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REGULATING THE EMERGING MOBILE MONEY SERVICES AND NATIONAL DIGITAL CURRENCIES IN NIGERIA AND SOUTH-AFRICA

by

UGOCHUKWU GODSPOWER EHIRIM *

The evolution of digital financial platforms and other species of 'internet banking', has enabled new opportunities for greater participation of people, particularly the masses, in the official payment arrangements in Nigeria and South Africa. Smart-technology-enabled- financial market has resulted in financial inclusivity by affording the poor the leverage to transact in the money market and sundry economic activities previously seen as a preserve of the elite. The emergence of internet financial solutions constitutes part of an amazing circle in the evolving financial technology (fintech) which has birthed the recognition of digital currencies in most countries. This paper adopts the doctrinal method of legal research in evaluating the attempts to bureaucratically govern internet financial platforms and their products by legislation and regulatory mechanisms in Nigeria, South Africa and other African countries like Zimbabwe, particularly the proposed introduction of National (Central Bank) Digital Currencies. Leveraging the African Union (AU)'s economic blueprint of promoting trade synergy amongst member states, also known as Agenda 2063. This paper advocates for synergy while making a case for a robust statutory framework to sustain fintech operations in Nigeria and South Africa, which in turn would drive the African regional economic integration through the evolving cashless policy design.

KEY WORDS

Banking, Digital Currencies, Financial Technology, Mobile Money, Regulation

* Ugochukwu Godspower Ehirim, Ph. D.; Delta State University, Department of Private Law, Oleh Campus, Nigeria; E-mail: attorneyugo@gmail.com; ORCID: 0009-0001-0540-4907

1. INTRODUCTION

The exponential patronage for internet-powered financial services has afforded opportunities for the mass of unbanked population, particularly the low-income earners, to have access to financial services in most countries of the global south, including Nigeria and the Republic of South Africa.¹ In Nigeria, a large number of the poor, particularly those who live outside the frontline cities have no convenient and suitable access to useful and workable financial services. The digital revolution is sweeping through every facet of the economy,² and particularly the banking sector resulting in enhanced inclusion of earners of low-income hitherto excluded from the banking index into the banking net.³ Consequently, the traditionally unbanked population has been enabled to take advantage of internet financial services like mobile money to benefit from convenient, affordable and purposeful financial products.⁴ These services are so designated as digital financial services because they are generally routed through mobile phones, powered by internet. Some of the services are adaptable to the extent that connection to the internet may not be fundamental in respect of when to send, receive or conduct money transactions. To this end, digital financial services have introduced a twist in who, how and when to participate in financial markets, the *modus operandi* of financial organisations as well as the overall operationality of money business in South Africa and Nigeria. The proliferation of mobile money platforms demonstrates the capacity of artificial intelligence and tools of financial technology (fintech) to recalibrate the financial markets in Nigeria and South Africa.⁵

Mobile money and other fintech platforms are assisting businesses to grow beyond subsistence level, making such business owners capable of

¹ Guild, J. (2017) Fintech and the Future of Finance. *Asian Journal of Public Affairs*, pp. 3-4.

² Ehirim, U. G. (2025) Artificial Intelligence and Healthcare Delivery in Nigeria: Legal and Ethical Dimensions of Patients' Rights to Safety. *The Indonesian Journal of Sharia and Socio-Legal Studies*, 1 (1), pp. 47-71. See also, Ehirim, U. G. (2025) Ethical Legal Practice and the Integration of AI into Legal Profession: Striking the Balance. *Open Journal for Legal Studies (OJLS)*, 8 (1), pp. 13-34. Available from: <https://doi.org/10.32591/coas.ojls.0801.02013e> [Accessed 3 August 2025]

³ Tapainainen, T. (2020) Toward Fintech Adoption Framework for Developing Countries - A Literature Review Based on the Stakeholder Perspective. *Journal of Information Technology Applications & Management*, pp. 2-3.

⁴ Mobile money is the most common nomenclature for digital financial products. See, Prasad, E. (2021) *The Future of Money: How the Digital Revolution is Transforming Currencies and Finance*. Belknap Press: Harvard University Press, pp. 1-2.

⁵ Okoye, N. J. et al. (2024) Financial Technology (Fintech) and the Performance of Firms in Nigeria. *International Journal of Social Science, Technology and Economics Management*, 2 (1). Available from: <https://doi.org/10.59781/1524NEOM> [Accessed 16 February 2025]. See also, Oturu, D. (2024) *Fintech Law and Practice in Nigeria*, Aberdeen: Davidson Oturu, pp. 3-5.

meeting their financial needs and remaining afloat in business. The visible financial assess provided by the fintech solutions were hitherto impossible with structured, institutional banking.⁶ Guild posits that digital financial products fortified communities' stoicism to economic shocks during the COVID-19 global lockdown.⁷ Internet financial services is internet-driven and so advances and improves with technological advancements.⁸ For instance, it is a lot easier, faster and cheaper to access fintech products with 5G enabled mobile devices than 3G.⁹ The requirements for valid transactions contrast with institutional bank requirements for validation of the minutest transactions. Banks may demand customers' residential and employment addresses, utility bills, proofs of income, purposes of transaction, customers' identifying documents, verifiable relationships with cash recipients, and other onerous conditionalities such as the provisions of BVN.¹⁰ Most of these unnecessary demands dwindle customers' preferences for institutional financial service providers in Nigeria and other countries with entrenched institutional banking infrastructure, like South Africa.¹¹ The patronage that the evolving fintech has recorded demonstrates an existential threat to regular financial institutions which currently may have to play the catch-up to remain globally relevant in business.

This paper evaluates the legal regime of digital financial services with a view to ascertaining the adequacy of regulatory frameworks that would boost nations' economy while reducing incidents of criminality. The paper focuses on the benefits of using internet financial services or the implementation of well-regulated electronic currencies to enhance financial inclusivity of the low-income earners and unbanked community in Nigeria and South Africa.¹² It addresses the efficacy of the extant statutory regulatory infrastructure of the

⁶ Trautman, L. J. (2016) Is Disruptive Blockchain Technology the Future of Financial Services? *The Consumer Finance Law Quarterly Report*, pp. 233-234.

⁷ Guild, J. (2017), *op. cit.* pp. 3-4.

⁸ Zetzsche, D. A., Buckley, R. P. and Amer, D. W. (2019) Regulating LIBRA: The Transformative Potential of Facebook's Cryptocurrency and Possible Regulatory Responses. *University of New South Wales Research Series*, pp. 11-12.

⁹ Alexandru, T. and Tabusca, S. (2019) Impact of 5G Technologies in Global Economy, Cybersecurity and Legal Issues. *Journal of Information Systems & Operations Management*, pp. 177-189.

¹⁰ Biometric (Bank) Verification Number. This is a mandatory requirement to hold and operate a bank account in Nigeria.

¹¹ Chitimira, H. and E. Torerai, E. (2021) The Nexus between Mobile Money Regulation, Innovative Technology and The Promotion of Financial Inclusion in Zimbabwe. *Potchefstroom Electronic Law Journal*, p. 21. See also Tamburi, M. Y. (Jnr.) and Kong, Y. (2019) Digitizing Payments: Opportunities for Financial Inclusion for Sub-Saharan Africa. *Case Studies Journal*, pp. 21-22.

¹² Torerai, E. (2022) *A Comparative Statutory Analysis on the Use and Regulation of Mobile Money to Promote Financial Inclusion for the Poor in Zimbabwe*. LLD Thesis: North West University, South Africa, pp. 3-4.

relevant financial sector in Nigeria and South Africa in respect of transactions in electronic monetary services and the recognition of electronic monies to engender an all-inclusive financial engagement of the poor and vulnerable who are largely unbanked, particularly in the local communities and informal settlements in both South Africa and Nigeria. India has through the monetary policies of its national bank, that is, the Reserve Bank of India engaged initiatives to transit to financially inclusive economy.¹³

This conceptual paper is divided into three broad parts for ease of appreciation. The first part is the foregoing introduction which sets the tempo for the discourse. This is followed by the research methodology under which heading the method adopted in the research and analysis of data is highlighted. The second part discusses the result and analyses the outcome of data used in the research eventually leading into the conclusion, which is the third and final part of the paper. Recommendations are made following the foregoing analysis of data and findings in this concluding part.

