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# FINTECH FORWARD LOOK

# OLANIWUN AJAYI FINTech FORWARD LOOK 2021

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# INTRODUCTION

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# Welcome to the Olaniwun Ajay LP

## Fintech Forward Look 2021



### DAMILOLA SALAWU

Partner (Technology,  
Innovation and Fintech),  
Olaniwun Ajayi LP,  
January 2021

In the last five years, Nigerian FinTechs have raised over \$600 million in funding. In 2020, despite the global economic downturn occasioned by the Covid-19 pandemic, the Nigerian FinTech space experienced an influx of new entrants, increased funding for FinTechs, more activity in the lending space, collaboration between FinTechs and Deposit Money Banks (**DMBs**), and a heightened competition between FinTechs and DMBs for mind and market share.

In 2020, we also saw a significant growth in ecommerce with OPay creating OMall and OTrade, Flutterwave announcing Flutterwave Store, and SystemSpecs's Remita unveiling its Paylink platform. The pandemic-accelerated digital trends led to a surge in demand for cashless payments, digital platforms and other fintech-related services, and culminated in the landmark acquisition of Paystack, a Nigerian online payment processing service by Stripe, an American financial services provider for \$200m.

On the regulatory front, a key highlight of 2020 was the shift in attitude of the Securities and Exchange Commission (SEC) on its treatment of cryptocurrency and crowdfunding, with SEC now according recognition to cryptocurrency as a form of investment or securities in Nigeria, and crowdfunding as a means of raising investment by private companies in Nigeria, and assuming regulatory oversight over dealings in both investment products.

Further, the apex financial services regulatory authority, Central Bank of Nigeria (CBN) streamlined payments system licences into 4 broad categories; Switching and Processing, Mobile Money Operations (MMOs), Payment Solution Services (PSSs) and Regulatory Sandbox, and listed the permissible activities.

On the global scene, Intuit, an accounting, tax filing and financial planning software provider acquired Credit Karma for US\$7.1 billion in February 2020 and Visa acquired Plaid, a network that makes it easy for people to connect their financial accounts to apps and enables consumers to easily share their financial information with thousands of apps, for US\$5.3 billion in January 2020.

This year and consistent with the approach taken in our previous reports, this Report is in two parts: Part A focuses on highlights of 2020, while Part B looks forward into 2021 outlining some of our expectations for the year.

We trust you will find this a good read. We look forward to receiving your feedback, comments and observations on the Report.

Please send any general comments or feedback to [TIF@olaniwunajayi.net](mailto:TIF@olaniwunajayi.net).

Thank you.

# Testimonials



## TIER-1 FINTECH LEGAL CATEGORY (NIGERIA)

"The work product has always been good, they're genuinely responsive and they meet all our standards. A partner to us, not just working under us.... One of the best firms in Nigeria!"

**CHAMBERS & PARTNERS (2021)**

## Chambers AND PARTNERS



Damilola Salawu

"he really understands the business and technology side and how companies operate. I don't need to explain these issues to him; he takes our instruction and runs with it."



Olaniwun Ajayi LLP

"their experience in emerging technologies is attractive to startups as well as traditional financial institutions operating in the Nigerian fintech ecosystem."

"they are always ready to help-their time and effort is noteworthy. They have been very good at navigating the Fintech space in Nigeria. They are good at advising on and unlocking the regulatory space"

**Chambers and Partners (2020)**



Olaniwun Ajayi LLP

"Very active with FinTech startups. They have a small unit where that's all they do"

"They produce solid thought leadership in the FinTech space, addressing potentially controversial issues."

"The firm is especially noted for the strength of its regulatory advice in the payments and lending spaces"

**Chambers and Partners (2019)**



**IP and Technology Team of  
the Year 2019**

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PART ONE

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**FINTECH  
FACTS AND  
FIGURES  
2020**

# Investment

Over the past five years, Nigerian FinTechs have raised over **US\$600 million** in funding.



In Q1 2020, the year got off to a promising start as FinTechs attracted investment worth **US\$43.87 million**, representing a **59.8%** percent increase from the amount raised in Q1 2019, and amounting to more than the amount raised in Q1 2018 and Q1 2019 combined. Flutterwave's **US\$35 million** Series B made up more than half of what startups raised in Nigeria.



The promising start to the year soon took a swift decline in Q2 with just **US\$2.39 million** in funds raised, representing a **94.5%** decrease from the funds raised in Q1 2020, and a 90% decrease from the funds raised in the same period last year.



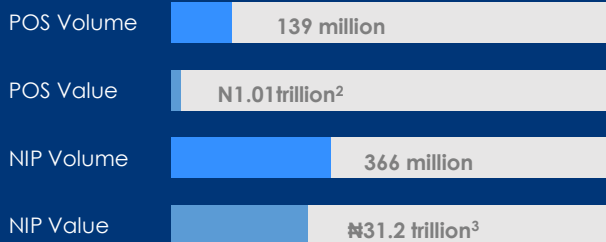
Additionally, Fintechs only accounted for **8.45%** of the total startup funding raised in Q2 2020.

# Value And Volume Of Web And Pos Transactions

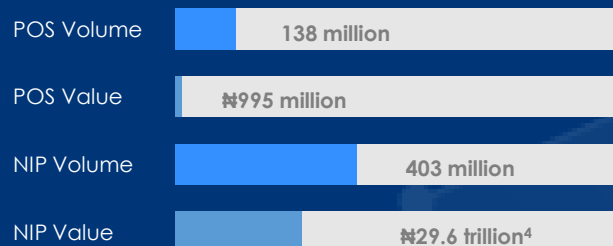


2020 recorded over **2 Billion** NIP and POS transactions, valued at over **N160 trillion** up **42% from last year**<sup>1</sup>.

