

LIST OF LAWS AND MDAS IN THE FINTECH, TECH AND CREATIVE INDUSTRIES

LAWS AND REGULATIONS.

(1) **CENTRAL BANK OF NIGERIA:** Although there are no specific or single legislation regulating Fintech businesses in Nigeria, the CBN has shown significant interest in promoting and regulating Fintech in Nigeria.¹ It has in conjunction with NDIC, set up a committee to create guidelines and policies for technology and technological developments. Such as;

- ✓ Guidelines on mobile payments services in Nigeria; the CBN creates two models of mobile money license. Bank led and non-bank led. Bank Led are Financial Institutions and or its Consortium as Lead Initiator while Non-Bank Led is a corporate organization as Lead Initiator. CBN regulates mobile payments pursuant to Mobile money services in Nigeria and other regulations.²
- ✓ CBN Guidelines on operations of Electronic Payment Channels in Nigeria 2016
- ✓ CBN Regulation for Bill Payments in Nigeria 2018.
- ✓ CBN Guidelines on Mobile Money Services in Nigeria 2015.
- ✓ CBN Regulation for Direct Debit Scheme in Nigeria 2018
- ✓ CBN Regulatory Framework for the Use of Unstructured Supplementary Service Data (USSD) for Financial Services in Nigeria 2018.
- ✓ CBN Guidelines for the Operation of International Money Transfer Services in Nigeria 2014.
- ✓ CBN Guidelines on International Mobile Money Remittance Service in Nigeria 2015.
- ✓ CBN Regulatory Framework for Mobile Payments Services in Nigeria 2009³

Under the CBN's consumer protection framework, Financial Institutions regulated by the CBN must safeguard the privacy of customer's data; adopt data protection measures and implement staff training programs to prevent the unauthorized disclosure of data.

(2) **The Nigerian Communications Act (NCA):** established the Nigerian Communications commission which regulates fintech businesses among other things where the service offered involves mobile phones pursuant to the license framework for value added service issued by the NCC. In line with the provision of section 70(2) of the NCA, the commission is empowered to make and publish guidelines on all matters as are deemed necessary. Some of the guidelines as issued by the NCC are;

- ✓ Guidelines for deployment of Broadband services
- ✓ Guidelines for deployment of 2.4GHz Ism band (WIFI) for commercial telecom services

¹ <https://www.africanlawbusiness.com/publications/banking-and-finance/global-legal-insights---banking-regulation-5th-ed./nigeria/overview>

² <https://www.cbn.gov.ng/Out/2014/BPSD/Exposure%20Draft%20Guidelines%20on%20Mobile%20Payments%20Services%20in%20Nigeria%20.pdf>

³ <https://www.cbn.gov.ng/>

LIST OF LAWS AND MDAS IN THE FINTECH, TECH AND CREATIVE INDUSTRIES

- ✓ Guidelines for International access and voice over internet protocol
- ✓ Guidelines for the installation of telecommunications masts and towers
- ✓ Guidelines for the provision of Internet Service
- ✓ Guidelines on commercial Satellite Communications
- ✓ Guidelines on Procedure for granting approval to disconnect Telecommunication operators
- ✓ Guidelines on Short code Operation in Nigeria
- ✓ Guidelines on technical standards for interconnectivity of networks
- ✓ Guidelines on the use of short range devices⁴

(3) **Companies and Allied Matters Act-** the Corporate Affairs Commission, an establishment of the Act, is empowered to regulate all registered companies in Nigeria including banks and other financial institutions particularly in respect of formation, management, winding-up and certain statutory filings. Therefore, before an application for a banking license is made by an entity, it must be duly registered under CAMA.

(4) **Nigerian Deposit Insurance Corporation Act 2006: The Nigerian Deposit Insurance Corporation (NDIC)**, an establishment of this Act, is responsible for insuring all deposit liabilities of licensed banks and other deposit taking financial institutions operating in Nigeria, and assisting monetary authorities in formulating and implementing banking policy to ensure sound banking practice and fair competition among financial institutions.

(5) **Foreign Exchange (Monitoring and miscellaneous provisions) Act 1995:** The Act established the autonomous Foreign Exchange market and provides the regulatory framework for foreign exchange transactions in Nigeria.

(6) **Federal Reporting Council of Nigeria Act 2011:** The Act established the Financial Reporting Council of Nigeria. The Council has powers to enforce compliance with accounting, auditing, corporate governance and financial reporting standards. It also develops and publishes accounting and financial reporting standards for the preparation of financial statements of public interest entities, which includes banks and other financial institutions.⁵

(7) **Banks and other Financial Institutions Act (BOFIA)** - BOFIA allows for the registration of marketplace lenders as banks or other financial institutions. Additionally, all marketplace lenders must register as money lenders in accordance with the Money lender laws of the state they operate in.

