in Nigeria (2020), Approved New License Categorization Requirements

Payments: **Licensing Categories for the Nigerian Payments System**

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Who: Applies to

- Switching and processing
- Mobile money operations (MMOs)
- Payment solution services (PSS) — including super agents, payment terminal service provider (PTSPs), and payment solutions service providers (PSSPs)

Only MMOs can hold funds

Capital requirements:

- N50 million for super agents
- N100 million for PTSPs & PSSPs
- N250 million for PSSs
- N2 billion for MMOs & switching and processing

Restrictions on constitutional documents:

The objects clause in the memorandum and articles of association of a payment service provider must be limited to the permissible activities under their licensing authorization.

HoldCo structure:

Companies seeking to combine activities under the switching and MMO categories are required to adopt a HoldCo structure, such that each subsidiary of the HoldCo will be permitted to undertake a single activity to avoid commingling.

Combination of licenses:

- Payment system companies in the PSS category are permitted to hold any or all of the PSS licenses.
- All payment service providers licensed under the new framework holding or seeking to obtain any other CBN-issued licenses are now required to obtain a no objection letter from the Payment System Management Department of the CBN.

Collaboration approval:

All collaborations between licensed payment service companies, banks, and other financial institutions concerning products and services, will now require CBN's prior approval without any stated exceptions.

Sources: New Licensing Categories for the Nigerian Payments System (2020), Approved New License Categorization Requirements

Payments: **Additional requirements for Mobile Money Operators**

In addition to the requirements set out in the **New Licensing Categories for the Nigerian Payments System** (2020), mobile money operators must follow the **CBN Guidelines on Mobile Money Services** (2015)

Two models:

- Bank-led — licensed banks are lead initiators, deliver services by leveraging on mobile payment systems
- Non-bank-led — licensed corporate organizations (with the exemption of telecommunication companies and deposit banks) act as lead initiators

Telecommunications companies are thus excluded from acting as MMOs.

Licensing requirements:

- Incorporation documents
- CVs of board and management
- Business plan
- Information technology policy
- Tax clearance certificate for three (3) years of each party in the Consortium
- Non-refundable application fee of N100,000 ($263)

See Annex I of Guidelines for details

Compliance:

Licensed MMOs are required to submit statutory returns to the CBN monthly, giving information on operations including the nature, value, and volumes of transactions, as well as instances of fraud, complaints, and remedial measures taken.

Agents:

The **Guidelines for the Regulation of Agent banking and Agent banking relationships in Nigeria** apply to mobile money agent networks (Section 6).

Sources: New Licensing Categories for the Nigerian Payments System (2020), CBN Guidelines on Mobile Money Services (2015), Guidelines for the Regulation of Agent Banking and Agent Banking Relationships in Nigeria

Payments: **Payment Service Banks**

As an alternative to a mobile money operator license under the **New Licensing Categories for the Nigerian Payments System** (2020), mobile money operators can convert to Payment Service Banks (PSBs) under the **Guidelines on Licensing and Regulation of Payment Service Banks in Nigeria**.

Permitted activities:
- Maintain savings accounts and accept deposits
- Provide payment and remittance services
- Operate electronic wallets

They are not permitted to grant loans or underwrite insurance

Compliance:
Most laws that apply to Deposit Banks also apply to PSBs, except for those relating to credit

Minimum capital:
N5 billion ($13,107,026)

Licensing requirements:
- Non-refundable fee of N500,000 ($1,311)
- A detailed business plan or feasibility report that includes composition and detailed CVs of the proposed Board of Directors
- Completed fitness and propriety questionnaire
- List of proposed top management and detailed CVs
- Draft copies of the memorandum and articles of association

After a formal application, firms receive an approval-in-principle, and within 6 months of this they apply to the CBN for a final license.

To obtain the final license, the PSB must submit:
- An application accompanied by a non-refundable licensing fee of N2,000,000 ($5,243)
- Certified copies of the certificate of incorporation, memorandum, and articles
- Copies of letters of offer and acceptance of employment for top management
- Completed fitness and propriety questionnaire

Agents:
The **Guidelines for the Regulation of Agent banking and Agent banking relationships in Nigeria** apply to mobile money agent networks (Section 6)

Sources: Guidelines on Licensing and Regulation of Payment Service Banks in Nigeria, Guidelines for the Regulation of Agent Banking and Agent Banking Relationships in Nigeria

Payments: **Other requirements for MMOs**

USSD short codes:

- The **Regulatory Framework for the Use of Unstructured Supplementary Service Data (USSD) for Financial Services in Nigeria (2018)** requires financial institutions which utilize the USSD channel to place a limit of N100,000 ($263) per customer per day for transactions
- Customers interested in higher limits are required to execute documented indemnities with their banks or MMOs
- Only MMOs and CBN licensed entities with a letter of no objection or a letter of introduction from the CBN are eligible for the issuance of USSD short codes by the Nigerian Communications Commission

Electronic Payment Channels:

- The **CBN Guidelines on Operations of Electronic Payment Channels (2016)** set out provisions relating to the operations of channels including ATMs, Point of Sale (POS) card acceptance services, mobile Point of Sale Services, and web acceptance services
- For Mobile POS services, only CBN licensed institutions can be Acquirers
- No exclusivity agreements are allowed

Bill Payments:

- **The Regulation for Bill Payments in Nigeria (2018)** governs bill payments across various payment channels detailing requirements for banks and payment service providers (including MMOs)
- Requirements include that all requests for refunds/recalls should be via a dispute resolution system, and customer support should be available for both Billers and Payers on a multi-channel basis

Sources: Regulatory Framework for the Use of Unstructured Supplementary Service Data (USSD) for Financial Services in Nigeria (2018), CBN Guidelines on Operations of Electronic Payment Channels (2016), The Regulation for Bill Payments in Nigeria (2018)

Payments: **Deposit insurance for Mobile Money**

The Nigeria Deposit Insurance Corporation (NDIC), which is responsible for overseeing insured institutions, and the CBN have jointly created an e-money framework for mobile money operators (MMOs), the **Deposit Insurance Guidelines on the Mobile Payments System**.

The 'pass-through deposit insurance scheme' approach adopted by the NDIC for mobile money subscribers requires MMO float accounts to be trust accounts at deposit money banks (DMB) with e-money customers as beneficiaries. Should an insured institution fail, each e-money customer would be covered up to a limit of N500,000 ($1,301). The prescribed limit is, however, applicable to all other types of customer deposits with the same institution, including 'traditional' bank accounts.

NDIC
Nigeria Deposit Insurance Corporation
Protecting your bank deposits

Sources: Deposit Insurance Guidelines on the Mobile Payments System.

Payments: **Becoming a cross-border money remittance operator**

Key regulations:

- **Guidelines on International Money Transfer Services in Nigeria** provide for licensing requirements of licensed cross-border money transfer service operators (MTSOs)
- **Guidelines on International Mobile Money Remittance Services in Nigeria** (2015) for cross-border mobile money remittances

Eligibility:

- No specific requirements for MTSOs
- For international mobile money remittance services, applicants must be a registered entity, licensed in its home country to carry out money transfer activities, have a net worth of US$1 billion, have a valid mobile money operator license, and be in partnership with an authorized dealer/ bank licensed in Nigeria.