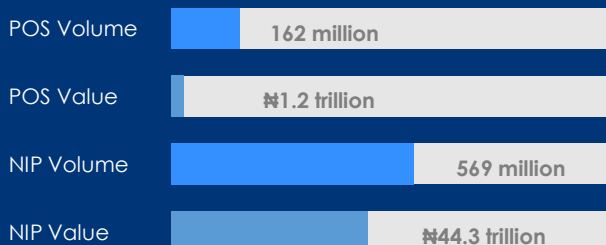
## Q1 - N32.2 TRILLION



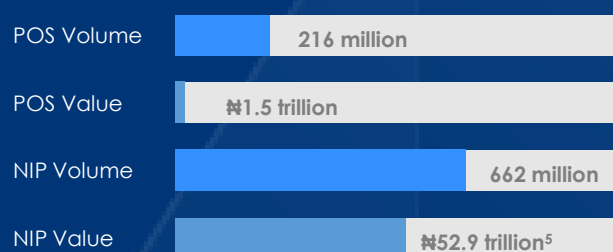
## Q2 - 30.6 TRILLION



## Q3 - 45.5 TRILLION



## Q4 - 53.4 TRILLION



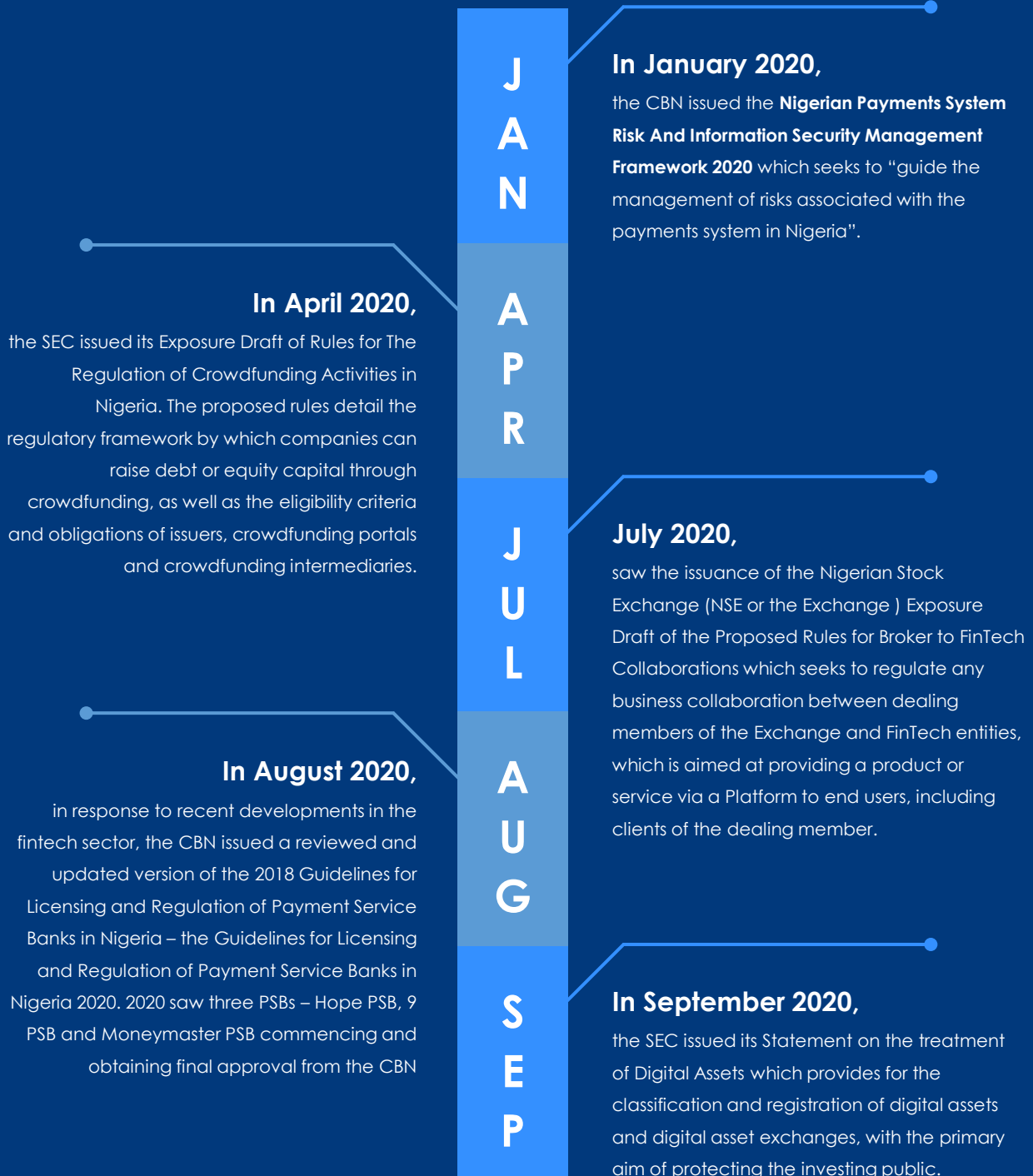
Although there was an initial decline, transaction volume and value generally improved for the year, reflecting the increase in online activity occasioned by the pandemic.

1. Techpoint Africa - 'Nigeria recorded \$428 billion worth of e-transactions in 2020, 42% higher than in 2019' <<https://techpoint.africa/2021/01/14/13-billion-worth-of-transactions-nigeria-had-its-most-cashless-year-yet/>> NIBBS News Report - 'Electronic Payment Transactions Hit N111.29tn in Nine Months' <<https://nibss-plc.com.ng/news/4kqjw6vykq1kq72ye372jqernj>tals-n263-78tr-nbs/>>>
2. Techpoint Africa - 'Nigeria's Cashless Vision 2020: A look at the Journey so far' <<https://techpoint.africa/2020/04/21/nigeria-cashless-vision-2020/>>
3. Techpoint Africa - 'Value of online transactions in Nigeria hits \$116 billion in Q3 2020' <<https://techpoint.africa/2020/11/05/instant-payment-nigeria-q3-2020/>>
4. ibid



# New Regulations

2020 was an active year in terms of fintech regulation. Regulators were at their best in taking proactive steps which helped and will likely bring a boost to the activity in the fintech ecosystem generally. We have set out in the Appendix to this reports, all the newsletters we published on regulatory changes and topical matters that arose over the course of the year.



### In November 2020,

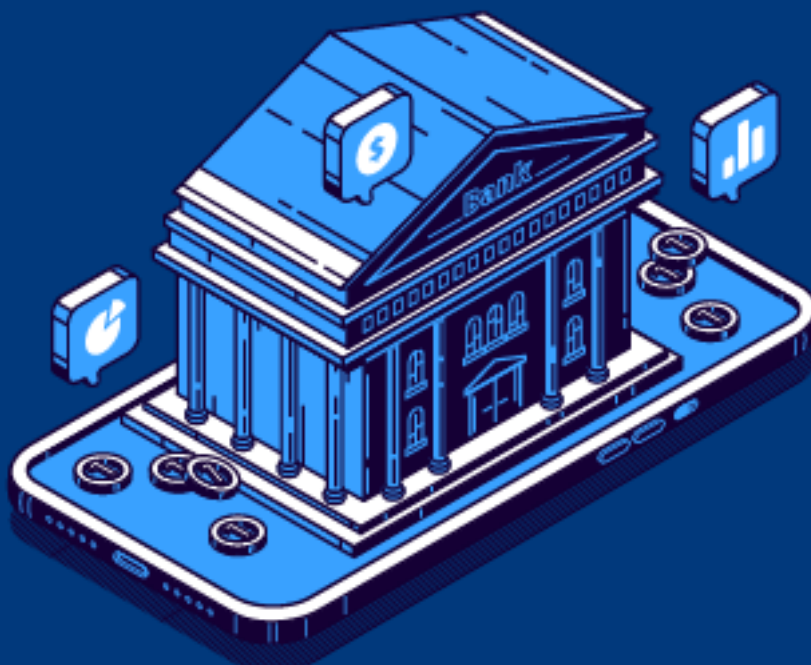
the Banks and Other Financial Institutions Act (BOFIA) 2020 was passed into law, effectively repealing the BOFIA 1991 (as amended). The BOFIA 2020 expressly brings FinTechs under its purview, as they now fall within the definition of Other Financial Institution (OFI), which gives the CBN greater regulatory oversight into the activities of FinTechs.

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### In December 2020,

the CBN published the Circular on New License Categorisations for the Nigerian Payment Systems (Payments System NLC). Further to the Payments System NLC, the payments licensing framework has been streamlined into four broad categories of permissible activities namely: Switching and Processing (permissible activities include switching, card processing, transaction clearing and settlement agents services and non-bank acquiring services, as well as permissible activities under the PSSP, PTSP and Super Agent licensing framework); Mobile Money Operations (permissible activities include activities under the MMO and Super Agent licensing framework); Payment Solution Services (PSSs) (permissible activities include activities under the PSSP, PTSP and Super Agent licensing framework); and Regulatory Sandbox (wherein a new company may apply to the CBN for review of its products and solutions).



# EMERGING FINTECH SECTORS

## Cryptocurrency

Cryptocurrency has been a buzzword since the early days of FinTech in Nigeria, but the growth of crypto focused players in the space has been stifled by the cautious approach of the Nigerian regulators to dealing with the trading of cryptocurrency in Nigeria. The SEC issued Statement indicating its intention to regulate Digital Assets and Digital Asset Exchanges may further result in increased activity in the space.



## Wealthtech

Wealth management, alongside payment and lending is one of the leading areas of FinTech in Nigeria, amounting to 11% of all FinTech players in Nigeria behind payments at 39% and lending at 28%. In fact, Nigeria has the highest number of wealthtechs in Africa with over 20 wealthtech platforms.

In our Forward Look 2019, we predicted an increase in FinTech driven activities in the capital markets space. Indeed, in 2020 we saw an influx of wealthtechs such as RiseVest, Chaka, and Bamboo, offering users an opportunity to invest in international stock markets from their local currency account.



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PART TWO

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# 2020 WRAP-UP



# COVID 19 AND THE FINTECH ECOSYSTEM

## Decrease in FinTech Funding

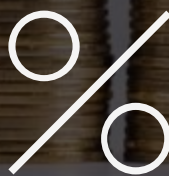


FinTech Start-ups took an even smaller portion of the pie with just

# 8.45%

of the total amount of startup funding raised in

# Q2 2020



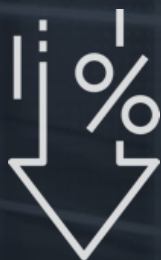
Undoubtedly, over the course of 2020, the COVID-19 pandemic negatively impacted the fortunes of most economic sectors across the world including FinTech, which though initially appeared better suited than most to weather the pandemic, was nevertheless still not immune to the aftershocks of the pandemic. The pandemic not only brought about a decrease in funding in the FinTech ecosystem, in general, funding was also significantly lower, with Nigerian businesses raising a total of \$28.35m in Q2 2020, representing a 48.8% decline from the funding raised in Q1 2020. FinTech start-ups took an even smaller portion of the pie with just 8.45% of the total amount of startup funding raised in Q2 2020. Additionally, foreign investors accounted for a greater amount of funds raised -a whopping 98.8% in Q1 2020, and 95% in Q2 as opposed to 68.6% in Q1 last year.