1.1.MATERIALS AND METHODS

The doctrinal methodology of legal writing is engaged in this paper for effective comparative evaluation of fintech regulatory regimes in Nigeria and South Africa. A rigorous library analysis and examination of the statutory and policy directives as well as other literatures bearing relevance to the administration of internet financial services in Nigeria and South Africa are made.¹⁴ The analysis carried out is focused on digital financial products, particularly the mooted recognition by the central bank of digital currencies in the focus countries. Simply put, the paper focuses on mobile money services operated by mobile network operators (MNO). Consequently, electronic financial products like crypto assets and bitcoins are not within the scope of the paper.

¹³ Agrawal, R. (2019) Review of Initiatives taken by the Government and banking regulator for successful transition to a financially inclusive economy: an empirical study of India. *Economic Analysis*, 52 (1) pp. 81-96.

¹⁴ Gasiokwu, M. O. U. (2015) *Legal Research and Methodology: The A – Z of Writing Theses and Dissertations in a Nutshell*. Chenglo Limited, pp. 14 – 16.

2. RESULT AND DISCUSSION

2.1. CAUTIONARY APPROACH: ATTEMPTS AT THE REGULATION OF DIGITAL FINANCIAL SERVICES

Notwithstanding the positive potentials of internet-powered financial services, the phenomenon poses practical challenges to regulators of financial markets and pilots of sovereign economies of the countries of the Global South such as South Africa and Nigeria. The nature of fintech transactions pose great difficulty to law enforcement because of the complex nature of tracking electronic currencies. The arrangement presents a bold front for money laundering and associated financial offences.¹⁵ Money laundering has undermined so many economies of the Global South, particularly those with corrupt leadership. Money laundering activity constitutes serious financial crime in Nigeria and goes to the root of anti-corruption crusade that birthed specialised crime bursting agencies and approaches in Nigeria.¹⁶ As a result, obsolete statutes such as the Nigeria Police Act were re-calibrated to align with the dynamics of criminality that constitutes the realities of the digital era.¹⁷ Halliday et al. conceive money laundering as an arrangement deployed by criminals to transform illicitly acquired money, profit or benefits into legitimate money, profit and gains in such a way as to make it difficult to be identified as proceeds of criminal or unlawful transactions.¹⁸ Within the electronic money market space, there are no geographical boundaries accentuating economic bureaucratic governance. The intricate features of illicit money flow situate money laundering within the comity of organised crimes as it sometimes involves third party professionals like accountants, lawyers, bankers, *bureau de change* operators and persons holding political offices.¹⁹ This level of collaboration in perfecting money laundering activities

¹⁵ Winn, J. K. and De Koker, L. (2013) Introduction to Mobile Money in Developing Countries' Financial Inclusion and Integrity Conference Special Issue. *Washington Journal of Law, Technology & Arts*, pp. 156-157. See also Weihuan, Z., Arner, D. W. and Buckley, R. P. (2015) Regulation of Digital Financial Services in China: Last Mover Advantage? *Tsinghua China Law Review*, pp. 25-62.

¹⁶ See Ahiauzu, N. and Inko-Tariah, T. (2016) Applicability of Anti-money Laundering Laws to Legal Practitioners in Nigeria: NBA V FGN & CBN. *Journal of Money Control*, p. 329. See also, *The Economic and Financial Crimes Commission (EFCC) Establishment Act 2004* (s. 6 & 7). Nigeria. In: English.

¹⁷ Ehirim, U. G. et al. (2024) Strengthening Human Rights Protection in Nigeria: Safeguards Under the Police Act 2020. *Khazanah Hukum*, 6 (3), pp. 269-293.

¹⁸ Halliday, T., Levi, M. and Reuter, P. (2019) Anti-Money Laundering: An Inquiry into a Disciplinary Transnational Legal Order. *UC Irvine Journal of International, Transnational and Comparative Law*, 4 (3), pp. 1-25.

¹⁹ Chitimira, H. and Munedzi, S. (2021) Selected Challenges Associated with the Reliance on Customer Due Diligence Measures to Curb Money Laundering in South African Banks and Related Financial Institutions. *Journal of Comparative Law in Africa*, pp. 44 – 46.

lends credence to the agitation for stringent statutory administration of electronic financial activities in Nigeria and South Africa.

However, the extant regulatory frameworks in the finance sectors of the Nigerian and South African economies have not adequately regulated electronic financial transactions. There is no specific statute governing fintech transactions, particularly crypto assets in these two countries. Consequently, legislators and regulators are encouraged to consider regulating fintech products in order to bring digital finance promoters within the state surveillance net for the purpose of ensuring a crime-free money-market space. Zimbabwe, for instance has statutes like the National Payments Systems Act,²⁰ the Exchange Control Act,²¹ the Banking Act,²² the Money Laundering and Proceeds of Crime Act.²³ and the Banking (Money Transmission, Mobile Banking and Mobile Money Interoperability) Regulations 2020,²⁴ which provide visible bureaucratic vigilance on some aspects of fintech transactions. The South African government has evolved remarkable statutory frameworks such as the National Payment System Act,²⁵ the Prevention of Organised Crime Act,²⁶ the Financial Sector Regulation Act²⁷ and the Financial Intelligence Centre Act.²⁸ Nigeria has similar laws.²⁹ These statutes which primarily bear on institutional banking include the Banks and other Financial Institution Act (BOFIA), The Central Bank Nigeria Act (CBNA) 2007, the Nigeria Deposit Insurance Corporation (NDIC) Act 2004 among others.³⁰ The CBN's New Corporate Governance Guidelines effective from 13 July 2023; the Reviewed IMTO Guidelines³¹ and sundry regulations are extensive enough to impact all financial sector including the digital financial services.³² However, these laws are inadequate

²⁰ See *The National Payments Systems Act 2001*, (s. 2 & 3). Zimbabwe.

²¹ *Exchange Control Act 1965*, (c. 22: 05), (s. 2). Zimbabwe.

²² *The Banking Act 1999*, (s. 2, 4, 6 & 7). Zimbabwe.

²³ *The Money Laundering and Proceeds of Crime Act 2013*, (c. 9:24), (s. 12a – 12d). Zimbabwe.

²⁴ *The Banking Regulations 2020*, (s. 2 & 3). Zimbabwe.

²⁵ *The National Payment Systems Act 78 of 1998*, (s. 2). South Africa [SA].

²⁶ *The Prevention of Organised Crime Act 121 of 1998*, (s. 48). (POCA) SA.

²⁷ *The Financial Sector Regulation Act No. 9 of 2017*, (c. 57: B & 58). SA.

²⁸ *The Financial Intelligence Centre Act 38 of 2001*, (c. 20: A – 21:H) (FICA). SA.

²⁹ See Akujobi, N. E., Anyanwu, G. I. and Eke, C. K. (2021) Regulatory Framework and Bank Operations in Nigeria: A VECM Approach. *International Journal of Development and Management Review*, 16 (1), pp. 148-160.

³⁰ Others include *Companies and Allied Matters Act (CAMA) 2020*. Nigeria. In: English.; *The Foreign Exchange (Monitoring and Miscellaneous Provisions) Act 1995*. Nigeria. In: English.

³¹ *The Reviewed Guidelines on International Money Transfer Services in Nigeria 2024 (the IMTO Guidelines)*, SI. Nigeria.