How to obtain an International Money Transfer Services license:

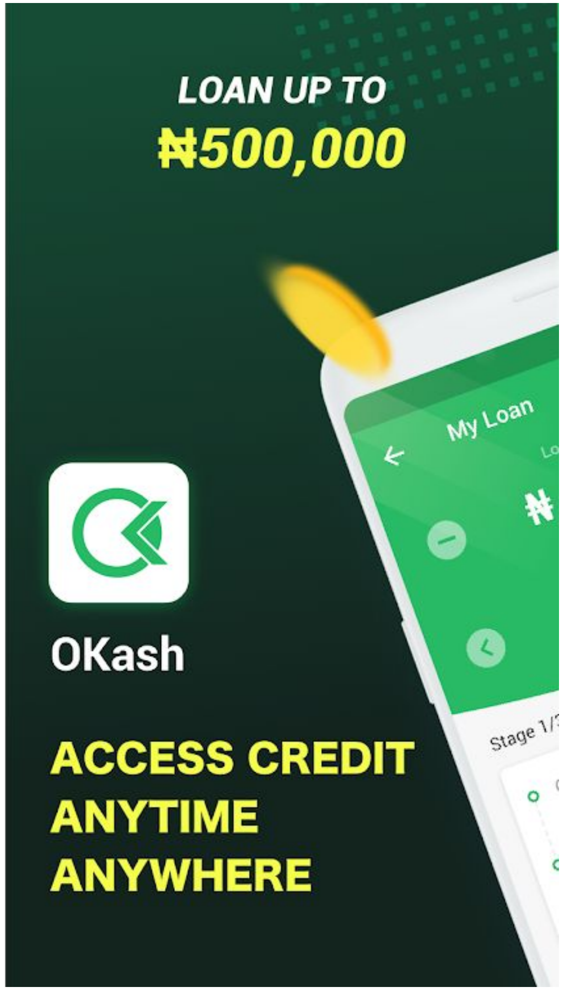
- Minimum share capital of N2 billion ($5,256,574)
- Non-refundable application fee of N500,000 ($1,314)
- Applicants are required to provide various documents including:
  - Incorporation documents with primary object clause indicating the provision of money transfer services
  - Details on shareholding structure and business plan
  - Profiles of the Board and Management which must include CVs, contact details, ownership, governance and management structure
  - Information technology policies
  - 3-year tax Clearance Certificate

Sources: Guidelines on International Money Transfer Services in Nigeria, Guidelines on International Mobile Money Remittance Services in Nigeria (2015)

5.3 Credit

Credit: **Financial institutions**

- The provisions relating to the licensing of, and applications for, banks (deposit taking institutions) discussed in Slides on Banking: Financial Institution Licensing also apply to their credit business.
- In particular, the **Banks and Other Financial Institutions Act** (BOFIA, as amended) stipulates that an entity that wishes to provide marketplace lending may do so by registering as a bank or an OFI.
- Recent amendments under BOFIA (2020) provide for the establishment of a special credit tribunal for the enforcement and recovery of eligible loans, and the speedy resolution of loan-related matters (Section 102).
- **National Collateral Registry Act (Secured Transactions in Moveable Assets Act) (2017)** permits borrowers (individuals and firms) to put up moveable assets as collateral for loans, provided the asset is registered and assigned a unique registration number in the National Collateral Registry (Part IV).
- There are also **Money Lending laws** on a state level. Licenses are issued on a state-by-state basis. States may have varying interest rate caps.
    - For example, under Lagos State's Money Lender's law, licenses are renewable on an annual basis, cost N50 ($0.13), and are obtained by applying to the local Magistrate's Court. Article 15 of the Law sets the relevant interest cap.



Sources: Banks and Other Financial Institutions Act 2020, Lagos Moneylenders Law

Credit: **Microfinance banks**

Key regulation:

Revised Regulatory and Supervisory Guidelines for Microfinance Banks (MFBs) In Nigeria (2012) provides a licensing framework for MFBs

Permitted activities:

Taking deposits, loans, savings, acting as agents to provide mobile banking and micro insurance to their clients, and investments

Prohibited activities:

Foreign exchange transactions and international money transfers

Four categories of MFBs:

These categories were established by a March 2019 CBN circular; the minimum capital requirements were to be revised in April 2020, but these were extended to April 2021. We set out below the initial and revised requirements:

- **Tier 1 Unit MFBs** can operate in urban and high density banked areas — are to meet the N100 million ($262,806) capital requirements by April 2021 and N200 million ($525,612) by April 2022.
- **Tier 2 Unit MFBs** operate in rural, unbanked and underbanked areas — are to meet the N35 million ($91,982) capital requirements by April 2021 and N50 million ($131,403) by April 2022.
- **State MFBs** can operate and open branches throughout one state or the Federal Capital Territory (FCT) — are to meet the N500 million ($1,314,030) capital requirements by April 2021 and N1 billion ($2,628,060) by April 2022.
- **National MFBs** can operate and open branches in all states and the FCT — are to meet the N3.5 billion ($9,198,209) capital requirements by April 2021 and N5 billion ($13,140,299) by April 2022.

Sources: Revised Regulatory and Supervisory Guidelines for Microfinance Banks (MFBs) In Nigeria (2012), CBN Circular of October 2018, CBN circular of March 2019, CBN Circular of April 2020

Credit: **Licensing process of microfinance banks**

Application requirements:

- Applicants are required to apply to the CBN for a license
- Documents that are required to be provided include:
  - A detailed feasibility report, including a 5-year financial projection, objectives and aims, and proposed systems and controls
  - A list of promoters or proposed shareholders indicating business and residential addresses, the names and addresses of their bankers, and names and personally signed and dated CVs of the proposed Board of Directors
- Applicants must also deposit the minimum capital requirement and pay the application fee relevant to the category of license applied for
- One key requirement is for top management to hold essential certification in microfinance management from the Chartered Institute of Bankers of Nigeria (CIBN) — evidence must be provided within 3 years

Further compliance requirements:

- Proposed MFBs are not permitted to incorporate/register their name with the Corporate Affairs Commission (CAC) until a written approval-in principle (AIP) has been communicated to the promoters by the CBN. Further, a copy of this AIP must be presented to the CAC.
- MFBs must submit monthly returns (see Section 5.3 of the Guidelines for full details).
- The CBN must grant written approval for the opening of each branch.
- Each MFB is required to be a financial member of the National Association of Microfinance Banks (NAMB).

Sources: Revised Regulatory and Supervisory Guidelines for Microfinance Banks (MFBs) In Nigeria (2012)

Credit: **Credit Bureaus**

- **Credit Reporting Act (CRA 2017)** provides a framework for the exchange of information between Credit Bureaus, such as First Central and CRC, and lenders.
- Amongst other requirements, it prescribes the conditions under which data subjects' credit history may be shared, and states that Credit Information Providers are entitled to receive services from a Credit Bureau subject to entering data exchange agreements with the respective bureau.
- Alternatively, where no such agreements have been entered into, Credit Information Users are permitted to access such information where they provide written consent of Data Subjects.
- Credit Information Providers include, among others, banks and financial institutions, insurance companies, and institutions providing credit to SMEs.