## Decrease in Transaction Value During Compulsory Lockdown

Although the pandemic-induced lockdown compelled business and individuals to move online, thereby increasing online activity, the value of online transactions dipped during peak lockdown periods. In April 2020, during the compulsory lockdown in Lagos, Ogun and Abuja and other states, the total value of NIP transfers across Nigeria suffered a 36% drop, from N10.97tn in March to N7.01tn in April 2020<sup>7</sup>- a reflection of declining economic activity. In fact, April recorded the lowest NIP numbers of the year. Likewise, the volume of NIP transactions dropped by 20% from 135 million in March to 107 million in April 2020<sup>8</sup>. However, the numbers improved again in May, as there was a 68% increase in value of NIP transactions recorded in April with a transaction value of N10.41tn across Nigeria<sup>9</sup>. By the end of Q2 2020, 403 million NIP transactions valued at N29.6 trillion were recorded across Nigeria<sup>10</sup>, representing a 10.1% improvement from the volume of transactions recorded in Q1 which stood at 366 million and a 5.4% decrease in the value which stood at ₦31.2 trillion. Additionally, POS transactions experienced a slight dip between Q1 and Q2 2020 with 139 million transactions valued at N1.01trillion in Q1<sup>11</sup>, in comparison with 138 million transactions valued at N995billion in Q2<sup>12</sup>. There were marked improvements in Q3 2020 on all accounts with 569 million NIP transactions (up 41% from Q2) valued at ₦44.3 trillion (up 50% from Q2). With respect to POS transactions, there were 162 million transactions (up 14.8% from Q2) valued at ₦1.2 trillion (up 17% from Q2)<sup>13</sup>. In Q4 2020, there were 216 million POS transactions valued ₦1.5 trillion and 662 million NIP transactions valued at ₦52.9 trillion. Accordingly, despite the early slump, transaction volume and value generally improved for the year, reflecting the increase in online activity occasioned by the pandemic.

The total value of NIP transfers across Nigeria suffered a

**36%** drop



7. NIBBS News Report - Electronic Payment Transactions Hit N111.29tn in Nine Months

8. Ibid

9. Ibid

10. Techpoint Africa - 'Value of online transactions in Nigeria hits \$116 billion in Q3 2020' <https://techpoint.africa/2020/11/05/instant-payment-nigeria-q3-2020/>

11. Techeconomy - 'Banking Sector's E-transaction totals in Q2-2020' <https://techeconomy.ng/2020/09/banking-sectors-e-transaction-in-q2-2020-totals-n263-78tr-nbs/>

12. Techpoint Africa - 'Value of online transactions in Nigeria hits \$116 billion in Q3 2020' <https://techpoint.africa/2020/11/05/instant-payment-nigeria-q3-2020/>

13. Ibid

# TOWARDS THE TAXATION OF THE DIGITAL ECONOMY: THE FINANCE ACT AND DIGITAL TAXATION

The enactment of the Finance Act (**the Act**) introduced key changes to the tax legislation in the country to wit; (x) the imposition of Companies Income Tax (CIT) for non-resident companies (**NRC**) providing digital services and products to persons in Nigeria; and (y) the imposition of VAT for sale of intangible supplies.

Before the Act, the NRC's tax liability under the provisions of the Companies Income Tax Act (**CITA**), was limited to where the NRC: (x) has a fixed based in Nigeria; (y) concluded a contract through an agent in Nigeria; and (z) engaged in turn-key projects in Nigeria or carried on business with persons having controlling interests in the NRC and the conditions imposed between NRC and such persons were deemed artificial by the Federal Inland Revenue Service (**FIRS**).

To be able to determine the profits of NRC derived from Nigeria, the concept of "Significant Economic Presence" (**SEP**) was introduced in the Act. Generally speaking, an NRC will now be subject to CIT in Nigeria where it "transmits, emits or receives signals, sounds, messages, images, or data of any kind by cable, radio, electromagnetic systems or any other electronic or wireless apparatus to Nigeria in respect of any activity, including electronic commerce, application store, high-frequency trading, electronic data storage, online adverts, participative network platform, online payments and so on, to the extent that the company has a significant economic presence in Nigeria and profit can be attributable to such activity".

Further to the provision above, an official gazette titled the Companies Income Tax (**SEP Order**) was subsequently issued in May 2020. The SEP Order describes two broad categories of foreign companies that will be deemed to have an SEP in Nigeria; companies involved in digital transactions and companies providing technical, professional, management and consultancy (**TPMC**) services. An NRC providing TPMC services will be deemed to have an SEP in Nigeria where it earns income or receives payment from a person resident in Nigeria or from a fixed base or agent of a foreign company in Nigeria.



An official gazette titled the Companies Income Tax (SEP Order) was subsequently issued in **May 2020.**

Regulation 6 of the CBCRR stipulates that any constituent entity of a multinational Enterprise (MNE) Group that is tax resident in Nigeria will be required to notify the FIRS of the identity and tax residence of the Reporting Entity and whether it is the Ultimate Parent Entity (UPE) or the surrogate Parent Entity (SPE). Consequently, an NRC with SEP in Nigeria will be deemed tax resident and will be required to file a CbC notification in Nigeria where the group's consolidated revenue meets a threshold.

Once it is determined that an NRC is subject to tax in Nigeria based on the SEP Order, the FIRS will then have to determine the tax liability of the NRC, however this will be limited to the portion of its profit generated in Nigeria. Unfortunately, the SEP Order does not provide any guidance on how this determination would be made by the tax authority, thereby making it difficult for the tax authority to assess and determine the tax liability of the NRC. This is more so given the difficulty in accessing the profit records of NRCs to determine the tax liability of NRCs with SEP. This, although difficult has become feasible with the introduction of Income Tax (Country-by-Country Reporting Regulations 2018 (CBCRR) (in relation to NRCs with determinable presence in Nigeria) and the Income Tax (Common Reporting Standard) Regulations 2019 (in relation to NRCs with no determinable presence in Nigeria) published by the FIRS.<sup>15</sup> In essence, the Regulations provide guidance to multinational enterprises on their reporting obligations to the FIRS in relation to their group income, taxes paid and other indicators of their economic activity.

Similarly, the Federal Government may use its statutory “powers of substitution” under the FIRS Establishment Act, 2007 (**Establishment Act**) to appoint banks and other relevant financial institutions, to source and obtain information on NRCs to bring them under the administrative purview of the order. It aims to provide the tax authorities with additional information from banks to prevent tax avoidance by international companies. Relatedly, the Income Tax (Common Reporting) Standards provides the guideline on how Reporting Financial Institutions (RFIs) should identify Reportable Accounts (RA), how to perform due diligence on the relevant financial information to be disclosed, outlines compliance obligations, mode of compliance and specifies penalties for non-compliance.<sup>16</sup>



## VAT on the Sale of Intangible Goods

The Act also expanded the scope of VAT to capture supplies of goods<sup>17</sup> and services<sup>18</sup> in the digital economy provided that the beneficial owner of the rights in or over the goods is a taxable person in Nigeria and the goods or right is situated, registered or exercisable in Nigeria. The FIRS has updated its circulars to bring them in line with the provisions of the Act.

The Act has also made provisions ensuring that NRCs register for VAT in Nigeria, as well as for accounting of VAT on invoices issued by NRCs to Nigerian consumers. Where the NRC fails to remit VAT, the Act mandates the recipient of the invoice in Nigeria to self-account for VAT and remit the tax. In other words, a taxable person who receives goods or services in Nigeria will withhold and remit tax in the prescribed format where the supplier is exempt from (or fails to charge) VAT.

14. Regulation 6 of the CBCRR stipulates that any constituent entity of a multinational Enterprise (MNE) Group that is tax resident in Nigeria will be required to notify the FIRS of the identity and tax residence of the Reporting Entity and whether it is the Ultimate Parent Entity (UPE) or the surrogate Parent Entity (SPE). Consequently, an NRC with SEP in Nigeria will be deemed tax resident and will be required to file a CbC notification in Nigeria where the group's consolidated revenue meets a threshold.

15. Unified Approach is an attempt by the OECD Secretariat to lay grounds for members of OECD to agree on the way forward to achieving a global consensus by 2020.

16. RFIs include depository institutions, investment entities, custodial institutions and specified insurance companies as defined by the CRS Guidelines, and such that are resident in Nigeria or with a branch in Nigeria.

17. Goods includes property (tangible or intangible) such as articles of trade, rights in goods or property (e.g rights in mineral resources, copyrights, trademarks) assets, motor vehicles, oil wells, rigs, aircraft, ships, buildings, roads, jetties or any other type of property.

18. Services is chargeable where the services (x) is performed in Nigeria to a person physically present in Nigeria at the time of providing the service; (y) is rendered to person while in Nigeria regardless of the medium of delivery of service or (z) is rendered remotely, online, or by other virtual means to Nigerian residents or persons in Nigeria.