³² See Aidonojie, P. A., Majekudunmi, T. A. and Adeyemi-Balogun, O. J. (2023) The Legal Issues Concerning the Operations of Fin-Tech in Nigeria. *Jurnal Media Hukum*, 30 (2), p. 82.

to guarantee formidable legal regime for fintech products, including mobile money.

The evolution of mobile banking and its associated financial services align with four major theoretical economic models which explain its extensive acceptability within the economic matrix of Nigeria and South Africa. These models are the Decomposed Theory of Planned Behaviour (DTPB), Technology Acceptance Model (TAM), Theory of Planned Behaviour (TPB), and the Unified Theory of Acceptance and Use of Technology (UTAUT). Giovanis et al. posit that the DTPB model best explains the entrenchment of mobile banking around the globe since it encapsulates the perceived risk (PR) as well as integrates the three rationally evaluated features of easiness, usefulness and compatibility.³³ The foregoing position becomes imperative as the TAM is limited in application given that it incorporates the twin attributes of perceived usefulness (PU) and perceived ease of use (PEOU) to the exclusion of external fundamentals underlining consumers behaviour.³⁴ However, Badiang and Nkwei suggest that the UTAUT model is credited for the wide acceptability of mobile device-based technology in banking operations in South Africa.³⁵ The UTAUT more than any other model embraces African values of status peddling by leveraging on its inherent indices of performance expectancy, effort expectancy, social influence, and facilitating conditions to enhance its popularity as a befitting model for mobile banking in Nigeria and South Africa. Whichever theory prevails, it is posited that in all considerations for the institution and sustenance of electronic banking in Africa, the utilitarian legal theory stands out. The theory explains why the black community in South Africa, for security reasons, offers more patronage to the mobile banking concept whereas the long queues and hours spent on marginal transactions in Nigerian banks endears electronic banking to the average Nigerian. Nigerian consumers are more influenced by the ease of doing business and local consumer cultures even when the infrastructure required to facilitate such culture, such as internet facility, is at the nursery stage. The application of utilitarian theory to e-banking reflects in the security, trust, risk-management and

³³ Giovanis, A et al. (2019) Adoption of Mobile Banking Services: A Comparative Analysis of Four Competing Theoretical Models. *International Journal of Bank Marketing*, 37 (5), pp. 116-1189. Available from: <https://doi.org/10.1108/IJBM-08-2018-0200>

³⁴ Asongu, S. A. and Odhiambo, N. M. (2020) Inequality and Gender Economic Inclusion: The Moderating Role of Financial Access in Sub-Saharan Africa. *Economic Analysis and Policy*.

³⁵ Badiang, A. M. and Nkwei, E. S. (2024) Mobile Banking Adoption, Its Antecedents and Post-Adoption Effects: The Role of Consumers' Status Orientation in an African Context. *Cogent Business & Management*, 11 (1), pp. 844-845. Available from: <https://doi.org/10.1080/23311975.2321787>

privacy of customers, particularly in the area of time-management or speed, accessibility, cost-benefit, and cognitive offload.³⁶

There are veritable risks and probable dangers that may associate with internet financial services and electronic currencies. These risks which include criminal tendencies such as terrorism financing, money laundering, Ponzi networking and abuse of the market order are not within the scope of this paper.³⁷ The truth is that digital currencies and their pilot platforms such as mobile money have shown capacity to build inclusivity by bringing the poor and vulnerable who were hitherto incapable of institutional banking into the banking net. The case of Zimbabwe clearly demonstrates the foregoing position.³⁸ Zimbabwe adopted no singular official currency from January 2009. The country announced a multi-currency arrangement in January 2009 following her peculiar economic experiences resulting in hyperinflation as well as instability in polity. The country largely uses mobile money, plastic money, and multi-currency mechanism to drive its economy. Consequently, the common view on the proliferation of digital currencies like bitcoins suffices for the purposes of this paper, particularly for financial inclusion of the vulnerable in Nigeria and South Africa. To this end, the position for the recognition of internet financial services and such digital currencies that may be legally administered by the central bank would promote accommodation of persons with low income-earning within the banking infrastructure.³⁹ While maintaining regular currencies imbued with intrinsic value and regulated by national governments, particularly for purpose of taxation, electronic financial services should be evolved and regulated in like manner by the central bank to address the exclusion of the most vulnerable from financial organogram of the Nigerian and South African economies as well as those of other African countries like Zimbabwe.

³⁶ Rouse, M., Batiz-Lazo, B. and Carbo-Valverde, S. (2025) Trust and Socio-Demographic Influences on Mobile Banking Adoption in South Africa: A Longitudinal Study. *International Journal of Bank Marketing*. Available from: <https://doi.org/10.1108/IJBM-08-2024-0458>

³⁷ Chitimira, H. and Ncube, M. (2020) The Role of Regulatory Bodies and Other Role-Players in the Promotion of Financial Inclusion in South Africa. *Acta Universitatis Danubius Juridica*, p. 34.

³⁸ Chitimira, H. and Ncube, M. (2021) Towards Ingenious Technology and the Robust Enforcement of Financial Markets Laws to Curb Money Laundering in Zimbabwe. *Potchefstroom Electronic Law Journal*, pp. 1-46,

³⁹ Chilimira, H. and Magau, P. T. (2021) A Legal Analysis of the Use of Innovative Technology in the Promotion of Financial Inclusion for Low-Income Earners in South Africa. *Potchefstroom Electronic Law Journal*, pp. 1-27.

2.2.THE EMERGENCE OF INTERNET BANKING SERVICES IN SOUTH AFRICA AND NIGERIA: AN OVERVIEW

Digital financial products may be conceived as the diverse financial products accessible and rendered by digital mechanisms and tools like smartphones, computers, tablets and so on whereas mobile money services include banking without walls, electronically generated money transactions such as credits, savings, insurance, remittances, and electronic payments. Digital financial services could also encompass computer applications and software, smart technologies which include the smart phones and other technical devices connected to the Internet of Things (IoT) to deliver enhanced, affordable and swift financial services to consumers.⁴⁰ Put differently, digital financial services describe an aspect of innovative fintech outcomes that are affording seamless financial services to persons including those who were hitherto marginalised in the financial market spaces of Nigeria and South Africa.⁴¹

It becomes imperative to distinguish between mobile money and mobile banking which are sometimes fluid in definition because of their common internet denominator. Mobile Money is conceived as a financial service that channels receiving and sending of money through smartphones or other internet enabled devices such as Point of Sales (PoS). It operates as an electronic wallet in which users mobile telephone numbers are connected to their electronic account enhancing transactions at the press of the button without interactions with institutional bank channels. The frontrunner service providers of mobile money in Nigeria are Opay, Moniepoint, Palmpay, Firstmonie and Kuda which operate in similar manner as the M-PESA.⁴² Conversely, Mobile Banking is an innovative service rendered by institutional banks to enable users transact or access their bank accounts through dedicated mobile application. Mobile banking has extended the banking services beyond the banking mall as the banks' websites and other modems enable transactions round the clock. While mobile money account is easy to own, mobile banking requires the same documentations and more, which make institutional banking a cumbersome exercise. Today, every institutional bank has mobile banking app and chips enabling mobile

⁴⁰ Lawack-Davids, V. (2012) The Legal and Regulatory Framework of Mobile Banking and Mobile Payments in South Africa. *Journal of International Commercial Law and Technology*, p. 320.

⁴¹ Mhlanga, D., Dunga, S. H. and Moloi, T. (2020) Financial Inclusion and Poverty Alleviation among Smallholder Farmers in Zimbabwe. *Eurasian Journal of Economics and Finance*, pp. 171-172.

⁴² M-PESA is the pioneer mobile money platform in Kenya which model of operations is similar to the mobile money services around Africa. See Ndung'u, N. S. (2021) *A Digital Financing Services Revolution in Kenya: The M-Pesa Case Study*. Nairobi: African Economic Research Consortium, pp. 5-11.

banking out of which the Automatic Teller Machine (ATM) Cards are most prominent.