FirstCentral Credit Bureau

CRC Credit Bureau Limited
In association with Dun & Bradstreet

Sources: Credit Reporting Act

5.4 Insurance

Insurance: **Licensing overview and requirements**

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Key regulation: The Nigerian Insurance Act, 2003 provides that insurance business can only be conducted by registered persons

Main regulator: National Insurance Commission (NAICOM)

Registration process:

- The registration process has four separate stages.
- Documentation required for registration include:
  - Detailed CV of proposed CEO, senior management, secretary, and heads of departments
  - Incorporation documents
  - A 5-year plan
  - Details of proposed insurance policies
  - Good corporate governance framework for insurance and reinsurance
  - The issuance of Letter of Authorization to CBN on Statutory Deposit
- The NAICOM website has detailed information regarding the registration process for both insurers and reinsurers

Sources: Nigerian Insurance Act, Registration for Insurance and Reinsurance

Insurance: **Agents & corporate governance**

- **Agents:**
  - **The Insurance Act** permits insurers to appoint agents, who must hold a certificate of proficiency from the Chartered Insurance Institute of Nigeria (see Section 34 for more details on agents)
  - Insurers who appoint agents must keep a register indicating their names, addresses, and date of appointment and/or termination (Section 35)
- **Corporate Governance**:
  - The **Code of Good Corporate Governance** issued by NAICOM provides additional corporate governance requirements. It covers areas such as:
    - The conduct of board members, including their qualifications, composition and responsibilities
    - The different committees that are required to be set up (see Section 5 for details)
    - Disclosure and reporting requirements (Section 10)
- **Market Conduct:**
  - The **Market Conduct Guidelines** contain additional requirements for how insurance institutions should operate, including details of the registration and the re-registration process
  - Insurance brokers and loss adjusters are required to submit bi-annual returns

Sources: Nigerian Insurance Act, Code of Good Corporate Governance, Market Conduct Guidelines

Insurance: **Microinsurance**

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Key regulation:

The Microinsurance Guidelines (2018) contain requirements for microinsurers, including conduct and prudential requirements. The sum insured should be no more than N2 million ($5,257) per person per company.

Licensing process:

- Applicants to be a microinsurer are required to be a limited liability company duly registered by the Corporate Affairs Commission.
- Registration requirements include provision of CVs of the chairman, CEO, Board of Directors, management staff, particulars of shareholders, incorporation documents, 5-year business plan, and corporate governance and internal control structure.
- Full registration requirements are laid out in Appendix III of the guidelines.

Sources: The Microinsurance Guidelines (2018)

5.5 Investment

Investment: **Licensing process & corporate governance**

Key regulations:

- **Investment and Securities Act (2007) (ISA)** outlines the laws on securities, including with respect to relevant fintech providers/activities
- **SEC Rules and Regulations (2013)** provide a consolidated list of rules relating to capital markets

Main regulator:

The Security and Exchange Commission (SEC)

Licensing process:

Registration requirements are found under Section A2 of the **SEC Rules**, and include:

- Application is made in prescribed form (per Schedule III).
- Submission of signed undertaking that the applicant will comply and secure compliance of its employees with the code of conduct for capital market operators (Section 16).
- Prescribed forms by sponsored individuals and compliance officers who must hold specified qualifications (see Sections 19 and 20). Additionally, executive directors must be approved by the SEC (Section 21).
- The registration fees payable vary depending on the type of market operator (see Schedule 1 Part A).
- The capital requirements vary by type of operator and are detailed under Schedule 1 Part B.

Corporate Governance:

- The **SEC Code of Corporate Governance** stipulates responsibilities, duties, and composition of the Board, and various Board committees (Part B), as well as sets out provisions relating to shareholders (Part C) and other matters such as risk management and audit (Part C), and accountability and reporting (Part F).
- This applies to all public companies with securities listed on a recognized exchange in Nigeria, companies seeking to raise funds from the capital markets either via issuance of securities or listing by introduction, and all other public companies

Sources: Investment and Securities Act (2007), SEC Rules and Regulations (2013), SEC Code of Conduct

Investment: **Virtual and crypto assets**

- The **CBN** has taken a strong position against virtual and crypto assets:
  - In 2017, it issued a warning instructing financial institutions not to trade in virtual currencies, and to ensure that virtual currency exchanges have effective AML/CFT controls.
  - In 2018, it published a press release reiterating that virtual currencies are not licensed or regulated by the CBN, and warning consumers to treat them with caution.
  - On 5 February, 2021, it again reiterated this position in a letter to DBMs, OFIs, and non-bank financial institutions, where it asked them to close all accounts of cryptocurrency exchanges.
- The **SEC** has recently developed guidelines for the classification and treatment of digital assets (including crypto-token or crypto-coin investments):
  - In a statement issued in September 2020, the SEC stated that they consider virtual crypto assets to be securities, unless proven otherwise.
    - It directed issuers and sponsors of 'crypto assets', and other types of 'virtual asset' to register the assets. However, those who demonstrate that their assets fall outside the definition, or are exempt, will not need to comply with this requirement.
    - The registration process will be comprise of two stages – (i) initial assessment filing for determination regarding the burden of proof, and (ii) application for actual registration.
  - However, in the light of CBN's position on cryptocurrencies (as rearticulated in the 5 February, 2021 letter), it has suspended its sandbox program for crypto companies until they are able to operate bank accounts within the Nigerian banking system. It is unclear how this affects its registration of crypto assets.

Sources CBN Virtual Currency Circular 2017, CBN Virtual Currency Press Release 2018, CBN Letter on Crypto, CBN Press Release on Crypto, SEC Statement On Digital Assets And Their Classification And Treatment, Nigerian SEC Scraps Plan for Crypto Regulation after Central Bank Ban, SEC Press Release on Cryptocurrencies

Investment: **Equity crowdfunding**

- Equity crowdfunding was previously de facto illegal under Section 67 of the **Investment and Securities Act,** which prohibits issuance of securities by private companies. On this basis the SEC banned platforms engaging in equity crowdfunding in 2016.
- However, on 21 January, 2021, the SEC launched a bespoke regulatory framework for equity crowdfunding, the **Crowdfunding Rules and Regulations.**
- The main provisions include:
  - Crowdfunding Intermediaries, who must be registered, are the sole entities who can facilitate crowdfunding transactions, such as the offering or sale of securities or instruments, through an approved portal.
  - Retail investors can invest a maximum of 10% of their net annual income in a crowdfunding transaction per year.
  - To be able to use an approved crowdfunding portal, MSMEs must be incorporated in Nigeria with a minimum operating track record of 2 years or alternatively have a strong technical partner or core investor that possesses a minimum of 2 years operating track record.
  - Medium enterprises cannot raise more than N100 million ($262,806), while the amount is set at N70 million ($183,964) for small enterprises and at N50 million ($131,403) for micro-enterprises.

Sources: Investment and Securities Act (2007), Crowdfunding Rules and Regulations,

Forthcoming investment legislation Q3 2021

The Securities and Exchange Commission (SEC) has became very active in unveiling new regulation governing the activities of startups in the Nigerian investment and capital market space, given the flurry of companies who have entered this space recently.

In April 2021, it directed Investment Technology platforms to **cease and desist from offering foreign stocks** to Nigerians.

One of the companies affected by this regulation has now acquired the **digital sub-broker license** introduced by SEC. This new license is part of a major amendment to its Consolidated Rules and Regulations, where the SEC recognizes sub-brokers who use digital platforms to serve multiple brokers.

The SEC also announced the imminent roll-out of the **SEC Regulatory Incubation (RI) Program** for all fintechs operating or seeking to operate in the Nigerian Capital Market.

- The RI program is designed to address the needs of new business models and processes that require regulatory authorization to continue carrying out full or ancillary technology-driven Capital Markets activities. This Program has been conceived as an interim measure to aid the evolution of effective regulation which aims to accommodate innovation by fintechs without compromising market integrity and within limits that ensure investor protection.
- The RI Program will be launched in Q3 2021 and will admit identified fintech business models and processes in cohorts for a one-year period.
- Starting Q3 2021, fintech platforms with no defined framework will have to go through this incubation program to operate legitimately.

Specifically, the RI Program impacts fintech companies in the capital markets space that consider that there is **no specific regulation governing their business models or that require clarity on the appropriate regulatory regime.**

5.6 Other Policy and Regulatory Considerations

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5.6.1 — Data Protection

Data protection: **National provisions**

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Key Laws:
Nigeria Data Protection Regulation (2019)

The Constitution of the Federal Republic of Nigeria 1999 as amended

Main provisions:

- **Constitution of Nigeria** guarantees and protects privacy of citizens, their homes, correspondence, telephone conversations and telegraphic communications (Section 37).