19. CAP 441, LFN 1990



# MATURITY OF FINTECHS



## Stripe's \$200 Million Acquisition of Paystack

Stripe (A US payment services company) acquired the Lagos based fintech company, Paystack. The acquisition will enable Paystack to expand its payment channels, tools, geography and deeper integrations with global platforms and ultimately bolster the African market.

With the acquisition, Paystack now has Stripe's API and the funds to make a major push for dominance in the African market. For Paystack, the deal will enable the company further deepen its reach in Nigeria and expand to other markets. Regardless of the acquisition, Paystack will continue to operate independently, growing its operations in Africa and adding methods that are more international. Overtime, Paystack's capabilities would be embedded in Stripe's global payment and treasury network, a programmable platform for global money movement that currently spans 43 countries. This move by Paystack is an affirmation of the value tech start ups can create for businesses, investors, and Africa.

Stripe on the other hand is doubling down on geographical expansion; before now, it has added 17 more countries to its platform in the last months. It is betting on emerging markets of Africa. There are a number of take-aways from this transaction and they are; (x) an indication of more investment transactions to come (y) an appraisal of the progress of Africa tech entrepreneurs over the last decade and (z) evidence that the FinTech ecosystem is beginning to take root and coming to maturity. We also anticipate more venture funding growth and steady-steam of acquisitions by companies looking to leverage startups for expansions across Africa. These developments could create an urgency for more acquisitions in the nearest future.

This deal represents significant validation and support for African FinTech firms, as it indicates a strong pipeline for targets lined up for secondary and strategic exits in the coming years. However, what remains to be seen is, if local FinTech companies will continue to be targets of acquisitions especially as some have over the years seen major backing from investors including venture firms, or would rather maintain an expansion of its operations without major acquisition by global tech giants.

# A NEW DAWN FOR CROWDFUNDING AND CRYPTOCURRENCY IN NIGERIA

## Crowdfunding

**Whilst crowdfunding is not a new concept in Nigeria, it had remained largely unregulated and unstructured**



The SEC in 2020 published its exposure draft rules for the regulation of crowdfunding activities in Nigeria (the Proposed Rules), which set out the proposed regulatory framework by which private companies can raise debt or equity capital through crowdfunding, as well as the eligibility criteria and obligations of issuers, crowdfunding portals and crowdfunding intermediaries. Whilst crowdfunding is not a new concept in Nigeria, it had remained largely unregulated and unstructured, we have seen the exponential growth in the use of crowdfunding globally in the last four years<sup>25</sup>, through the rise of online portals,<sup>26</sup> as the major means through which early-stage companies, and indeed established companies, raise funds for their business operations without having to seek funding from venture capitalists and angel investors.<sup>27</sup> With the publication of the Proposed Rules, there is a clear indication from the SEC to expand the capital raise options available to private companies, that had previously been the exclusive preserve of public companies and statutory bodies or banks established by or pursuant to an Act of National Assembly.<sup>28</sup>

Under the Proposed Rules, Crowdfunding is defined as the process of raising funds to finance a project or business from the public, through an online platform. All micro, small and medium scale enterprises (MSMEs)<sup>29</sup> incorporated as companies in Nigeria with a minimum of two-years operating track record are eligible to raise funds through a Crowdfunding Portal registered by the Commission, in exchange for the issuance of shares, bonds/debentures, simple investment contracts or such other investment instrument as the SEC may determine from time to time.<sup>30</sup> In addition to detailing the crowdfunding process, the Proposed Rules provide for the major participants/channels in the crowdfunding space, as follows: the Crowdfunding Portal, the Crowdfunding Intermediary, the Issuer and the Investor.

Nonetheless, the introduction of the Proposed Rules to regulate crowdfunding is a laudable intervention by the SEC, as the Rules, where properly implemented, will greatly increase the offering capacity of startups and bring more crowdfunding opportunities to small-time retail investors, ultimately contributing to the national economic growth.<sup>31</sup>

25. According to statistics reported by Statista, the total value of transactions funded through crowdfunding, rose from US\$965.59 million in 2017, to US\$1,020.91 million in 2019, and dropped to US\$940.93 million, presumably as a result of the impact of Covid-19. However, the total transaction value in crowdfunding is projected to reach US\$1,053.7 million in 2020. According to other sources, the global crowdfunding market size was \$84 billion as of 2018 and is expected to reach \$114 billion by 2021 (<https://www.smallbizgenius.net/by-the-numbers/crowdfunding-stats/#graf>)

26. Such as Kickstarter, Najafund and Indiegogo.

27. In 2016, BeatStats, a digital marketplace, raised more than US\$152,000 via Indiegogo's platform and in 2017, Play Impossible, used Indiegogo's equity platform to sell more than US\$146,000 in securities ([inc.com/magazine/201804/victoria-finkle-kathy-kristof/equity-crowdfunding.html](http://inc.com/magazine/201804/victoria-finkle-kathy-kristof/equity-crowdfunding.html))

28. Where such statutory body or bank is empowered to accept deposits and savings from the public or issue its own securities, promissory notes, bills of exchange and other instruments. See section 67 of the ISA. Before now, the SEC had issued a statement which banned all equity crowdfunding activities in Nigeria until legal challenges posed by the provisions of CAMA and ISA are addressed - <https://www.thisdaylive.com/index.php/2016/08/15/sec-rules-out-crowdfunding-in-nigeria-for-now/>

29. Micro, small and medium enterprises shall be as prescribed by the Small and Medium Enterprises Development Agency of Nigeria (SMEDAN) in relation to total asset and annual turnover

30. Rule 1 and 2 of the Proposed Rules

31. For more information on the Proposed Rules, please see our newsletter which addresses the content of the Proposed Rules here - <http://www.olaniwunajayi.net/wp-content/uploads/2020/04/Unveiling-the-Securities-and-Exchange-Commission-Regulations-for-Crowdfunding.pdf>

## Cryptocurrency



...virtual crypto assets will be classified as “securities”, unless proven otherwise by the issuer or sponsor of the digital assets.

In relation to cryptocurrency, the general attitude of the SEC and even the Central Bank of Nigeria (CBN)<sup>32</sup> towards cryptocurrency and its growing popularity in Nigeria was to discourage Nigerians on its use and also direct Nigerians to exercise extreme caution in their use of digital (crypto currencies) as a vehicle of investment.<sup>33</sup> While the position of the CBN remains the same, the SEC as the apex regulator of the Nigerian Capital Markets, issued the “Statement on Digital Assets and their Classification and Treatment in Nigeria” (the **Statement**) on 11 September 2020, expressing its intent to regulate crypto-token or crypto-coin investments to the extent that such investment qualifies as securities transactions.

The SEC in the Statement recognized the range of options and opportunities which digital assets make available to the public in terms of investment opportunities. As such, the objective of the Statement is to serve as a first step towards ensuring that digital asset offerings operate in a manner consistent with; (x) investor protection; (y) the public interest; (z) market integrity; and (xx) transparency, thereby ensuring a fair and efficient market.

The Statement provides that virtual crypto assets will be classified as “securities”, unless proven otherwise by the issuer or sponsor of the digital assets. The burden of proving that digital asset is not a security as defined under the ISA, rests on the issuer of the digital assets.<sup>34</sup> Where SEC determines that the digital assets amount to securities, the Statement mandates the registration of such digital assets. Specifically, all Digital Assets Token Offering (**DATOs**), Initial Coin Offerings (**ICOs**), Security Token ICOs, and other Blockchain-based offers of digital assets within Nigeria or by Nigerian issuers or sponsors or foreign issuers targeting Nigerian investors, shall be subject to the regulation of the SEC. The Statement further provides that individuals or corporates whose activities involve “any aspect of blockchain-related and virtual digital asset services, must be registered by the Commission and as such, will be subject to the regulatory guideline.”

32. <https://www.cbn.gov.ng/Out/2018/CCD/Press%20Release%20on%20Virtual%20Currencies.pdf>

33. <http://sec.gov.ng/public-notice-on-investments-in-cryptocurrencies-and-other-virtual-or-digital-currencies/>

34. Section 315 of the ISA defines securities as (a) debentures, stocks or bonds issued or proposed to be issued by a government; (b) debentures, stocks, shares, bonds or notes issued or proposed to be issued by a body corporate; (c) any right or option in respect of any such debentures, stocks, shares, bonds or notes; or (d) commodities futures, contracts, options and other derivatives, and the term securities in this Act includes those securities in the category of the securities listed in (a) - (d) above which may be transferred by means of any electronic mode approved by the Commission and which may be deposited, kept or stored with any licensed



# THE IMPACT OF AGENT BANKING IN PROMOTING FINANCIAL INCLUSION IN NIGERIA

In a bid to achieve its financial inclusion projections, the CBN has over time developed relevant guidelines and avenues to increase the number of access points to those outside the financial system, one of which is the agent banking platform.