The innovative use of smart technology has permeated all governance and socio-economic environments, including the financial economies of South Africa and Nigeria. The emergence of digital financial services which market mall or business venue thrives within the cyberspace has re-ignited arguments on the governance of the cyberspace to ensure healthy economic competition insulated from criminality.⁴³ Fintech startups have collaborated with mobile network service providers to develop tools and software that have capacity to process diverse transactions, allowing all manner of users to receive and send money irrespective of geographic boundaries, using mobile phone devices and other electronic platforms. Nearly six percent of the total Nigerian population engaged the services of mobile money in 2021 with a record exceeding 124 million transactions on mobile apps.⁴⁴ By May 2024, about sixty-four percent (64%) of the Nigerian Population use mobile money apps.⁴⁵

The popularity of mobile money platforms is not peculiar to Nigeria. Chitimira and Magau posit that about eight million, constituting more than half of the fifteen million total population have their mobile phones enabled for mobile money transactions in Zimbabwe.⁴⁶ The foremost mobile money web in Zimbabwe known as Ecocash is operated by Econet Wireless, a multi-national communication services provider.⁴⁷ Mobile money operations have enabled the economy to overcome incessant cash crunch and hyperinflation which has been the lot of the country's economy most recently.⁴⁸ The pandemic COVID-19 magnified the relevance of mobile currencies to a struggling economy by enabling fast and safe transactions without the rigours of institutional banking procedures that may defy the universal social distance policy at the time.⁴⁹

⁴³ Ginsburg, T. (2022) Democracies and International Law: An Update. *Chicago Journal of International Law*, 23 (1), p. 21. See also, Zang, D. (2022) Revolt against the U.S. Hegemony: Judicial Divergence in Cyberspace. *Wisconsin International Law Journal*, 39 (1), pp. 4 & 9.

⁴⁴ *Banking Industry in Nigeria – Statistics & Facts*. [online] Statistica. Available from: <https://www.statistica.com> [accessed 18 March 2025]

⁴⁵ Sasu, D. D. (2024) *Population with Mobile Money Accounts in Nigeria 2019 – 2024*. [online] Statistica. Available from: <https://www.statistica.com/statistics/1182346/population-with-mobile-money-accounts-in-nigeria-2019-2024> [accessed 18 March 2025]

⁴⁶ Chilimira, H. and Magau, P. T. (2021), *op. cit.* pp. 3-4.

⁴⁷ Chitimira, H. and E. Torerai, E. (2021), *op. cit.* p. 12

⁴⁸ Phiri, C. and Muponda, G. (2016) Public Confidence and its Impact on the Performance and Stability of Banks in Zimbabwe. *University of Zimbabwe Business Review*, p. 3.

⁴⁹ Mann, R. J., (2020) Driver for Contactless Payments. In: K. Pistor (ed.) *Law in the Time of COVID-19*. New York: Columbia Law School, p. 177; Kasradze, T. (2020) Challenges Facing Financial Inclusion Due to the Covid-19 Pandemic. *European Journal of Marketing*

Safaricom inaugurated M-PESA in 2007 to promote financial support to unbanked individuals in Kenya.⁵⁰ The initiative which was launched as a micro-loan package advanced as a dependable means for transfer and receipt of funds, recording tremendous success because of its flexibility, state-of-the-arts security and user-friendly approach. The M-PESA model of mobile money transaction gained confidence and transparency by its operative security procedures. The process demands the generation of transaction pin and communicates details of the transaction to parties by a short message signal (SMS). The SMS serves as receipt for the transaction. Osei suggests that half of the mobile money users globally are domiciled in Africa, with M-PESA dominating the mobile money space.⁵¹ Efforts to integrate mobile money into the financial environment were not as challenging in South Africa as they were in Nigeria and Zimbabwe. The truth is that internet and formidable communication network is prerequisite for the survival of digital financial transactions. These existential technologies which Nigeria is still grappling to guarantee, are taken for granted in South Africa. The earliest initiatives to integrate mobile money platforms into South Africa's financial space was unsuccessful, principally because of an inflexible financial regulatory policy run and controlled largely by pro-banks conservatives.⁵² At the dawn of 2020, the Mobile Telephone Network (MTN) which is a foremost South Africa's telecommunications company, reintroduced its Mobile Money (MoMo) product.⁵³ The revival of the MoMo application fueled the patronage for digital cash in South Africa at the outbreak of COVID -19 pandemic.⁵⁴ However, the success of the MoMo platform has not induced flexibility into the South African financial regulatory infrastructure as in Nigeria and

and Economics, p. 70; De, R., Pandey, N. and A. Pal (2020). Impact of Digital Surge during Covid-19 Pandemic: A Viewpoint on Research and Practice. *International Journal of Information Management*, p. 3.

⁵⁰ "M" stands for mobile while "PESA" means money in Swahili. See, Kagan, J. (2023) *What is M-PESA?*. [online] Investopedia. Available from: <https://www.investopedia.com/terms/m/mpesa.asp> [accessed 18 March 2025]. See also, Buku, M. W. and Meredith, M. W. (2013) Safaricom and M-Pesa in Kenya: Financial Inclusion and Financial Integrity. *Washington Journal of Law, Technology & Arts*, p. 379.

⁵¹ Osei, C. (2021) *Evolution of Mobile Money*. [online] B & FT Online. Available from: <https://thebftonline.com/2021/11/23/evolution-of-mobile-money/> [accessed 18 March 2025]

⁵² Abrahams, R. (2017) Financial Inclusion in South Africa: A Review of the Literature. *Southern African Accounting Association*, p. 650; Chatain, P. I. et al. (2011) *Protecting Mobile Money Against Financial Crimes: Global Policy Challenges and Solutions*. Washington D.C.: The World Bank, p. 66.

⁵³ McLeod, D. (2020) *MTN in Big E-Commerce Play with Mobile Money*. [online] TechCentral. Available from: <https://techcentral.co.za/mtn-mobile-money-can-now-be-used-for-online-shopping/176377/> [accessed 10 February 2025]

⁵⁴ Ibid.

Zimbabwe thereby raising concerns over the long term survival of the mobile money idea.

While fintech solutions are beneficial to the economy in several ways such as poverty alleviation and job creation, swift and efficient financial service delivery and so on, there are dangers and regulatory challenges. The system is fraught with fraud and corruption, criminality as well as abuse by those who are fugitives from the law. To this end, there should be an intentional balancing of access to digital financial products and counter-terrorism financing (CTF) as well as the implementation of anti-money laundering (AML) policies to contain illicit financial engagements in Nigeria and South Africa.⁵⁵

2.3.THE ADMINISTRATION OF DIGITAL FINANCIAL SERVICES IN NIGERIA

Nigeria does not have a specific statute that regulates digital financial services in express terms. Recourse may, therefore, be had to the activities of some agencies that impact on the operations of mobile money service providers. Consequently, the Nigeria's national bank⁵⁶ collaborates with the Communications Commission (NCC) to monitor and regulate mobile money services in Nigeria, in the absence of a dedicated ombudsman. While the Apex bank licenses or authorises the operations of mobile money platforms in Nigeria,⁵⁷ the NCC issues unique operational codes to them to guarantee hitch-free electronic money payment interface with other operators.⁵⁸ In 2020, the Apex Bank had issued a circular prohibiting all MMOs from continuing receipts of credits routed through international-money-transfer-operators (IMTOs). This challenged the soaring vibrancy of digital money operations and their continued relevance as a critical contributor to the economic index in Nigeria.⁵⁹ The CBN had in July 2021 released a framework for the regulation of mobile money services in Nigeria in line with the powers granted it in section 47 (2) of the enabling Act⁶⁰ and section 57 (1) of the BOFIA. It was stated by the CBN in the pre-amble to the Regulation that the

⁵⁵ Chitimira, H. and Munedzi, S. (2021) *op. cit.* pp. 48-49

⁵⁶ Nigeria's National Bank refers to the Central Bank of Nigeria (CBN), the Apex Bank or Bankers' Bank.