- **Data Protection Regulation** applies to all storage and processing of personal data in respect of Nigerian citizens and residents.*

Data protection regulation on data processing:

- Processing of data is only lawful under certain conditions (Section 2.2), including if at least one of the following conditions is met:
  - The Data Subject grants consent
  - If it is necessary for the performance of a contract where the Data Subject is a party
  - If it is necessary for the Controller to comply with a legal obligation
- No data is to be collected unless the specific purpose for collection has been made known to the Data Subject. The data controller has an obligation to ensure consent was obtained without fraud or undue influence (Section 2.3).
- Sufficient security measures are required to be put in place to protect data (see 2.6 of the Regulation for examples).

*The enforceability of the Data Protection Regulations, and sanctions contained within them, have been called somewhat into question recently due to a March 2018 court case, although this related to the NOSDRA Act and not to financial regulation. In this case, the Nigerian Court of Appeal held that to the extent that regulations are not Acts of the National Assembly of Nigeria, sanctions imposed by them may not enforceable without recourse to court action

Sources: Nigeria Data Protection Regulation (2019), The Constitution of the Federal Republic of Nigeria 1999 as amended

Data protection: **Sectoral provisions**

These data protection provisions in sector specific regulation apply to specific types of financial service providers.

Institutions:

- The **Consumer Protection Framework 2016** prohibits disclosure of customers' personal information by financial institutions that fall under the remit of the CBN (i.e., banks, MMOs, and credit bureaus) (Section 1.2). It requires them to establish appropriate data protection measures and staff training programs to deter unauthorized access, alteration, disclosure, accidental loss, or destruction of customer data. It is mandatory for them to obtain prior written customer consent for the sharing of personal data with a third party, or usage in promotional offers.
- The **Cybercrimes (Prohibition, Prevention Etc) Act 2015** stipulates various requirements for financial institutions to retain and protect data, and criminalizes the interception of electronic communications (Part IV).
- The **Code of Conduct in the Nigerian Banking Industry** imposes confidentiality obligations on banks and their employees.

Telecom licensees:

- **Consumer Code of Practice Regulations 2007** issued by the Nigerian Communications Commission(NCC) stipulates general principles relating to collection and maintenance of customer information by licensees
    - Fair and lawful collection and processing
    - Information is not kept longer than necessary
    - Protections are put in place against improper or accidental disclosure
    - The transfer of customer information to any party is prohibited except where permitted by any terms and conditions agreed with the Customer; or as permitted or required by the NCC or other applicable laws or regulations (Section 35)

Sources: Consumer Code of Practice Regulations 2007, Code of Conduct in the Nigerian Banking Industry, Consumer Protection Framework 2016, The Cybercrimes (Prohibition, Prevention Etc) Act 2015

Data protection: **Sectoral provisions (cont.)**

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These data protection provisions in sector specific regulation apply to specific types of data.

Credit data:

- **Credit Reporting Act (2017)** provides data subjects the right to privacy, confidentiality, and protection of their credit information (Section 9).

Personal data:

- The **National Identity Management Commission (NIMC) Act 2007** restricts the access of data within its database of registered individuals only to persons authorized by the Commission (Section 26).

Business secrets

- **Federal Competition and Consumer Protection Act (2019)** provides that in Commission investigations and hearings, the Commission should endeavour to protect the business secrets of parties involved.

Telephone Subscribers

- The **Registration of Telephone Subscribers Regulation (2011)** (issued by NCC) provides for data privacy and protection of subscribers. This includes the confidentiality of personal information of subscribers stored in the central database or a licensee's database, and states how that information shall not be released to a third party or transferred outside Nigeria except with the prior written consent of the subscriber and Commission (Regulation 9 and 10).

Sources: Credit Reporting Act (2017), The National Identity Management Commission (NIMC) Act 2007, Federal Competition and Consumer Protection Act (2019), The Registration of Telephone Subscribers Regulation (2011)

Data **localization**

- **ICT & government data :**
  The Guidelines on Nigerian Content Development in ICT issued by the National Information Technology Development Agency (NITDA) require that all subscriber and consumer data of ICT service providers "as well as all government data" is stored locally within Nigeria (see Section 11-14 of the Guidelines), unless express approval is obtained from NITDA (Section 14). The Guidelines apply to public and private sector institutions, businesses, and individuals (Section 4).

- **POS & ATM transactions:**
  CBN Guidelines on Point of Sale (POS) Card Acceptance Services (2011) apply to entities who undertake POS card acceptance services. It prohibits the routing of domestic POS and ATM transactions outside Nigeria for switching between Nigerian issuer and acquirer.

Sources: [The Guidelines on Nigerian Content Development in ICT](), [CBN Guidelines on Point of Sale (POS) Card Acceptance Services (2011)]()

Data sharing: **Open banking**

- The CBN issued on 17 February, 2021 the **Regulatory Framework for Open Banking in Nigeria** ("Framework").
- The Framework applies to banking and other related services including: (i) payments and remittance services; (ii) collection and disbursement services; (iii) deposit-taking; (iv) credit; (v) personal finance advisory and management; (v) credit ratings/scoring; (vi) leasing/hire purchase; and (vii) mortgages.
- The Framework-regulated Participants include providers (who use APIs to provide data or a service to another participant), API users, and fintech companies (they may be providers or API Users); their level of access is tiered depending on regulatory status.
- The CBN is responsible for the maintenance of an Open Banking Registry and the development of the Common Banking Industry API Standards. These Standards are to be developed within 12 months of issuance of the Framework.
- The categories of Financial Data that can be shared (depending on the tier of Participant) through APIs include Product Information, Market Insight Transactions, Personal Information and Financial Transaction, Profile, Analytics, and Scoring Transactions.
- The Framework mandates Participants to obtain the consent of customers in the customer's preferred language and to ensure the security of financial data of such customer.
- Participants and their partners would be jointly liable for any loss occurring to the customer as a result of data sharing except where the Participant can prove willful negligence or fraudulent actions against the customer.

Sources: Regulatory Framework for Open Banking in Nigeria

5.6.2 — Consumer Protection

Consumer protection: **National & sectoral provisions**

National provisions:

- **Federal Competition and Consumer Protection Act (2018)** establishes the Federal Competition and Consumer Protection Commission (FCCPC) that is tasked with responsibility for promoting the welfare of consumers (Part II).
- The Act covers areas that may be relevant for firms including requirements on consumer rights (Part XV), and enforcement of consumer rights (Part XVII).

Sectoral provisions:

- The **CBN Consumer Protection Framework** (CPF) (2016) applies to all entities licensed by the CBN. It sets minimum standards for efficient customer service delivery and market discipline, and requires financial institutions to safeguard the privacy of their customers' data, including personal and financial information, and adequately address complaints. Firms are required to be transparent and not misleading in their advertisements or dealings with customers, not engage in uncompetitive practices, establish complaint channels, and not include unfair contract terms.
- CBN's **Consumer Protection Regulations 2019** prescribe requirements relating to fair customer treatment (Part 2), disclosure and transparency (Part 3), responsible business conduct (Part 4), and complaints handling and redress (Part 6).
- The **General Consumer Code of Practice (2007)** issued by the NCC contains provisions relating to the protection of the rights and interests of communication services consumers.