With the impact of leading agent banking companies like Kudi , Firstmonie, Opay, and MTN MoMo, no doubt, agent banking is a key driver of financial inclusion by providing access to financial products and services in the unserved areas of the country. Also, the CBN Guidelines for the Regulation of Agent Banking and Agent Banking Relationships in Nigeria 2013, remain relevant subsidiary legislation in economic growth in Nigeria.

While projections and strategies were made with regards to driving financial inclusion for the year 2020 vide the National Financial Inclusion Strategy (**NFIS**) issued by the CBN,<sup>35</sup> the COVID-19 pandemic and the effects it had on the global economy, slowed down possibilities of attaining set targets. Also, although the CBN excluded super agents from the lockdown restrictions,<sup>36</sup> financial services agents were not totally spared from the adverse effects of the country-wide imposed lockdown, as with fewer commercial activity, there was less need to make physical transactions with agents.

Furthermore, the licensing of Payment Service Banks (**PSBs**) may contribute to increased financial inclusion in Nigeria.<sup>37</sup> In this regard, it is also worthy to note that the CBN in August 2020 released revised Guidelines for Licensing and Regulation of Payment Service Banks in Nigeria, which according to the CBN was in response to recent market developments since the issuance of the first guidelines in 2018. Although these revised guidelines do not substantially depart from the earlier issued guideline,<sup>38</sup> it is clear that the CBN remains committed in its strategy of maximizing the benefits of PSBs in the economy. This is emphasized by the fact that Mobile Network Operators (**MNOs**) are permissible promoters of PSBs through their subsidiaries and their wide adoption of agent banking will no doubt have a significant impact on the NFIS.

Undoubtedly, the importance of financial inclusion cannot be overemphasized, particularly in the light of the movement restrictions because of the COVID-19 pandemic, which saw people relying on alternative digital banking methods. It is thus important that the move towards financial inclusion is achieved as this will develop the digital economy.

...licensing of Payment Service Banks may contribute to increased financial inclusion in Nigeria.



35. <https://www.cbn.gov.ng/out/2013/ccd/nfis.pdf>

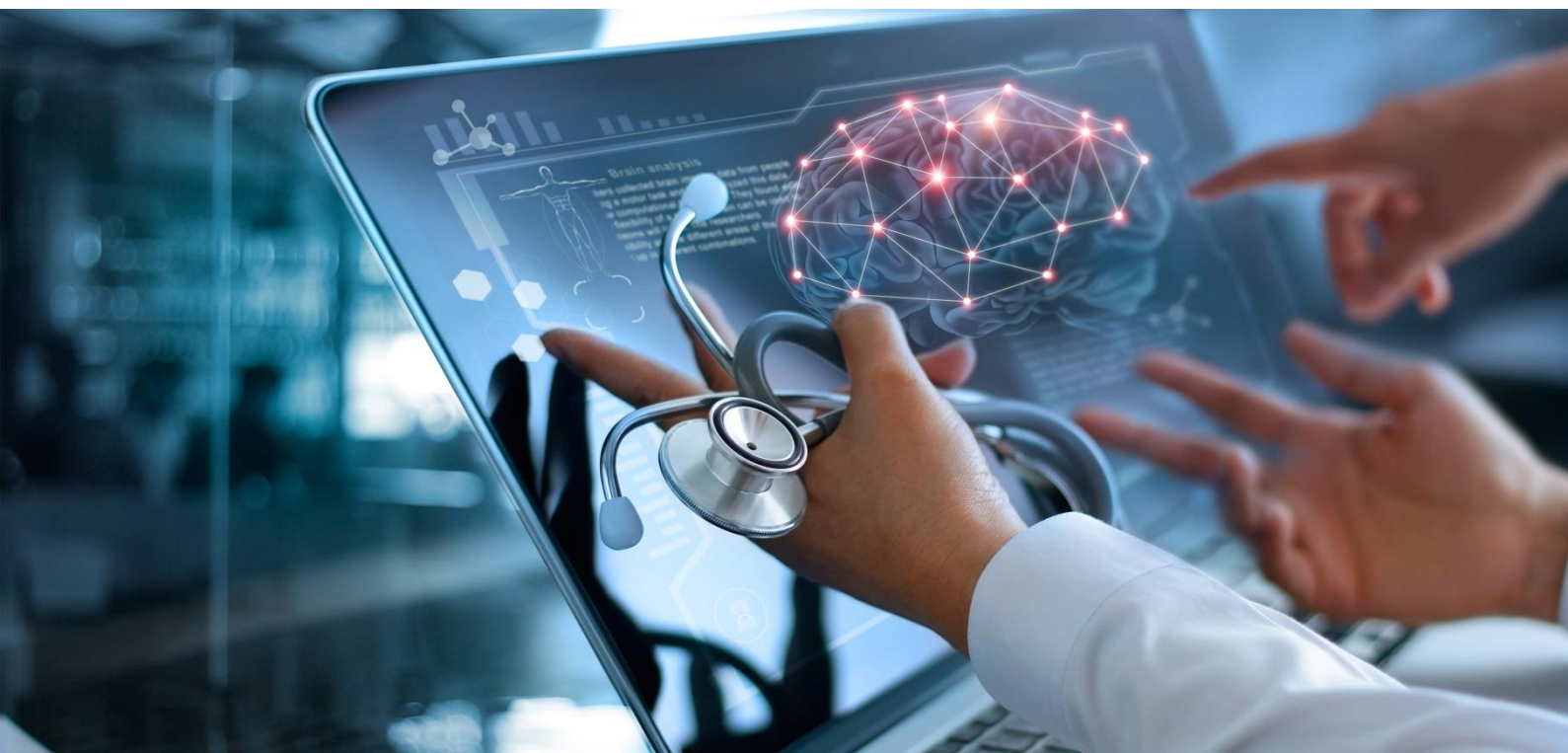
36. <https://www.cbn.gov.ng/Out/2020/CCD/CBN%20Press%20release-COVID-19-30032020.pdf>

37. Notably, Hope PSB, Moneymaster PSB and 9 PSB were licensed in August 2020 and have commenced commercial operations

38. Guidelines for Licensing and Regulation of Payment Service Banks in Nigeria via a circular dated 26.10.18



# BEYOND FINTECH



## Healthtech

Technological innovation in the healthcare space in Nigeria has consistently been on the rise over the past few years and the Covid-19 pandemic significantly accelerated the growth of this sector in 2020. In an unprecedented but unsurprising turn of events, healthtech companies acquired the lion share of the start up funding in Nigeria in Q2 2020, far exceeding the FinTech companies. Two healthtech companies accounted for 88.18% of the total amount of start-up funding raised while FinTech companies accounted for 8.45% of the total amount raised in Q2 2020. Notably, in April, Nigerian biotech startup, 54gene raised \$15million.