⁵⁷ *The CBN Act 2007*, (c. 47:2). Nigeria. In: English.

⁵⁸ See *Circular referenced PSM/DIR/CON/CWO/16/119 2020*. SI. Nigeria

⁵⁹ This mechanism is known as the Nigerian Inter-Bank Supplementary System (NIBSS) under the control of the NCC.

⁶⁰ Circular referenced PSM/DIR/CON/CWO/16/119 2020, *op. cit.*. See also *CBN Regulatory Framework for Mobile Money Services in Nigeria 2021* [online] CBN. Available from: <https://www.cbn.gov.ng/Out/2021/CCD/Framework%20and%20Guidelines%20on%20Mobile%20Money%20Services%20in%20Nigeria%20-%20July%202021.pdf> / [accessed 18 March 2025]

“Regulation was a path towards achieving availability, acceptance and usage of mobile payment service as achieving a nationally utilised and internationally recognised payment system necessitates strategies to bring informal payment transactions into the formal system.”

Idowu⁶¹ reckons that the CBN announced its preparedness to evolve Central-Bank-Digital-Currency (CBDC) as a critical driver for the proposed cashless economy in the manner of the huge success recorded with POS⁶² agent banking, online banking, ATMs,⁶³ PSBs⁶⁴ and mobile banking. It is observed that the operations of the proposed CBDC is yet to be seen in Nigeria till date.

The framework could be divided into two broad models according to bank's operative intervention.⁶⁵ The powered-by-bank or other financial entities permits partnering with a bank institution or a conglomerate of financial institutions to initiate payment systems or render such mobile money services as may be desirable. Firstmonie typifies a bank-led model. Conversely, under a non-bank-led model, the CBN issues licences to corporate entities to engage in digital money transactions as in the cases of Smartcash, Moniepoint and others. Elubode and Adejojo argue that unlike in Zimbabwe and South Africa, MTN, Glo and Airtel (Econet Wireless) were barred from providing mobile money services because the CBN would want a monopoly and complete control over the country's monetary policy.⁶⁶ Telecommunications companies were granted Payment Service Banks (PSBs) approval in principle to engage in digital financial services in Nigeria in April, 2022.⁶⁷

Besides the bureaucratic administration of banking activities in Nigeria by the CBN, there are specific statutes that bear on financial activities generally.

⁶¹ Idowu, B. (2023) *Economy: As Full Implementation of Cashless Policy Starts Today*. [online] Leadership. Available from: <https://leadership.ng/economy-as-full-implementation-of-cashless-policy-starts-today/#> [accessed 15 March 2025]

⁶² POS means Point of Sale Terminals. It is a device that accesses credit or master cards for the purpose credit and debit electronic transactions in the same manner as ATMs would do.

⁶³ ATM means Automatic Teller Machine. They are owned and structured by institutional banks to accept master cards, debit cards and other such cards for purposes of banking transactions, including limited cash payments.

⁶⁴ PSB refers to Payment System Bank.

⁶⁵ Oladokun, A., Akanni, Z. and Nnebedum, O. (2023) *Regulatory Framework for Mobile Money Operations in Nigeria*. Jackson, Etti & Edu. Available from: <https://jee.africa> [Accessed 10 March 2025]

⁶⁶ Elubode, A. E. and Adejojo, E. F. (2024) An Evaluation of Mobile Money Services as An Alternative to the Mainstream Banking System in Nigeria. *RUN Law Journal*, 7(1), pp. 10-11.

⁶⁷ The PSB is issued to the network service providers because they have the capacity to reach the unbanked Nigerians with conditions which include: 1 Minimum of five billion Naira (\$13 million) capitalization. 2. Non issuance of credit cards or loans. 3. No transactions in foreign currencies. 4. Insuring depositors' monies with Nigeria Deposit Insurance Corporation (NDIC), among others.

The BOFIA⁶⁸ primarily regulates banking in Nigeria. Although banking is a fundamental aspect of financial services, the activities of fintech companies go beyond the traditional banking business. Section 2 (1) of BOFIA stipulates that any individual conducting the business of banking in Nigeria shall be incorporated. The business shall in addition be carried on with strict compliance to the terms of a valid licence as stipulated in section 3 of BOFIA. The provision relating to incorporation is in tandem with the Companies and Allied Matters Act (CAMA) which provided options for the promoters of such business outfit to include limited liability company, unlimited liability company and company limited by guarantee.⁶⁹ Section 66 of the BOFIA defined the term “other financial institution” to implicate any person, group of persons, corporate or non-corporate other than a bank validly authorised to engage in the business of financing, and brokerage or whose main object includes project financing, management of funds, investment management, financial consultancy and so on. It therefore stands to reason that fintech financial services, being such as may conveniently be accommodated under section 66 of BOFIA, may only operate in Nigeria in compliance with section 59 of the Act.⁷⁰ The provision ensures transparency and caution against criminality as incorporation of a company brings such company’s activities under bureaucratic scrutiny.⁷¹ Failure to incorporate a fintech company may inform a criminal intention capable of scrutiny by investigative agencies.⁷²

The Nigeria Finance Act is a unique statute which strives to amend the myriads of financial laws in Nigeria for the purpose of aligning them into one document.⁷³ The Act, however, amended the CAMA only as it relates to shareholding and dividends.⁷⁴ It did not touch on the operationality of fintech generally. The law was expected to function like the Singaporean Financial Services and Markets Act 2022 (FSMA) which established omnibus powers for broad-based governance of monetary transactions and markets aimed at stabilising the ever-evolving landscape of fintech operations.⁷⁵ The law which is being implemented in phases has in its 2024 round of implementation introduced novel sections on technology and actuarial

⁶⁸ BOFIA 2020. Nigeria.

⁶⁹ CAMA 2020, (s. 21). Nigeria.

⁷⁰ BOFIA, *op. cit.*, (s. 59) provides for procedure for the application for licence to operate as a financial institution in Nigeria.

⁷¹ Vucinic, M. (2020) Fintech and Financial Stability: Potential Influence of Fin Tech on Financial Stability, Risks and Benefits. *Journal of Central Banking Theory and Practice*, 2, pp. 43-66.

⁷² EFCC (Establishment) Act 2002, (s. 5). Nigeria. In: English.

⁷³ Finance Act 2020. Nigeria.

⁷⁴ Finance Act 2020, *op. cit.* s. 60.

⁷⁵ *Financial Services and Markets Act 2022*. Singapore. In: English. Available from: <https://www.mas.gov.sg/regulation/acts/financial-services-and-markets-act-2022> [accessed 14 March 2025]

science.⁷⁶ Like the Finance Act, the Cyber Crimes Act⁷⁷, is not primarily designed to regulate fintech activities in Nigeria.⁷⁸ The Acts are lost opportunities to set up customised legal frameworks for digital monetary transactions in Nigeria.

2.4. THE ADMINISTRATION OF INTERNET-POWERED FINANCIAL PRODUCTS IN SOUTH AFRICA

Like Nigeria, South Africa has no specific statute for the administration of digital monetary services. This state of things has not inhibited or limited the operationality and patronage of fintech products, particularly the mobile money transactions in the country.⁷⁹ The extant statutory framework operative in the financial industry appears to have been extended to digital financial products.⁸⁰ The current legal regime includes the South African Reserve Bank (SARB) Act 89 of 1990,⁸¹ the National Payment System Act,⁸² the FICA,⁸³ the POCA,⁸⁴ and the FSR Act.⁸⁵

The SARB Act stipulates two broad functions for the SARB. The bank is primarily mandated to preserve and defend the purchasing power of the South African fiat currency to enhance a sustainable and balanced development of the economy.⁸⁶ It is further obligated to preserve and sustain stable financial environment in South Africa.⁸⁷ It is responsible for monetary circulation and in that portfolio, it has the power to issue currencies and coins, supervise payments, or settlement arrangements in the country.⁸⁸ To this end, since digital financial services function to enhance payments and settlement arrangements, SARB may validly regulate the activities.