Sources: Federal Competition and Consumer Protection Act (2018), CBN Consumer Protection Framework (2016), Consumer Protection Regulations 2019, General Consumer Code of Practice

5.6.3 —

Anti-Money Laundering (AML)/Know Your Customer (KYC)

AML/KYC: **Key laws & main provisions**

Key Laws:

- **The Banks and Other Financial Institutions Act (BOFIA)**
- **CBN Anti-money Laundering and Combatting the Financing of Terrorism (CFT) in Banks and Other Financial Institutions in Nigeria Regulations (2013)**
- **The Guidelines on Mobile Money Services in Nigeria**
- **The CBN Guidelines on Licensing and Regulation of PSBs**
- **Money Laundering (Prohibition) Act, 2011 (as amended)**
- **Terrorism Prevention Act, 2011**
- **Financial Reporting Council of Nigeria Act**

Main provisions:

- The **BOFIA** requires banks and other financial institutions to adopt policies that indicate their commitment to adhere to AML/CFT requirements provided in laws and regulations and to set up internal control measures to prevent related conduct (Section 66).
- The **AML Regulations** require that:
  - All financial institutions have to have policies on AML/CFT, as well as appropriate KYC requirements and record keeping.
  - Financial institutions implement internal controls to prevent the use of their facilities for money laundering and terrorist financing (Section 4).
  - Financial institutions are also required to report suspicious transactions (Section 31).
- **The Guidelines on MMS** require MMOs to comply with the AML/CFT Regulations (Section 15).
- The **CBN PSB Guidelines** provide for KYC requirements (Section 11). PSBs must comply with relevant provisions of the Money Laundering (Prohibition) Act, 2011, Terrorism Prevention Act, 2011, CBN AML/CFT Regulations for Banks and Other Financial Institutions 2013, and other laws and regulations on KYC issued by the CBN.
- Fintechs will have to comply with other laws on financial crime, including the **Money Laundering (Prohibition) Act (2011)** and the **Terrorism (Prevention) Act (2011)**
- The **Financial Reporting Council of Nigeria Act (2011)** sets out reporting and compliance with AML requirements.

Sources: Banks and Other Financial Institutions Act 2020, CBN Anti-money Laundering and Combatting the Financing of Terrorism in Banks and Other Financial Institutions in Nigeria Regulations (2013), The Guidelines on Mobile Money Services in Nigeria, The CBN Guidelines on Licensing and Regulation of PSBs, Money Laundering (Prohibition) Act, 2011 (as amended), Terrorism Prevention Act, 2011, Financial Reporting Council of Nigeria Act(2011)

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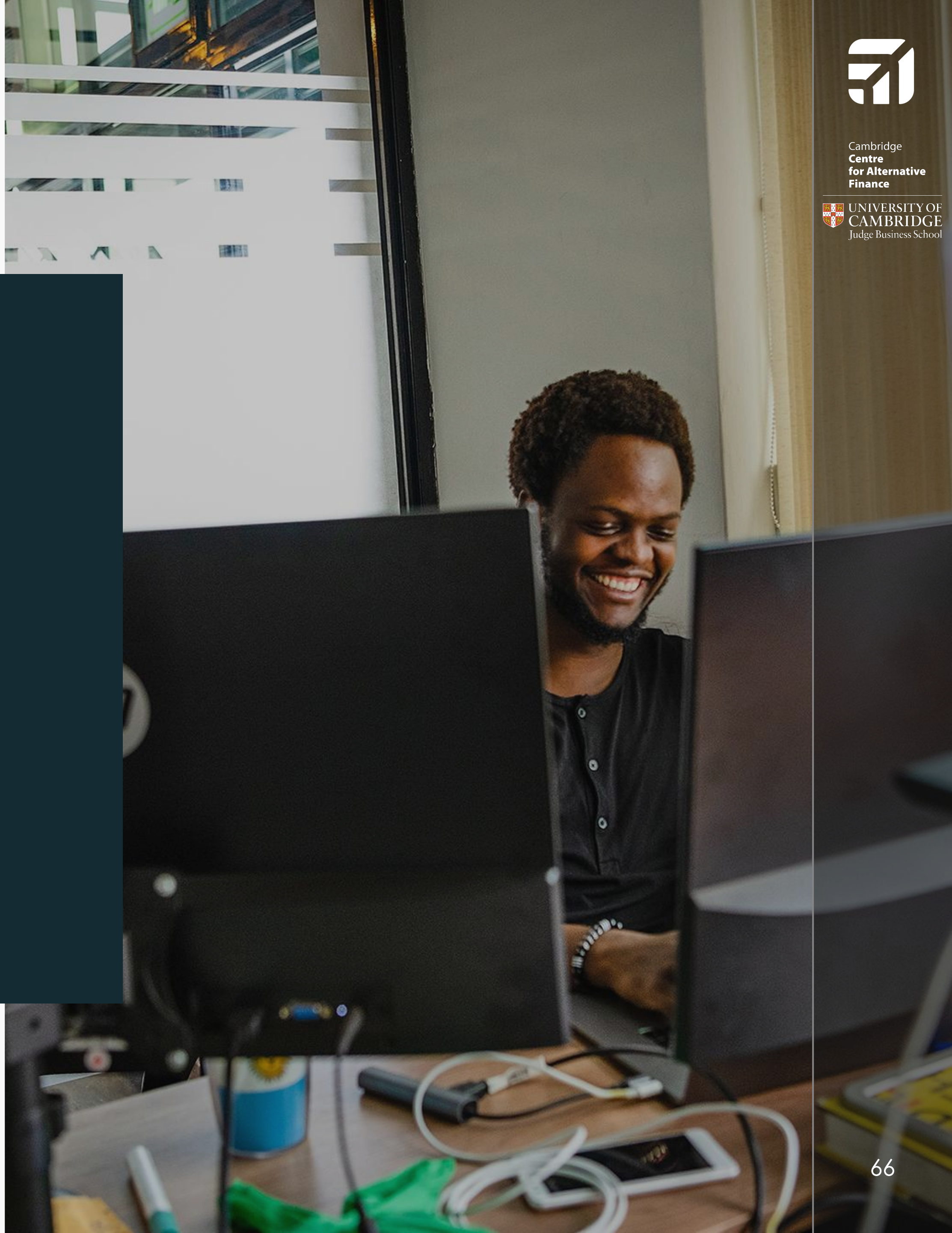
AML/KYC: **Customer due diligence requirements**

- Customer Due Diligence (CDD) requirements for financial institutions are contained in Part IV of the **CBN Anti-money Laundering and Combatting the Financing of Terrorism in Banks and Other Financial Institutions in Nigeria Regulations (2013)**.
    - Financial Institutions are required to identify and verify the identity of their customers, and to apply the CDD measure on a risk sensitive basis. For customers considered to be higher risk, enhanced due diligence is to be conducted. Simplified due diligence is permitted for low-risk customers, transactions, or products.
    - A detailed breakdown of the type of information to be obtained for identification and data verification is set out in Schedule 11. For example, in the case of natural persons, must obtain an official personal identification number or other unique identifier contained in an unexpired official document e.g., a passport, ID card, residence permit, social security records, or driver's license with the customer's photo. Although the regulations provide a list of documents, this is only illustrative and equivalent documents may also be acceptable.
- CBN introduced three tiered KYC requirements in 2013 applicable to banks and other financial institutions. They allow for flexible account opening for low-value and medium-value account holders, including eKYC. (see CBN circular for details).
- Biometric registration for all SIM cards is required by the NCC. This data can be used by customers to satisfy Tier 1 KYC for a DFS account with transaction limits. Customers seeking higher transaction limits must satisfy Tier 2 and 3 KYC requirements, which are more stringent. (See Focus Note below)

Sources: CBN Anti-money Laundering and Combatting the Financing of Terrorism in Banks and Other Financial Institutions in Nigeria Regulations (2013), CBN Three tiered KYC Circular, Focus Note: The Use of eIDs and eKYC for Customer Identity and Verification in Developing Countries: Progress and Challenges

5.6.4 —

Cybersecurity



Cybersecurity: **Relevant legislation**

National legislation:

- **Cybercrime (Prohibition, Prevention, Etc.) Act (2015)** promotes cybersecurity and cybercrime prevention. It sets out obligations for the private sector to report and cooperate with law enforcement authorities and the Nigerian Computer Emergency Response Team (ng-CERT).
  - Specific duties for Financial Institutions (see Part IV for details) include KYC and prevention of unauthorized debits.
  - Traffic data and subscriber information which the NCC might need to refer to should be kept for at least 2 years.