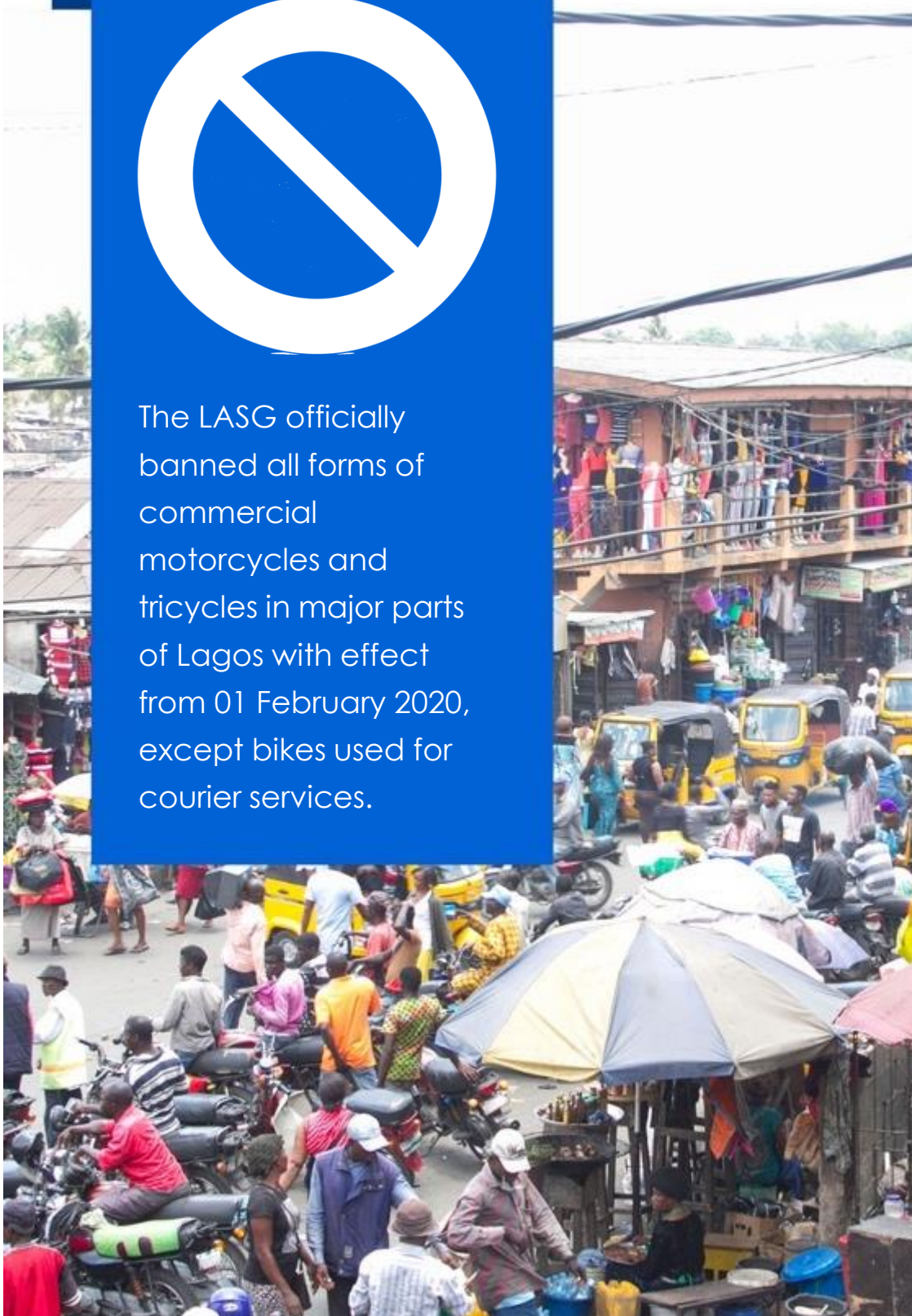
## Edtech

The Covid-19 induced lockdown led to significant activity in the education technology industry due to the need to leverage technology and innovation to enhance the quality, coverage and reach of education during the lockdown. In a remarkable feat, Ulesson, an edtech startup based in Nigeria, which sells digital curriculum to students through SD cards and recently launched into the market just weeks before the World Health Organization declared the coronavirus a pandemic, raised \$7.5 million in Series A funding in January 2021.

## 2020, YEAR OF 'ADVERSE' REGULATION



The LASG officially banned all forms of commercial motorcycles and tricycles in major parts of Lagos with effect from 01 February 2020, except bikes used for courier services.





## Ban on Bike Hailing Services

The LASG officially banned all forms of commercial motorcycles and tricycles in major parts of Lagos with effect from 01 February 2020 except bikes used for courier services. The government cited traffic decongestion and safety reasons as the leading factors behind the ban.<sup>20</sup>

Before the ban, the LASG had earlier proposed a regulation mandating tech companies in the subsector to pay annual licensing fees of 25 million Naira (approx. \$70,000) per 1,000 bikes and then 30,000 Naira (approx. \$83) per bike above the first set of 1,000, as well as annual taxes on revenue. This announcement came after a series of high-profile funding announcements by bike hailing companies such as Gokada's raise of \$5.3 million in a Series A round led by Rise Capital, and Max.ng's raise of \$7 million in a round led by Novastar Ventures with participation from Yamaha.<sup>21</sup>

To avoid a dip in investor confidence, it is proposed that government and regulators alike stay conscious of the impact that changes in government policy is likely to have on the investment climate and business environment, and strive to ensure consistency in regulation or at least, adequate stakeholder engagement, in developing and implementing policies which touch on the investment climate and business environment especially in the growing technology sector.



## Regulation of Ride Hailing Services

Following the ban of motorcycles, the LASG released the "Guidelines For On-Line Hailing Business Operation Of Taxi In Lagos State 2020" for ride-sharing companies such as Uber and Bolt.

Under the new regulatory framework which took effect from August 20, 2020, ride-sharing companies are required to inter alia; (x) pay the LASG a ten per cent (10%) service tax on each transaction, (y) pay a provisional license fee of ten million naira (N10,000,000.00) for every 1000 cars in their unit and N25,000,000.00 for every unit above 1000 cars, (z) obtain an annual renewal of the license for N5,000,000.00 for every unit of 50 cars and N10,000,000.00 for units with over 51 cars in operations, and (xx) use vehicles which are brand new or within the first three (3) years of its manufacture as specified by the manufacturer.<sup>22</sup>

The regulation was met with fierce criticism from industry stakeholders and commuters. Following a dialogue with the government, the regulation was revised as follows: (x) comprehensive insurance cover which will cover drivers and passengers, (y) reduction of 20% on the operational licensing fees, (z) a flat fee of N20 to be known as Road Improvement Fund which will be levied on each ride/trip, and (xx) ride-sharing companies were to work with the Government to make necessary data available.

20. Tope Alake: Nigeria's Biggest City Bans Motorbike Taxis in Boost to Uber <https://www.bloomberg.com/news/articles/2020-01-29/nigeria-s-biggest-city-to-ban-motorbike-taxis-in-boost-to-uber>

21. Yomi Kazeem: Bike-hailing startups in Lagos may soon have to pay thousands of dollars in state fees <https://qz.com/africa/1671857/gokada-oride-max-safeboda-to-pay-lagos-25-million-naira-licensing-fees-annually/>

22. Guardian: Uber, Bolt, others may soon have to pay thousand of dollars in fees to Lagos State <https://guardian.ng/news/uber-bolt-others-may-soon-have-to-pay-thousand-of-dollars-in-fees-to-lagos-state/>



The background of the page is an abstract, dynamic grid pattern. It consists of multiple overlapping layers of blue lines that form a grid of squares. The lines are not perfectly straight, creating a sense of depth and movement, as if the grid is receding into the distance or curving. The colors range from a deep, dark blue to a very light, almost white blue, creating a gradient effect. The overall composition is clean and modern, typical of corporate branding.

PART THREE

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# OUTLOOK FOR 2021

# REGULATORY SANDBOX



In 2019, we had written about the potential of the CBN adopting the regulatory sandbox in the financial services industry. Commendably, the CBN recently published the Framework on Regulatory Sandbox (**the Framework**) on 13 January 2021 following the publication of an exposure draft that was released for stakeholders' comments earlier in 2020.

The objective of the Framework is to enable innovators carry out live tests of new, innovative products, services, delivery channels, or business models (in the financial services sector) in a controlled environment, with regulatory oversight, subject to appropriate conditions and safeguards. Prior to the Framework, most FinTech companies relied on licensing or partnerships with licensed entities to offer their products and services. However, with the release of the Framework, innovators can test their product directly by participating in the sandbox.

One of the controversial issues in the Framework is the eligibility criteria for the sandbox testing. The Framework presupposes that foreign entities who intend to participate in the sandbox trial may have to incorporate a local company to be eligible for the sandbox trial. There are two categories of innovations considered under the sandbox regime. First are the innovative payments products or services produced by existing CBN licensees and other local companies and second, companies proposing non-regulated financial products and services using emerging technologies.

*Some of the documents required for the entry into the sandbox is the Corporate Affairs Commission incorporation documents.*

The first category is applicable to only local companies while the other category is not expressly limited to local companies. Nonetheless, it would appear that the spirit of the legislation is to make the law applicable to local companies because it may not be suitable to have foreign companies operate in Nigeria through the sandbox without establishing a local presence in Nigeria. There are other considerations in this regard, especially the company law requirements; hence, it is safe to conclude that only local companies are permitted to participate in the sandbox.

Another point to note is that the publication of this license is consistent with the New License Categorisations for the Nigerian Payment System (Circular) that was released in 2020. At the time of the publication of the Circular, there was no regulatory framework for sandbox and stakeholders had anticipated that the CBN would eventually publish the Framework to operationalise the sandbox ecosystem (as contemplated in the Circular).

On a general note, the regulatory requirements are excessive. One would have expected that since the participation in the sandbox is a precursor to an actual license, the requirement should be less stringent. For example, the Monetary Authority of Singapore (MAS) categorises its sandbox options into two. One, the sandbox for more complex business models where customisation is required to balance the risks and benefits of the experiment and two, a sandbox express for fast-track approvals activities where the risks are on the low and well understood by the market. In the case, the MAS relies on disclosures and pre-determined rules.

The Framework is a notable development for the Nigerian FinTech space and will certainly encourage innovation. This development will help to:



It remains to be seen whether Nigeria will record the same gains in terms of the effectiveness of the regulation and how it impacts the market.