⁷⁶ (2024) *Fintech Laws and Regulations 2024 – Singapore*. [online] Global Legal Insights (Gli). Available from: <https://www.globallegalinsights.com/practice-areas/fintech-laws-and-regulations/singapore/> [accessed 14 March 2025]

⁷⁷ *Cybercrime (Prohibition, Prevention etc.) Act 2015*. (c. 37) Nigeria. Section 37 of the Act made a passive reference to financial institutions carrying out electronic transactions by mandating the provision of certain documents for identification purposes only.

⁷⁸ Owolabi, K. M. W. (2023) Understanding the Place of Islamic Arbitration within the Nigerian Law. *Jurnal Hukum Novelty*, 14 (1), pp. 69-87.

⁷⁹ Chitimira, H. and Torerai, E. (2023) A Regulatory Analysis of Digital Financial Services and the Adoption of Central Bank Digital Currencies in Zimbabwe and South Africa. *Juridical Tribune*, 13 (3), p. 379.

⁸⁰ Ibid.

⁸¹ See SARB Act 1990, (ss. 2-38). SA.

⁸² *National Payment Systems Act*, (s. 2). SA.

⁸³ *Financial Intelligence Centre Act 38 of 2001*, (c. 20 – 21:H). SA.

⁸⁴ *Prevention of Organised Crime Act 121 of 1998*, (s. 48). SA

⁸⁵ *Financial Sector Regulation Act 2017*, (s. 57: B & 58). SA.

⁸⁶ *The South African Reserve Bank Act 90 of 1989*, (s. 3:1). SA.

⁸⁷ *The South African Reserve Bank Act 90 of 1989*, *op. cit.* (s. 3:2).

⁸⁸ *The South African Reserve Bank Act 90 of 1989*, *op. cit.* (s. 10:1 (c)(i)).

Under the NPSA, the powers to operate, establish, regulate and oversee the South African payment settlement and clearing systems is exclusively donated to the SARB.⁸⁹ The law does not specifically make provisions for digital financial service providers as stakeholders in the national payment arrangements. This is because the services are not mentioned to constitute payment, clearing or settlement systems in South Africa.⁹⁰ However, records show that over 576 billion South African Rand worth of transactions are routed on daily basis through the NPS.⁹¹ The authority of SARB extends to the recognition of payment systems and the delisting or proscription of non-recognised actors in the financial sector.⁹² The law further empowers SARB to intercept and possess any information relating to the financial settlement arrangements in South Africa.⁹³ This implicates that all actors in the payment circle have the duty to avail data relating to transactions they have enabled upon being requested to do so by SARB.

The primary target of POCA is to tackle issues relating to laundering of money, organised crime, and related activities through the penal arrangement. Corruption and the associate act of laundering of money are very grave offences in South Africa. The offences are punishable with up to 30 years prison sentence or prohibitive fine of about R100 million upon conviction.⁹⁴ POCA does not particularly refer to digital financial services, it nonetheless covers offences such as proceeds of crime, wealth acquisition without credible explanation, among others fears that have been associated with fintech innovations. The law has not specified what obligations are required of the fintech companies in respect of users' transactions as a check against money laundering or terrorism financing, particularly to ascertain the source of funds. According to De Koker, to identify users in the circumstances with identification documents such as identity cards (IDs) or passports may not suffice for a comprehensive profiling that should aid the detection of suspicious financial transactions.⁹⁵ However, digital financial services promoters are under obligation to conduct their businesses in compliance

⁸⁹ *National Payment Systems Act*, (s. 2). SA.

⁹⁰ *National Payment Systems Act*, *op. cit.* (s. 1).

⁹¹ Kariuki, P., Ofusori, L. O. and Goyayi, M. L. J. (2025) Internet of Things on Banking Processes in South Africa: A Systematic Reflection on Innovations, Opportunities and Challenges. *Digital Business*, 5 (1) 100097. Available from: <https://doi.org/10.1016/j.digbus.2024.100097> [Accessed 2 August 2025]

⁹² Kariuki, P., Ofusori, L. O. and Goyayi, M. L. J. (2025), *op. cit.* p. 3:1-5.

⁹³ Kariuki, P., Ofusori, L. O. and Goyayi, M. L. J. (2025), *op. cit.* p. 10.

⁹⁴ Prevention of Organised Crime Act 121 of 1998, *op. cit.* (s. 8:1). SA

⁹⁵ De Koker, L. (2014) The FATF's Customer Identification Framework: Fit for Purpose? *Journal of Money Laundering Control*, p. 285. See also, Chitimira, H. (2020) The Reliance on Artificial Intelligence Measures to Curb Money Laundering Practices in the South African Banking Institutions and Real Estate Sector. *Acta Universitatis Danubius Juridica*, p. 29.

and with the awareness of POCA and other legislations in force in South Africa.

The most important economic benefit of fintech innovation is inclusivity of bankable persons within the community. The Prudential Authority (PA),⁹⁶ like the Financial Sector Conduct Authority (FSCA)⁹⁷ is a creation of the FSR mandated to administer the operations of financial institutions in order to promote inclusivity of all bankable persons in the country.⁹⁸ The implication is that FSCA functions in collaboration with SARB in the supervision of the activities of financial institutions in South Africa. However, the PA and FSCA lack clear-cut responsibilities impacting directly on fintech activities in the Republic of South Africa.⁹⁹ Chitimira and Torerai suggest an amendment of the FSR to clearly stipulate the bureaucratic administration of fintech products within South Africa.¹⁰⁰

It is evident from the foregoing regulatory frameworks that the Nigerian and South African approach to internet financial services squarely identifies with the Institutional Regulatory Theory (IRT) or the corporate governance model underpinning operations of mobile banking.¹⁰¹ The concept may be examined from the two angles of regulatory support, and institutional influence. The theory conceives that what is needed for business to thrive is a positive regulatory landscape which fosters innovations and guarantees consumers protection. Consequently, the two countries abide by the strengthening of existing banking institutions to support internet banking operations. This explains why the sector is regulated generally, without specifications in respect of internet financial services and the available products overtime with South Africa towering over Nigeria in terms of well-defined licensing procedure for Fintech operations. The development has worsened the global rating of both countries in financial transactions tainted with criminality.¹⁰² The model poses a great challenge to the industry in the advent of technological twist such as mobile banking.

⁹⁶ Financial Sector Regulation Act 2017, *op. cit.* (s. 32-55)

⁹⁷ Financial Sector Regulation Act 2017, *op. cit.* (ss. 56-72)

⁹⁸ Financial Sector Regulation Act 2017, *op. cit.* (s. 34:1)

⁹⁹ Financial Sector Regulation Act 2017, *op. cit.* (s. 56 - 58)

¹⁰⁰ Chitimira, H. and Torerai, E. (2023), *op. cit.* p. 400.

¹⁰¹ Amune, M. S. (2024) Legal Regime of Electronic Banking in Nigeria and the Evidence Act 2011: An Examination of the Intersection between Technology and Law. *Iconic Research and Engineering Journals*. 8 (6), p. 844.

¹⁰² Kariuki, P., Ofusori, L. O. and Goyayi, M. L. J. (2025), *op. cit.*

2.5.DIGITAL FINANCIAL SERVICES: STATUTORY REGULATION IN ZIMBABWE

Like Nigeria and South Africa, there is no legislation with specific or express regulatory intendment of digital financial services in Zimbabwe. The realities leave regulators with community implementation of several related statutes in the attempt to bring fintech products within the operations of enabling statutes.