Financial sector:

- **The Risk-Based Cyber-Security Framework and Guidelines for Deposit Money Banks (DMB) and Payment Service Providers (2019)** provides guidance for DMBs and PSPs in the implementation of their cybersecurity programs towards enhancing their resilience. These include requirements on governance and oversight, including the need to appoint a Chief Information Security Officer, details on metrics and reporting, and operational resilience requirements.

Sources: Cybercrime (Prohibition, Prevention, Etc.) Act (2015), The Risk-Based Cyber-Security Framework and Guidelines for Deposit Money Banks and Payment Service Providers (2019)

5.6.5 — Competition

Competition: **Relevant legislation & competition issues**

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Key legislation:

- **Federal Competition and Consumer Protection Act (2018)** (FCPA) aims to encourage healthy competition.

The BOFIA stipulates that the FCPA is not applicable to "any function, act, financial product, or financial services issued or undertaking, and transaction howsoever described by a bank or other financial institutions" that are licensed by CBN (Section 65). This suggests that the requirements of **the FCPA is inapplicable for fintechs who are regulated through the BOFIA.**

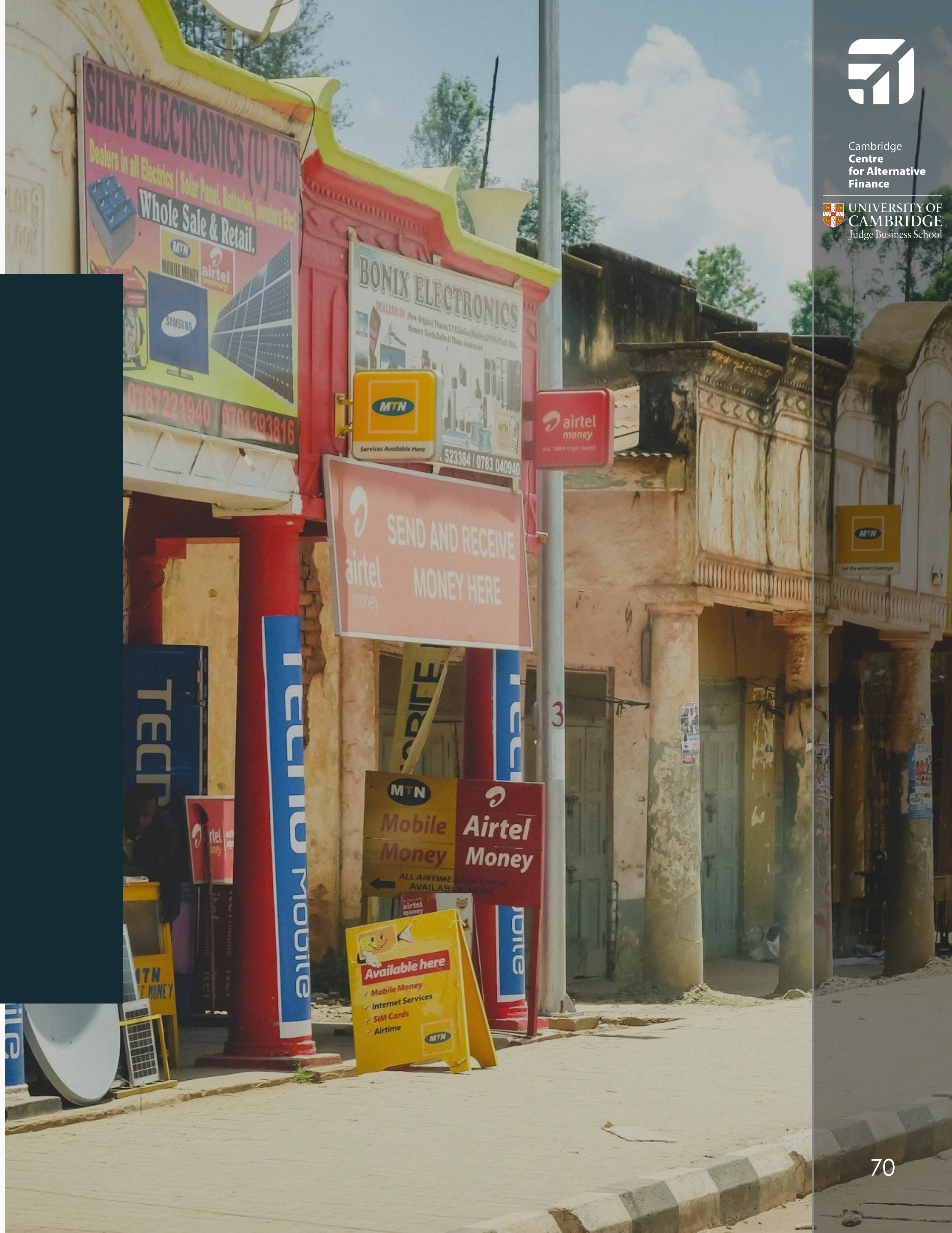
Main provisions:

- The FCPA covers areas that may be relevant for firms including:
  - Restrictive agreements (Part VIII)
  - Abuse of dominant position, which is prohibited (Part IX)
  - Monopoly (Part X)
  - Price regulation (Part XI)
- Requirements include:
  - Marketing and testimonials should not be misleading or deceptive
  - Goods and services should not be displayed without the price
  - Products/services should not be bundled together, unless it can be demonstrated that the convenience to the consumer in bundling the services outweighs the limitation of the consumer's right to choose
  - Notices should be in either the form specified by law or (if there is none) in plain language
- The FCPA establishes the Federal Competition and Consumer Protection Commission, which has control over mergers, and a Competition and Consumer Protection Tribunal, which adjudicates over matters which arise from the operation of the Act, including appeals or reviews of decisions.

Sources: Banks and Other Financial Institutions Act 2020, Federal Competition and Consumer Protection Act (2018)

5.6.6 —

Telecommunications Regulation



Telecommunication regulation: **Licensing for VAS**

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Key regulations:

- **Nigerian Communications Act 2003** (NCA 2003) sets up the Nigerian Communications Commission (NCC), the independent National Regulatory Authority for the telecommunications industry in Nigeria.
- **The Nigerian Communications Commission license Framework for Value Added Service** ("VAS Framework")

Application to fintech:

- The NCC regulates fintech businesses where the services offered involve MNOs.
- The **VAS Framework** sets out requirements which may be applicable to fintechs, depending on the firm and business model:
  - A VAS Provider is any person or organization that engages in the provision of value added mobile/fixed services, including premium rated services — such providers are required to obtain a license from the NCC. The use of airtime for the repayment of loans to a mobile lender could constitute a premium rated service, the provision of which requires the approval of the NCC.
  - The VAS Framework contains various guidelines, including the need for a customer support/complaint framework, that service pricing information must be clearly and conspicuously indicated, and that the consumer must have the right to 'opt-in' or 'opt-out' of any promotion or service.
  - Application for licensing and the licensing fee charged depends on the individual licenses required. The VAS license is for a period of 5 years, after which is it renewable. Among other material, VAS applicants must present evidence of an agreement/an MoU entered between the company and the MNO.
  - The industry is required to develop a code of conduct that will be legally binding, but the VAS Framework does not give a deadline for this (nor consequences for lack of implementation) and thus this has not yet been developed.