*Some of the documents required for the entry into the sandbox is the Corporate Affairs Commission incorporation documents.*



## REGULATIONS FOR DIGITAL ASSETS AND CROWDFUNDING

The Proposed Rules creates a regime that potentially permits private companies to issue shares to the public



In Part B of this report, we noted that the SEC has now recognised crowdfunding and digital assets as in-demand financial products that require regulation in the interest of the investing public. While this development remains a laudable one, showing the consciousness of the regulator on subject matters directly affecting many in Nigeria, presently the proposed new rules on crowdfunding in Nigeria (the **Proposed Rules**) is an exposure draft that does not have the force of law.

Thus, we expect the Proposed Rules on crowdfunding to be progressed by SEC from an exposure draft to formally issued regulations with any necessary modifications. For instance, the Proposed Rules (which is a subsidiary legislation) creates a regime that potentially permits private companies to issue shares to the public, which contravene the provisions of CAMA and ISA, which are primary legislations on the subject. We also anticipate SEC's issuance of a robust regulation on digital assets which expands on the core principles set out in the Statement.

Equally, the SEC "Statement on Digital Assets and their Classification and Treatment in Nigeria" (the **Statement**) requires a review to comprehensively and robustly deal with the relevant issues and we expect a more robust statement or legislation

Ultimately, if in the case of digital assets, more robust rules and regulations are put in place by the SEC, and with respect to crowdfunding, the Proposed Rules are given the force of law with necessary modifications, we foresee the robust regulation of these financial products by SEC in 2021 setting the pace for the participation of more risk averse investors in these products and helping to unlock access to more capital for fintech companies, particularly early stage fintech companies.

# FUTURE OF INTERNATIONAL FX REMITTANCE IN NIGERIA



According to the **Migration and Development Brief 33** published by the World Bank<sup>39</sup> (the **Report**), Nigeria remains the **largest recipient** of remittances in the Sub-Saharan region, and is the **seventh-largest recipient** amongst the low-middle income countries (**LMIC**) in the world.

These facts are consistent with the recent trend we have seen in the diaspora forex (**FX**) remittance market in Nigeria; specifically in 2020, there has been an influx of foreign remittance companies in Nigeria either through partnerships and collaborations with local companies or direct establishment of companies in Nigeria with the primary goal of helping their customers make remittances in Nigeria.<sup>40</sup>

The economic impact of the Covid-19 pandemic on commodities reliant countries like Nigeria, has resulted in the; (x) reduction of Nigeria's FX revenue and foreign reserve; (y) the steeper-than-usual devaluation of the Nigerian currency (Naira)<sup>41</sup>; and (z) the record high inflation rate in the country in 2020<sup>42</sup>. These factors have combined to occasion a scarcity of FX in both the authorized and parallel FX markets in Nigeria, limiting the ability of consumers or businesses participating in the Nigerian market (**FX Users**) to procure FX through traditional channels in order to meet their FX obligations. Consequently, FX Users are increasingly patronizing companies that are able to easily facilitate FX transactions and remittances outside the traditional banking channels.<sup>43</sup>

Thus, FinTech companies, recognizing the increased demand for FX remittances, are beginning to provide different innovative business solutions to cater to the needs of FX Users and we expect this trend to continue in 2021. However, the recent move by the CBN to improve liquidity in the FX market is poised to impact on the business operations of FinTech companies in the business of FX remittances as the restrictions are now more stringent.

39. Phase II: Covid-19 Crisis through a Migration Lens, October 2020

40. In 2020, our Firm received enquiries and provided advisory services in relation to business establishments and collaborations by approximately a dozen international money remittance companies looking to explore different business models, opportunities and partnerships in Nigeria, we expect this market to continue to grow as some of these companies have now established presence in Nigeria.

41. As of the date of preparing this report, USD to Naira at the 'black' or 'parallel' market was at the rate of N458 (buy)/N465 (sell) which is a 28% increase between January 2020 and November 2020.

42. According to the data from the National Bureau of Statistics, in August 2020, inflation rate in Nigeria hit 13.22%, the highest in 29 months and at the time of preparing this report, StearsBusiness reported that the inflation rate in Nigeria was 13.7% signalling an upward trajectory. By December 2020, inflation in Nigeria has risen to 15.75% (according to the National Bureau of Statistics).

43. In addition to FX, we have also witnessed an increased demand for crypto currency assets as Nigerians are looking for alternative investment and payment options which allow them hedge against the devaluation of the Naira. To put it in perspective, according to StearsBusiness, Nigerians are trading \$200 million (N77 billion) worth of cryptocurrency every month, this is more than the monthly volume of trades (N63 billion) that occurred on the Nigerian Stock Exchange (NSE) in Q2' 2020. Also, BuyCoins (a popular cryptocurrency company in Lagos, Nigeria) reported that its monthly volumes jumped 3x to \$21 million three months after the CBN devalued the naira in March, 2020 and StearsBusiness also reported that in June 2020, small cryptocurrency transfers (less than \$10,000) reached \$56 million – 50% higher than in 2019.

Specifically, the CBN in an attempt to improve the liquidity in the forex market and encourage diaspora remittances recently released the CBN Circular TED/FEM/FPC/GEN/01/011 (Circular No. 1) and TED/FEM/FPC/GEN/01/012 (Circular No. 2) (together, **the Circulars**) amending the procedure for international Money Transfer Operators (**IMTOs**) diaspora remittances.



**Circular No.1** provides that beneficiaries of diaspora remittances through IMTOs are entitled to receive such inflows in foreign currency, specifically United States Dollars (**USD**), through the designated bank of their choice or the cash amount in USD, or as transfers into their ordinary domiciliary account, thereby granting beneficiaries unfettered access to their forex remittances.

**Circular No.2** further clarifies the directives given in Circular No.1 and it provides that IMTOs are to ensure that all remittances in favour of beneficiaries are deposited into deposit money banks (**DMBs**) (as nominated by the beneficiary) and the DMBs are responsible for the finally payment to the beneficiaries.

The Circulars represent a significant shift from the previous modus operandi in the forex remittance sector (where IMTOs remitted forex payments to beneficiaries in Naira). It is thought that the resulting increase in the volume of USD in circulation by virtue of the Circulars will effectively bring down the parallel market USD-Naira conversion rates.

The direct implication of the Circulars on licensed IMTOs operating in Nigeria is that they can no longer remit payments for foreign currency to Nigerian beneficiaries in Naira. Accordingly, this will significantly alter the existing business models of the IMTOs and we have begun to witness changes in the models of DMBs and IMTOs (who are now advertising to their customers USD cash pick up options) to reflect this change and clamp down by the CBN on the operations of IMTOs that are either not licensed or not operating with the boundaries of the Circular<sup>44</sup>.

Thus, while it is projected that FX remittances into Low and Medium Income Countries (LMICs) will experience a decline in 2021, just like in 2020,<sup>45</sup> due to the impact of the Covid-19 pandemic on the income and earnings of FX Users, the recent CBN restrictions may further impact the participation of fintech companies and other international IMTOs in the Nigerian FX market and we are beginning to witness exits from the Nigerian FX market by some known IMTOs<sup>46</sup>. Therefore, we expect that in 2021, the CBN and regulators such as the SEC would continue to clamp down on the activities of unlicensed and unregistered operators including operators that breach the applicable market rules and regulations across the international money remittance and capital market and the payment sectors generally.

44. <https://nairametrics.com/2020/12/16/azimo-transfer-wise-not-registered-imtos-cbn-warns/>

45. This is a global trend and according to the Report, remittance flows to LMICs are projected to fall by 7% to \$508 billion 2020, followed by a further decline of 7.5% to \$470 billion in 2021.

46. <https://transferwise.com/help/articles/2932364/ngn-transfers>



# DIGITALIZATION OF BANKING BY TRADITIONAL FINANCIAL INSTITUTIONS



The disruption of the traditional banking sector, by FinTechs resulted in FinTechs being touted as the more nimble, agile, convenient, and affordable competitors to traditional banks. With the rapid success of FinTechs, especially in relation to payments and retail lending, concerns arose as to the fate of traditional banks. It became clear that banks would have to evolve to survive in the digital age. Realizing the need to leverage technology and digitise, most banks in Nigeria currently offer some form of digital banking or mobile banking product. Additionally, in the past, there has been a noticeable increase in collaboration between banks and FinTechs. For instance, in our 2019 report we noted Kuda's partnership with Guaranty Trust Bank (GTB), Access Bank and Zenith Bank to provide digital banking services.