The National Payment Systems Act came into force in 2001 at a time when fintech services were yet to disrupt the financial monopoly of institutional banks in Zimbabwe.¹⁰³ Digital financial services were consequently not within the contemplation of the policymakers at the time and so were not recognised. The National Payment Systems Act¹⁰⁴ initiates the recognition, regulation and operation of clearing and payments arrangements between financial houses in Zimbabwe. The Reserve Bank of Zimbabwe (RBZ) has a clearing department known as the National Payments Systems Division (NPSD) with regulatory and supervisory mandate covering digital financial transactions in Zimbabwe.¹⁰⁵ The Banking Act mandates the registration, regulation and supervision of banks and other financial institutions in Zimbabwe.¹⁰⁶ The Act provides a retinue of financial institutions in Zimbabwe which includes banks, pension funds managers, insurance companies and building societies.¹⁰⁷ Although the list did not include digital financial services powered by fintech, its provision on the meaning assigned to mobile banking testifies to the effect that the lawmakers intended to cover banking transaction outside the operations of institutional banks.¹⁰⁸ It is safe to posit that despite the seeming relatedness, the terms “digital financial services” and ‘mobile banking’ are not one and the same. This is because the requirement of the Act for registration of financial service providers may not be readily available to mobile money operators.¹⁰⁹

Another law which has operative bearing on digital financial services is the Exchange Control Act.¹¹⁰ The Act which seeks to combat illicit

¹⁰³ *The National Payments Systems Act 2001* (c. 24:23), Zimbabwe was enacted on 16 November 2001. The first digital financial service in Africa, M-PESA, was introduced in 2007 by Safaricom, a subsidiary of the British group of Vodafone.

¹⁰⁴ *The National Payments Systems Act 2001, op. cit.* (s. 2)

¹⁰⁵ *The National Payment Systems Act 2001, op. cit.* (s. 3:1 (a)-(c)) read with *The Banking Act 2001*, (s. 7:(a), (d)&(f) and 1), Zimbabwe.

¹⁰⁶ See the Long Title of the Banking Act.

¹⁰⁷ *The Banking Act 2001, op. cit.* (s. 2)

¹⁰⁸ *Ibid.*

¹⁰⁹ Lawack-Davids, V. (2012), *op. cit.* p. 319; Mbengo, P. and Phiri, M. A. (2015) Mobile Banking Adoption: A Rural Zimbabwean Market Perspective. *Journal of Corporate Ownership & Control*, p. 197.

¹¹⁰ *The Exchange Control Act (Chapter 22:05) 1965*, (s. 2:2 (a)). Zimbabwe.

peddling of foreign currencies by unauthorised persons requires the licensing and registration of persons who deal in currencies, gold, or securities in Zimbabwe.¹¹¹ Mobile money operators exploited the lack of specifics in the law to engage illicit foreign exchange dealings. In *Ecocash Zimbabwe v Reserve Bank of Zimbabwe*,¹¹² it was established that certain persons operated diverse mobile money agent-accounts as conduit for illicit forex trading which undermined the official markets.¹¹³ According to Chitimira and Ncube, the mobile financial infrastructure of Ecocash, OneWallet, Telecash, Skwama and OneMoney were used to launder about two billion Zimbabwean dollars in 2020.¹¹⁴

The Banking Regulations 2020 demonstrates the most intentional measure adopted by policymakers to bureaucratically administer digital financial services in Zimbabwe. The Regulations defines mobile banking in the same vein with the Banking Act.¹¹⁵ In its broadest interpretation, the Regulation equates mobile money wallet to a regular bank account though the instrument was silent on digital financial services. MNOs were safely captured under the definition of money “transmission providers” who were mandated to operate a trust account for the security of customers’ funds.¹¹⁶ The trust accounts attract regulatory prowess of the RBZ which should ensure the integrity of the financial sector by routine monitoring.¹¹⁷

2.6.THE ADOPTION OF CBDC IN NIGERIA AND SOUTH AFRICA

Digital currencies constitute fundamental part of innovative financial evolution in the payment arrangements of several countries that have recognised virtual or electronic versions of legal tenders.¹¹⁸ Many countries of the world are in the incubation stages of adopting central bank digital money.¹¹⁹ These currencies are minted and statutorily produced as well as regulated by the Central Bank or National Bank of a given country unlike

¹¹¹ Ibid. See also Tuba, M. D. (2014) The Regulation of Electronic Money Institutions in the SADC Region Some Lessons from the EU. *Potchefstroom Electronic law Journal*, p. 2270.

¹¹² *Ecocash Zimbabwe v Reserve Bank of Zimbabwe* (2020), HH 333-20 (HC 3007/20) ZWHC 333.

¹¹³ *Ecocash Zimbabwe v Reserve Bank of Zimbabwe*, *op. cit.* p. 10

¹¹⁴ Chitimira, H. and Ncube, M. (2020), *op. cit.* p. 10

¹¹⁵ The Banking Regulations 2020, *op. cit.* (art. 2); The Banking Act, *op. cit.* (s. 2)

¹¹⁶ The Banking Regulations 2020, *op. cit.* (s. 4:3)

¹¹⁷ The Banking Regulations 2020, *op. cit.* (s. 5:1)

¹¹⁸ Klein, M. et al. (2020) The Digital Euro and the Role of DLT for Central Bank Digital Currencies. *Frankfurt School of Finance & Management GmbH FSBC Working Papers*, pp. 2-6; Glass, J. E. (2017) What is Digital Currency. *The Journal of the Franklin Pierce Center for Intellectual Property*, pp. 481-482.

¹¹⁹ Klein, M. et al. (2020), *op. cit.* pp. 2-3

bitcoins and crypto assets.¹²⁰ There is no unified conception of “central bank digital currency” but a working definition of central bank digital currencies refers to the adoption and engagement of electronic or virtual version of the national currencies as alternative to the conventional fiat currency, that is, crisp banknotes and coins for financial settlements within the given jurisdiction.¹²¹

The evolution of CBDC signals a paradigm shift towards a cashless economy and improved state surveillance capabilities. For an attainable cashless economy, the CBDC must either be linked with other country’s models across-the-border or be evolved by regional synergy. This is demonstrated by the new digital solutions being developed by the World Bank Group’s International Finance Corporation and the ASEAN Bankers Association with the object of serving as a global, open-framework for collaborative designing and experimentation of digital financial products as the world pulls toward cashless economy. Arvidsson conceives a cashless society as a society where individuals transact more with virtual currency than fiat currencies.¹²² Mobile money has tremendously contributed in demonstrating that a cashless society is possible, particularly in Nigeria and South Africa where individuals no longer grapple with heavy loads of crisp currencies for huge transactions as just an ATM card would do to move massive cash. The domestic experience with ATM cards could be reinvented using electronic tokens otherwise known as the CBDC, to be issued by some clearing institutions to which apex banks of countries may subscribe for the benefit of the bureaucracy and individual commercial transactions requiring huge payments. This is a milestone towards cashless economy which Africa may leverage on to achieve economic integration within the region by 2063.

The COVID-19 pandemic demonstrates the convenient, hygienic, and safer health advantages of cashless transactions over cash transactions, hence the growing patronage of the cashless trend across the globe.¹²³ Cashless transactions are accepted as measures to contain escalation of pandemic or viruses. The adoption of digital currencies would enhance financial inclusivity of the most economically vulnerable, with low-income earnings, which constitute the bulk of the unbanked community in the era of banking monopoly of the institutional banks. Digital currencies have the capacity to eradicate issues of cash heists in economies such as Nigeria and South Africa.

¹²⁰ Arvidsson, N. (2019) *Building a Cashless Society: The Swedish Route to the Future of Cash Payments*. Switzerland: Springer Nature, pp. 64-65.

¹²¹ Lu, L. (2018) Decoding Alipay: Mobile Payments, A Cashless Society and Regulatory Challenges. *Butterworths Journal of International Banking and Financial Law*, p. 41.