Sources: Nigerian Communications Act 2003, The Nigerian Communications Commission license Framework for Value Added Service, Value Added Services and Aggregator Framework(amended) (2018), NCC Licensing Application Process, 5.6.7 —

Taxation of Financial Services

Taxation: **Financial services**

Relevant taxes:

- The **Nigerian Finance Act 2020**, introduced a number of tax laws of relevant fintech activities. These includes the **Companies Income Tax Act, 1990**, and the **Value Added Tax Act, 2004**.
- Nigerian companies collect income tax for non-resident companies that provide digital services and products to persons in Nigeria. This applies to firms which have a significant economic presence (undefined under the Act) in Nigeria, with their profits attributable to such activity.
- The Act also introduces Value Added Tax on intangible supplies. These changes may indicate future changes with respect to the taxation of digital transactions in Nigeria.
- From March 16th, 2021, the CBN and the NCC have imposed **a new charge for USSD enabled mobile banking services in the country:** USSD services for financial transactions conducted at DMBs and all CBN-licensed institutions will be charged at a flat fee of N6.98 per transaction. The new USSD charges will be collected on behalf of MNOs directly from customers' bank accounts. Banks shall not impose additional charges on customers for use of the USSD channel. (This charge replaces the current per session billing structure.)

Application to fintech:

- These taxes may impact fintech businesses, and fintechs are encouraged to consult the Federal Inland Revenue Service regarding the implications of the measures cited, as well as other requirements that may be relevant for their business model.

Sources: The Nigerian Finance Act 2020, Companies Income Tax Act, 1990, Value Added Tax Act, 2004, Joint Statement by CBN and NCC on Pricing of USSD Services

5.6.8 —

Other Relevant Regulations

Other relevant **regulations**

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Company incorporation:

- The Corporate Affairs Commission website contains step by step guidelines for matters under their purview, including how to register a company or change a company's name.

Employment of expatriates:

- If a fintech wishes to employ an expatriate(s), they are required to apply to the Ministry of the Interior via the eCitiBiz Portal, as detailed on their website.

Cross border technology transfer:

- If a fintech has a technology transfer agreement with a foreign company, it is required to register with the National Office for Technology and Promotion (NOTAP), and complete the relevant application form.

Foreign exchange:

- **Foreign Exchange (Monitoring and Miscellaneous) Provision Act (1995)** sets out rules on foreign exchange, including transactions, import and export of the Naira, and investment of foreign currencies in Nigerian businesses.

Cooperative societies:

- **Nigerian Cooperative Societies Act** provides for the registration of Cooperative Societies. (Part 1) Fintechs may obtain a cooperative license in conjunction with other licenses.

Sources: Corporate Affairs Commission, Ministry of Interior, NOTAP technology transfer registration, Foreign Exchange (Monitoring and Miscellaneous) Provision Act (1995), Nigerian Cooperative Societies Act

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06 What Regulations Are Coming Out Soon?

Regulatory **pipeline**

Sandbox:

In June 2020, the CBN released an exposure draft of the regulatory framework for sandbox operations. This contains provisions pertaining to live testing of innovative products, services, and solutions in a controlled environment.

NFIS:

Some of the key priorities in Nigeria's revised **National Financial Inclusion Strategy (2018)** included creating an enabling environment for digital financial services, reducing KYC hurdles, and driving the adoption of cashless payments. The NFIS states that the government of Nigeria aims to achieve full digitization of federal government flows by 2020.

NCC consumer protection:

NCC Consumer Code of Practice Regulations (2018) is currently under consideration at the time of publication. Among other requirements, it would require licensees to adopt and implement a policy on the protection of consumer information. In the meantime, refer to the NCC's Consumer Code of Practice Regulations (2007).

ACFTA:

A pan-African free trade agreement (**African Continental Free Trade Area Agreement**) that entered into force on 30 May, 2019 is expected to enhance regulatory alignment.

Electronic transactions:

An **Electronic Transaction Bill** was first introduced in 2015 but has not yet received presidential assent. It would codify the legal status and enforceability of contracts that are formed electronically. It stipulates provisions regulating the protection of data in electronic transactions, electronic contracts, and the use of electronic signatures. The Bill also restricts the transfer of personal data of individuals to a country outside Nigeria, unless such country has adequate provisions for the protection of data.

Sources: Sandbox Exposure Draft, NCC Consumer Code of Practice Regulations (2018), Electronic Transaction Bill, National Financial Inclusion Strategy (2018), African Continental Free Trade Area Agreement

Regulatory pipeline: **securities/ investment**

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Crowdfunding:
In the recent **SEC Fintech Roadmap,** the SEC recommended that interest-based crowdfunding become regulated by the CBN, and stated that equity-based crowdfunding should be regulated by the SEC (which it has recently done in January 2021 with its Crowdfunding Rules and Regulations - see Section 5.5 of deck).

Investment & Securities Act:
The **Investment and Securities Act** is currently under review to perceived gaps in the law.

Cryptocurrencies:
The Finance Ministry and the SEC were reportedly developing a regulatory framework for cryptocurrencies, but its future is unclear given CBN's repeated warnings against cryptocurrencies and assets (see Section 5.5 of deck).

Investment advice/robo advisers:
The SEC is likely to issue new regulations relating to investment advice and robo-advisors. This may result in the modification of pre-existing regulations, rather than new ones. It was hoped that these would be finalized by the end of 2020, but at the time of publication these have not been issued.

Sources: Report of the Fintech Roadmap Committee of the Nigerian Capital Market, Nigeria's Finance Ministry and SEC working on digital currency regulation

07 Additional Resources for Fintech Companies

Additional **resources available**

Resource	Who provides it?	What is it?	Where can I find out more?
Fintech and Innovation Office (FINO)	Securities and Exchange Commission	FINO reviews submissions from fintech firms, and coordinates collaboration internally. Their FinPort's aim is to "assist all new and even existing Financial Technology (fintech) businesses to understand the regulatory demands or requirements relevant to the Nigerian capital market." This includes a Fintech Assessment Form which can be used to engage with the SEC.	Innovation and Fintech Portal (FinPort) Capital Market Fintech Assessment form
Fintech And Innovations Unit	Nigeria Deposit Insurance Corporation	The unit engages and collaborates with innovators in the financial and non-financial sectors of the economy to identify, develop, and promote technology-driven solutions that would protect depositors and improve the safety and soundness of Insured Financial Institutions.	NDIC Website
Financial Services Innovators (FSI) Nigerian Industry Innovation Sandbox	FSI - a non-profit group backed by the CBN and NIBSS	This is an industry-led sandbox which provides a free software testing platform where innovators can test their ideas using the APIs of existing companies (including basic APIs from NIBBS).	FSI Website Application

Additional **resources available (cont.)**

Resource	Who provides it?	What is it?	Where can I find out more?
CBN Regulatory Sandbox	Central Bank of Nigeria	The CBN has launched as of January 2021 a regulatory sandbox to allow fintechs to test products/services in a controlled environment. Firms wishing to enter into the CBN's Regulatory Sandbox shall apply to the CBN through the Regulatory Sandbox online application platform accessed via the CBN's official email address - Sandbox@cbn.gov.ng .The application must be submitted with a cover letter signed by an authorized signatory of the entity and addressed to the Director, Payments System Management Department, Central Bank of Nigeria, Abuja.	Framework for Sandbox
SEC Regulatory Sandbox	Securities and Exchange Commission	The SEC is considering the development of a regulatory sandbox for non-crypto firms.	Regulatory sandbox assessment form
Bank Verification Number (BVN)	CBN in collaboration with the Bankers Committee	A centralized biometric identification system for customers that can be used across the Nigerian banking industry and by fintechs. The BVN assigns a unique identity across the banking industry to every customer of Nigerian banks. The objective is to ensure effectiveness of KYC principles, and the promotion of a safe, reliable, and efficient payments system.	NIBSS Website