⁴ <https://www.ncc.gov.ng/licensing-regulatory/legal/guidelines>

⁵ <http://www.financialreportingcouncil.gov.ng/about-us/>

LIST OF LAWS AND MDAS IN THE FINTECH, TECH AND CREATIVE INDUSTRIES

- (8) **The Consumer Code of Practice regulations 2007** issued by the NCC provides that all licenses must take reasonable step to protect customer information against improper or accidental disclosure and ensure that such information is securely stored. It also guarantees the customer information is not transferred to any party except as otherwise permitted or required by other applicable laws or regulations.
- (9) **Cyber Crime (prohibition, prevention) Act 2015**. Under this Act, a financial institution which may include a fintech company is required to verify the identity of customers carrying out electronic financial transactions. Observe adequate “know your customer” processes; keep all traffic data and subscriber information upon the direction of a law enforcement agency.
- (10) **NOTAP Act**: Agreements for the transfer of technology between a foreigner and a fintech business in Nigeria should be registered with the National Office for Technology Acquisition and Promotion which was established by the Act.
- (11) **Draft guidelines on data protection issued by the NITDA**. (The National Information Technology Development Agency) The NITDA guidelines prescribe the minimum data protection requirements for the collection, storage, processing, and management. operation, and technical controls for information and is currently the only set of regulations that contains specific and detailed provisions on the protection, storage, transfer or treatment of personal data.⁶ The NITDA guidelines apply to private sector organizations that own, use or deploy information systems within Nigeria and to organizations outside Nigeria if such organizations process personal data of Nigerian residents. The NITDA guidelines are currently not being enforced.

The following financial crime laws may apply to fintech businesses as they apply to financial institutions generally

- Money laundering (Prohibition) Act 2011 (as amended) applies to banks and other financial institutions and certain “designated non-financial institutions
- Corrupt Practices and other related offences Act Chap C31, LFN 2004
- Terrorism (prevention) Act, No 10 of 2011
- CBN Anti- money laundering combating the financing of terrorism (AML/ CFT) risk-based supervision framework 2011.

The CBN governor is also empowered to make rules and regulations to be published in the official gazette by BOFIA. Some key regulations which have recently shaped the banking landscape are;

- (a) CBN Scope, Condition & Minimum Standards for Merchant Banks Regulation⁷

⁶ <http://www.eajournals.org/wp-content/uploads/Regulations-or-Legislation-for-Data-Protection-in-Nigeria.pdf>

⁷ <https://www.cbn.gov.ng/OUT/2010/CIRCULARS/BS/MERCHANT%20%20BANKING%20LICENSING%20REGULATIONS%202016%20JULY2010A.PDF>

LIST OF LAWS AND MDAS IN THE FINTECH, TECH AND CREATIVE INDUSTRIES

- (b) CBN Scope, Condition & Minimum Standards for Commercial Banks Regulation
- (c) Regulation on the scope of Banking Activities & Ancillary Matters (banking activities regulations)
- (d) Prudential guidelines 2010
- (e) Revised Regulatory and Supervisory Guidelines for Micro Finance Banks in Nigeria
- (f) Code of Corporate Governance for Banks in Nigeria Post Consolidation 2006
- (g) Assessment Criteria for Approved Persons' Regime for Financial Institutions 2011
- (h) Regulation and Supervision of Institutions offering non-interest Financial Services.⁸

MDAs IN THE TECHNOLOGY AND CREATIVE INDUSTRY

TECH INDUSTRY

- **Federal Ministry of Science and Technology:** The Federal Ministry is responsible for the creating an enabling environment and to initiate strategies to protect all the stakeholders and their creative works. The Federal Government of Nigeria, in recognition and appreciation of the above facts, established Federal Ministry of Science and Technology with its various parastatals and agencies to carry out such activities. Such parastatals and agencies are listed below;
 - ✓ National Office for Technology Acquisition and Promotion (NOTAP)
 - ✓ National Space Research and Development Agency (NASRDA)
 - ✓ National Biotechnology Development Agency (NABDA)
 - ✓ Nigerian Nuclear Regulatory Authority (NNRA)
- **National Information Technology Development Agency (NITDA):** NITDA is a public service institution established by NITDA Act 2007 as the ICT policy implementing arm of the Federal Ministry of Communication of the Federal Republic of Nigeria. It has the responsibility of developing programs that caters for the running of ICT related activities in the country.
- **Nigerian Communications Commission (NCC):** The NCC is charged with the responsibility of regulating the supply of telecommunications services and facilities, promoting competition, and setting performance standards for telephone services in Nigeria).

CREATIVE INDUSTRY

⁸<https://www.cbn.gov.ng/Out/2014/CCD/Revised%20Guidelines%20for%20Finance%20Companies%20in%20Nigeria.pdf>

LIST OF LAWS AND MDAS IN THE FINTECH, TECH AND CREATIVE INDUSTRIES

- Broadcasting Organization of Nigeria
- News Agency of Nigeria (NAN)
- Nigerian Press Council (NPC)
- National Centre for Technology Management (NACETEM): NACETEM is an Agency of the Federal Ministry of Science and Technology (FMST). The Agency was set up to provide knowledge support for the Science, Technology and Innovation (STI) System in Nigeria through capacity building, policy research and consultancy).
- National Information Technology Development Agency
- Nigerian Copyright Commission
- The Nigerian Communications Commission
- Federal Radio Corporation of Nigeria (FRCN)
- National broadcasting commission (NBC): the NBC is a parastatal of the Federal Government of Nigeria established by the NBC Act and vested with the responsibilities of, amongst other things, regulating and controlling the broadcasting Industry in Nigeria.
- Copyright Society of Nigeria (COSON).