¹²² Arvidsson, N. (2019), *op. cit.*

¹²³ Mann, R. J. (2020), *op. cit.* pp. 177-179; Kasradze, T. (2020), *op. cit.*

Nigeria and South Africa have not formally issued or recognised digital Currencies. The central banks of both countries are toying with the idea which has reached an advance stage. South Africa is blazing the trail in this direction, with the collaborative consent of the Bank for International Settlements (BIS) under the initiative of “Project Khokha” and “Project Dunbar”.¹²⁴ The initiatives target interbank settlements instead of direct end users. To this end, SARB is currently test-running the viability of a digital currency to be adopted by financial institutions for managing interbank transfers.¹²⁵ The South African Government has built an alliance with Singapore, Australia and Malaysia for a mutual cross-border digital currency initiative.¹²⁶ Such alliance is intended to demonstrate the utility of digital financial platforms tending towards cashless economy when multiple countries are linked to the platform. Under the arrangement, CBDC becomes a viable instrument for international transactions under the governance of countries’ apex banks working through unified clearing outfit. The medium has been successfully engaged at different times by Bank of Canada and Banque de France in 2021.¹²⁷ The success of the arrangement would depend on functional linkages of monetary bureaucratic platforms which may transcend economic considerations to transnational political ideological linings. The PayNow Corporate which was evolved to enable businesses and government to make instant financial transactions has been successfully linked with Thailand’s National Bank (Bank of Thailand) as well as India’s National Bank (Reserve Bank of India) under the on-going Unified Payments Interface in 2023.¹²⁸ Private merchants could harness the availability of official electronic financial codes such as DuitNow QR for seamless transactions across boarder.¹²⁹

¹²⁴ Chitimira, H. and Torerai, E. (2023), *op. cit.* p. 402

¹²⁵ Ibid.

¹²⁶ Fuje, H., Quavyom, S. and Qutrama, F. (2022) *More African Central Banks are Exploring Digital Currencies*. [online] IMF Blog. Available from: <https://blogs.imf.org/2022/06/23/more-african-central-banks-are-exploring-digital-currencies/> [accessed 17 March 2025]. See also Klein, M. et al. (2020), *op. cit.* pp. 11-13.

¹²⁷ CBDC – Singapore’s Successful Experiment with France. [online] MAS. Available from: <https://www.mas.gov.sg/news/media-releases/2021/singapore-and-thailand-launch-worlds-first-linkage-of-real-time-payment-system/> [accessed 18 March 2025]

¹²⁸ (2023) *Launch of Real-time Payments between Singapore and India*. [online] MAS. Available from: <https://www.mas.gov.sg/news/media-releases/2023/launch-of-real-time-payments-between-singapore-and-india/> [accessed 18 March 2025]. The Unified Payments Interface uses electronic financial code recognised by countries that subscribe to the arrangement.

¹²⁹ (2023) *Launch of Cross-border QR Payments Linkage between Indonesia and Singapore*. [online] MAS. Available from: <https://www.mas.gov.sg/news/media-releases/2023/launch-of-cross-border-qr-payments-linkage-between-indonesia-and-singapore/> [accessed 18 March 2025]

Consequently, the snail-speed with which Nigeria is embracing digital currency switch is disturbing given Nigeria's leadership role in Africa and its rating as the second to mute the idea, after the Bahamas. The country's attempt to adopt CBDC works for image laundering as it would limit flow of illicit funds because of the CBDC's traceability. Conversely, the individual users' privacy may be infringed in the process of documentation and retention of data. The e-Naira's focus is on the urban elite (partial or class inclusivity) rather than the unbanked community of primary consumers in contrast with the South African project with wholesale concentration on bank-to-bank transactions, particularly cross-border payments, focused more on consumer protection. Other countries of Africa such as Zimbabwe and Kenya are settled at the nursery stage of researches to determine the direction of the banking policy in the circumstances.¹³⁰ It would be safe to state that South Africa's walk towards digital currency switch advancement notwithstanding, no specific statutory framework has evolved in South Africa and Nigeria to govern digital currencies. The necessity for synergy between policymakers of both countries with a view to evolving workable model of digital currency switch should engage economy players. This move would facilitate trade and business linkages between both countries which would in turn drive the African regional economy in line with the African Union (AU)'s Agenda 2063 for shared economic growth and opportunities.¹³¹

3. CONCLUDING REMARKS

As has been discussed elsewhere in this discourse, digital financial services promote financial inclusivity and the fortification of financial shopping fora in Nigeria and South Africa. The invasive innovative fintech are enhancing participation of the unbanked poor and vulnerable individuals in Nigeria and South Africa through their services and products. The gains of these electronic financial services have become much more persuasive from the dawn of the COVID-19 pandemic.¹³² In the circumstances, mobile money afforded swift, safe and seamless financial transactions, reducing the fears

¹³⁰ (2023) Launch of Cross-border QR Payments Linkage between Indonesia and Singapore. *op. cit.*

¹³¹ African Union Commission. (2015) *Agenda 2063: The Africa We Want*. [press release] 10 June. Available from: https://au.int/Agenda2063/popular_version, pp. 2-10.

¹³² Aboh, P. B. and Aloamaka, P. C. (2022) COVID-19 Pandemic and Administration of Criminal Justice in Nigeria: A Call for a Better Application. *Cogito: Multidisciplinary Research Journal*, 14, p. 116; Buheji, M. et al. (2020) The Extent of Covid-19 Pandemic Socio-Economic Impact on Global Poverty: A global Integrative Multidisciplinary Review. *American Journal of Economics*, pp. 215-216.

and realities of the pandemic being capable of escalation through cash transactions which engage inevitable contacts.¹³³

However, the general acceptance and extensive patronage of mobile money services has not enjoyed a corresponding statutory regulatory reaction from policymakers in Nigeria and South Africa. It is clear that both the BOFIA and CBNA do not provide for strict electronic banking regulations for Nigeria thereby leaving the CBN's mandate to issue guideline with much flexibility, tending towards exposure to fraud. The laws regulate the corporate service providers, not the services or products. Consequently, a robust statutory framework should be put in place to regulate the services and products of internet financial services providers. The new law should prescribe the specific licensing regime of Fintech banks. It is suggested that a requirement by Fintech operators to first acquire a Microfinance Bank or Payment Service Bank licence would build confidence and security in the e-banking sector as well as cater for consumer protection against double taxation, inexplicable and unjustifiable charges. It would provide compensatory remedies to issues of ATM dispensing errors, frequent system failures/technical glitches, and issues of app compatibility. The law should also prescribe ways of verifying the validity of digital banking transactions for regulatory and legal uses to stem the vulnerability of such documents to alteration. Furthermore, policy makers should create online community of mobile bank users to enlist an interactive or feedback channel instead of leaving the fate of consumers entirely with the service providers. Both countries should enact laws that strictly guarantee digital privacy and implementation of smart solutions such as facial and voice recognition, multi-layered biometric authentication, encryption protocols in order to protect customers data and prevent cyberattacks, fraud and identity theft that have become commonplace in the era of IoT.

On the issue of digital currency, the Central Banks of Nigeria and South Africa may begin with evolving a central bank digital currency to test-run the financial digital switch. The alternative to specific statutes on the subject is a surgical amendment of the extant laws impacting financial transactions in both countries to integrate the peculiar features and dynamics of digital financial services for adequate bureaucratic governance. South Africa's leadership role in Africa, particularly with respect to the evolution of central bank digital currencies, is a welcome and applaudable development. Conversely, Nigeria's lag in harnessing the financial market economy created by the invasive fintech platforms through the adoption of digital currency is worrisome. Nigeria's stance demonstrates a suspicion of distrust resulting

¹³³ Mann, R. J. (2020), *op. cit.*

in unpreparedness for the evolving financial market economy driven by smart technology. Both countries should take all legitimate steps to capture the unbanked community of persons within the banking net for broader economic benefits. The opportunities have been presented by digital finance service models and could be realised through viable legislation.

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