Additional **resources available (cont.)**

Resource	Who provides it?	What is it?	Where can I find out more?
Shared Agent Network Expansion Facilities (SANEF) Strategy	Supported by a number of entities including CBN, NIBSS, MNOs, and Banks	Aims to increase financial access points and shared agents to 500,000 by 2020[1]. In addition to transfers and bill payments, BVN enrollment and account opening can also be conducted at agent locations.	SANEF Website
Creative Industry Financing Initiative	Joint initiative between the CBN and the Banker's Committee	Applicants in the field of Information Technology can get a loan to help their business at a maximum interest rate of 9%. Specific requirements and application process will depend on the private sector organization providing the loans.	Information document
Open Banking Nigeria	Open Banking Nigeria	An industry association for building open API standards for banking.	Open Banking Nigeria Website
Africa Fintech Foundry	Africa Fintech Foundry	An Access Bank initiative that aims to nurture, fund, and accelerate the growth of fintech startups in Africa through its mentorship and accelerator programs, fast-tracking their growth and maturity to deliver relevant solutions to the market, providing greater access to financial services to the financially excluded across the continent.	Africa Fintech Foundry Website

Nigerian authorities and their mandates

Authority	Objective/ Mandate	Year Formed	Authorizing legislation	Business Models - Mandate Applies							
				Digital payments & remittance*	Digital lending	Digital savings	Digital investment	Digital insurance	Digital capital raising**	Personal financial management	E-commerce & DFS platforms
Central Bank of Nigeria (CBN)	Ensuring high standards of banking practice and financial stability through surveillance activities and the promotion of an efficient payment system	1958	The Central Bank Act, 1958 (as amended), the Banking Decree 1969 (as amended), Central Bank of Nigeria (CBN) Act 2007	Yes	Yes	Yes			Only P2P lending	Yes	Yes
Nigeria Deposit Insurance Corporation (NDIC)	Insuring all deposit liabilities of licensed commercial banks and providing assistance to insured institutions in the interest of depositors in cases of financial difficulties	1990	Nigeria Deposit Insurance Corporation Act	Yes		Yes					
National Insurance Commission (NAICOM)	Its goals include: safety and soundness of insurance institutions; stability of insurance sector; protection of policyholders and third parties; market development; public trust in the insurance system; effectiveness in use of resources; and compliance with relevant laws	1997	National Insurance Commission Act 1997, Insurance Act 2003					Yes		If there is an insurance component	If there is an insurance component

*includes mobile wallets/ e-money, payment initiation & mobile POS **includes P2P lending and equity crowdfunding

Nigerian authorities and their mandates (cont.)

Authority	Objective/ Mandate	Year Formed	Authorizing legislation	Business Models - Mandate Applies							
				Digital payments & remittance*	Digital lending	Digital savings	Digital investment	Digital insurance	Digital capital raising**	Personal financial management	E-commerce & DFS platforms
Securities and Exchange Commission (SEC)	Regulating the capital market with a view to protecting investors, developing the capital market in order to enhance its allocative efficiency, and to pave the way for a private sector-led economy	1979	SEC Decree No. 71 (1979) (established SEC), Investments and Securities Act (ISA) No. 29 of 2007 (Current scope)		Depending on investment component	Depending on investment component	Yes		Depending on investment component	If there is an investment component	If there is an investment component
Federal Competition and Consumer Protection Commission (FCCPC)	The promotion of competition in the Nigerian markets at all levels by eliminating monopolies, prohibiting abuse of a dominant market position, and penalizing other restrictive trade and business practices	2019	Federal Competition and Consumer Protection Act	Only if not regulated by the BOFIA, mergers withstanding	Only if not regulated by the BOFIA, mergers withstanding	Only if not regulated by the BOFIA, mergers withstanding	Yes	Yes	Yes	Only if not regulated by the BOFIA, mergers withstanding	Only if not regulated by the BOFIA, mergers withstanding
Nigerian Communications Commission (NCC)	Various, including: the promotion of universal and affordable communications services and the encouragement of investment, competition, consumer protection, and efficient management	2003	Nigerian Communications Act (2003)	If the service constitutes a "Value Added Service"***	If the service constitutes a "Value Added Service"***	If the service constitutes a "Value Added Service"***	If the service constitutes a "Value Added Service"***	If the service constitutes a "Value Added Service"***	If the service constitutes a "Value Added Service"***	If the service constitutes a "Value Added Service"***	If the service constitutes a "Value Added Service"***

*includes mobile wallets/e-money, payment initiation & mobile POS **includes P2P lending and equity crowdfunding
***see NCC's license Framework for Value Added Services (VAS)

Nigerian authorities and their mandates (cont.)

Authority	Objective/ Mandate	Year Formed	Authorizing legislation	Business Models - Mandate Applies							
				Digital payments & remittance*	Digital lending	Digital savings	Digital investment	Digital insurance	Digital capital raising**	Personal financial management	E-commerce & DFS platforms
National Information Technology Development Agency (NITDA)	Planning, research, development, standardization, application, coordination, monitoring, evaluation, and regulation of Information Technology practices, activities, and systems in Nigeria	2001	National Information Technology Development Act (2007)	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
National Office for Technology Acquisition and Promotion (NOTAP)	Includes promotion of locally generated technologies and of intellectual property as well as the promotion and encouragement of the development of creative and inventive skills among Nigerian scientists, researchers, inventors, and innovators	1979	Decree No. 70 (1979), Decree no. 82 (1992	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Corporate Affairs Commission	Regulates the formation and management of companies	1990	Companies and Allied Matters Act	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes

**includes mobile wallets/ e-money, payment initiation & mobile POS **includes P2P lending and equity crowdfunding*

Nigerian authorities and their mandates (cont.)

Authority	Objective/ Mandate	Year Formed	Authorizing legislation	Business Models - Mandate Applies							
				Digital payments & remittance*	Digital lending	Digital savings	Digital investment	Digital insurance	Digital capital raising**	Personal financial management	E-commerce & DFS platforms
Financial Reporting Council of Nigeria (FRC)	Developing and publishing accounting and financial reporting standards to be observed in the preparation of financial statements of public entities in Nigeria, and for other related matters	2011	Financial Reporting Council of Nigeria Act (2011)	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Nigeria Inter-Bank Settlement System Plc (NIBSS)	Handling inter-bank payments in order to remove potential bottlenecks associated with inter-bank funds transfers and settlements. The company also operates the Nigeria Automated Clearing System (NACS) which facilitates the electronic clearing of cheques and other paper-based instruments, electronic funds transfer, Automated Direct Credits, and Automated Direct Debits. For mobile money services they issue a unique scheme code for interoperability.	1993	According to the NIBSS website, is owned by all licensed banks including the CBN. It commenced operations in June 1994	Yes	If there is an inter-bank payment or other EFT	Yes	If there is an inter-bank payment or other EFT	If there is an inter-bank payment or other EFT	If there is an inter-bank payment or other EFT	If there is an inter-bank payment or other EFT	If there is an inter-bank payment or other EFT

*includes mobile wallets/ e-money, payment initiation & mobile POS **includes P2P lending and equity crowdfunding*

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