In more recent times, we have observed that rather than seeking to collaborate, traditional banks are looking to become direct players in the FinTech space. In addition to offering digital banking products, banks are pivoting to offer solutions that effectively operate as fully digital banks. Wema Bank, through its ALAT solution, has been a pioneer in the space; more than just a mobile banking app, ALAT operates as standalone digital bank. Late last year, Standard Chartered also made the digital shift, launching its digital banking service- 'SC Mobile 2.0' in Nigeria and across Africa. The solution offers the typical digital banking perks such as zero charges on all interbank transfers, alert messages, ATM withdrawals, and free debit card delivery nationwide.

Regulation in the banking sector in the 2010s, meant that banks could only directly undertake core banking business, and all non-banking businesses, were either sold or held under a HoldCo structure wherein different lines of business are hived off into separate entities and non-operating holding company rests at the centre, holding controlling interest in all the business units. Recently, the shift has been for banks to adopt this structure, with the aim of having a business unit solely focused on FinTech. Sterling bank recently announced plans to undertake a HoldCo restructuring. Sterling Bank already offers digital banking services through its digital lending products (Specta and Social Lender) and investment products (Double and I-Invest). The bank recently launched a fully digital bank, OneBank. The restructuring will allow Sterling Bank to hive off all its FinTech solutions into a distinct business unit.



Similarly, GTBank recently announced its intention to restructuring into a holding company, which will be split into business units that will focus on the different African regions and also include a non-banking business units like a payments company and an asset management company. Already offering digital products like its digital lending platform (QuickCredit), payments solution (GTPay), payments aggregator (GTCollections) and Habari- its one stop superapp which supports payments, music and video streaming, and news content, GTBank is already a strong competitor in the FinTech space. With the new Holdco structure, these solutions can be bundled into a payments company that will certainly be one to watch in the space, as, GTBank is currently responsible for over 18% of the total NIP outflows and almost 17% of NIP inflows.

Accordingly, we predict that in 2021, even more banks will be clamouring for direct participation in the FinTech space, whether through the HoldCo structure, acquiring an existing fintech, or setting up a FinTech focused entity.

# Appendix

## 2020 Newsletters

**Newsletter on The Nigerian Payment System Risk and Information Security Management Framework 2020**

<http://www.olaniwunajayi.net/wp-content/uploads/2020/01/The-Nigerian-Payments-System-Risk-And-Information-Security-Management-Framework-2020.pdf> /

**Newsletter on SEC Exposure Draft of Rules for The Regulation of Crowdfunding Activities in Nigeria**

<https://www.olaniwunajayi.net/blog/unveiling-the-securities-and-exchange-commission-regulations-for-crowdfunding>

**Newsletter on NSE Exposure Draft of the Proposed Rules for Broker to Fintech Collaborations**

<http://www.olaniwunajayi.net/blog/nigerian-stock-exchange-proposed-rules-for-broker-to-fintech-collaborations/>

**Newsletter on the updated Guidelines for Licensing and Regulation of Payment Service Banks in Nigeria 2020**

<http://www.olaniwunajayi.net/blog/overview-of-the-updated-cbn-guidelines-for-payment-service-banks/>

**Newsletter on the SEC Statement for the treatment of digital assets.**

<http://www.olaniwunajayi.net/blog/securities-and-exchange-commissions-statement-on-digital-assets/>

**Newsletter on BOFIA 2020**

<http://www.olaniwunajayi.net/blog/the-banks-and-other-financial-institutions-act-2020-and-impact-on-fintech-companies-in-nigeria/>

**Newsletter on CBN Circular on New License Categorisations for the Nigerian Payment System**

<http://www.olaniwunajayi.net/blog/newsletter-on-the-categorisation-for-the-nigerian-payments-system/>



# Glossary

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<b>BOFIA</b>	Banks and Other Financial Institutions
<b>Covid-19</b>	Coronavirus Disease 2019
<b>CBN</b>	The Central Bank of Nigeria
<b>CDD</b>	Customer Due Diligence
<b>DLT</b>	Distributed Ledger Technology
<b>DMB</b>	Deposit Money Bank
<b>eCommerce</b>	Electronic Commerce
<b>Edtech</b>	Educational Technology
<b>Fintech</b>	Financial Technology
<b>FX</b>	Forex
<b>Fintechs</b>	Financial Technology Companies
<b>FIRS</b>	Federal Inland Revenue Service
<b>Healthtech</b>	Healthcare Technology
<b>LASG</b>	Lagos State Government
<b>MMO</b>	Mobile Money Operator
<b>NFIS</b>	National Financial Inclusion Strategy
<b>NIMC</b>	National Identity Management Commission
<b>NIP</b>	Nigeria Interbank Settlement System Instant Payment
<b>POS</b>	Point-of-Sale
<b>PSB</b>	Payment Service Bank
<b>SEC</b>	The Securities and Exchange Commission
<b>SEP</b>	Significant Economic Presence
<b>Tech</b>	Technology
<b>VAT</b>	Value Added Tax




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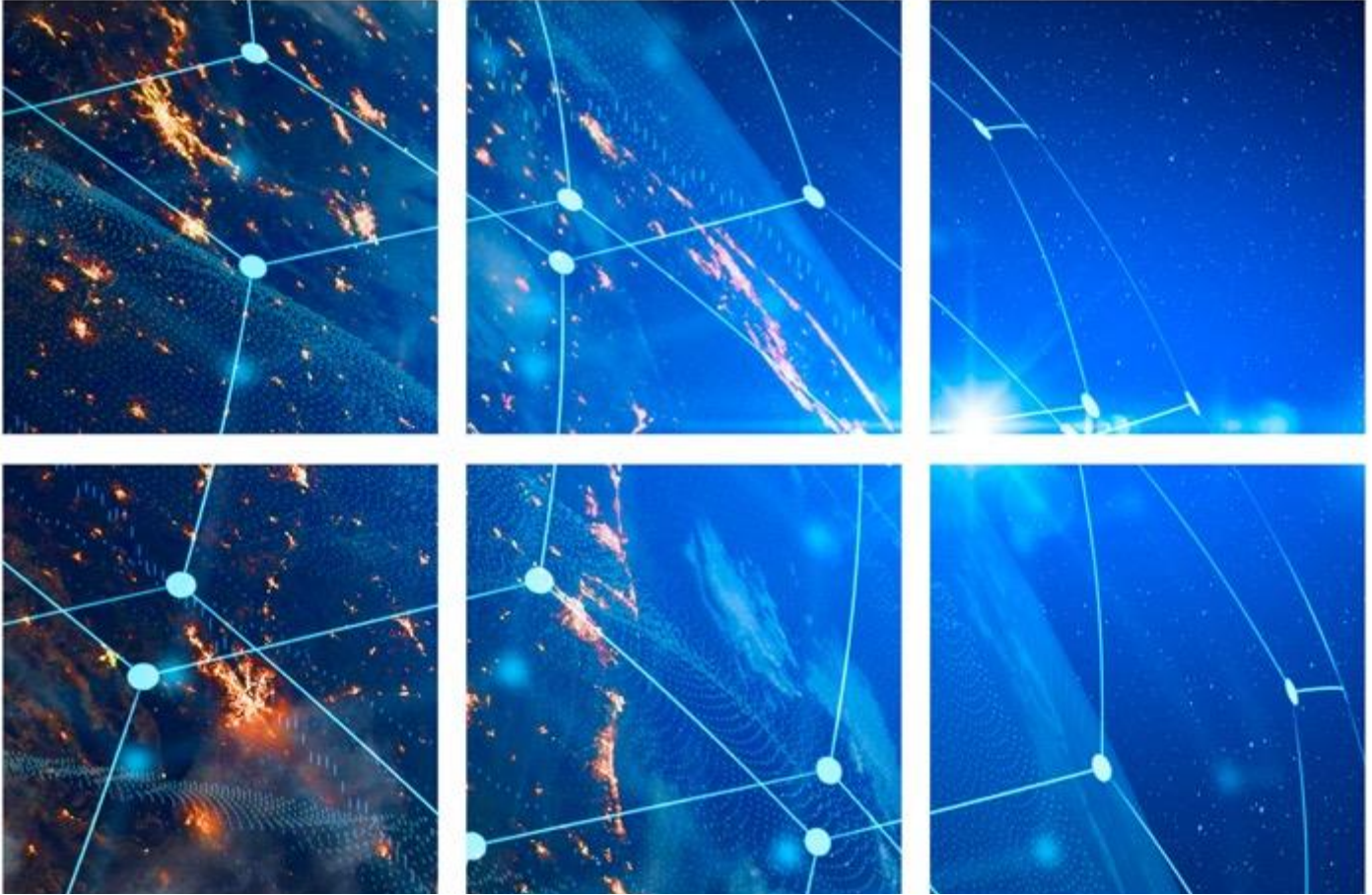


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