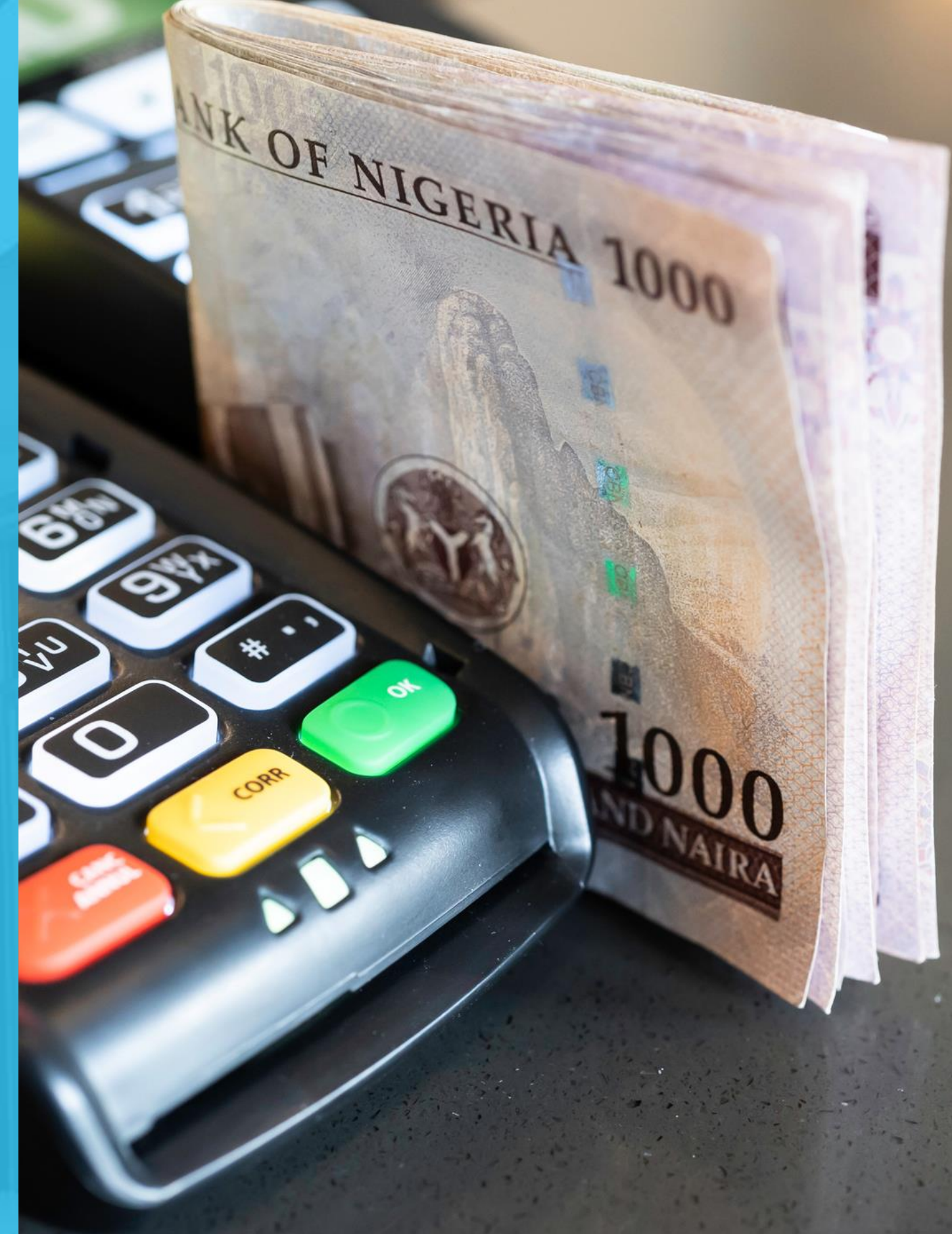


# A REVIEW OF CBN'S NEW REGULATORY FRAMEWORK AND GUIDELINES FOR MOBILE MONEY SERVICES IN NIGERIA

DETAIL COMMERCIAL SOLICITORS



Detail





# INTRODUCTION

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In the exercise of its powers to promote and facilitate the development of an efficient and effective system for the settlement of transactions and of electronic payment systems in Nigeria, the Central Bank of Nigeria (the “**CBN**”) released the Regulatory Framework for Mobile Money Services (“**MMS**”) in Nigeria (the “**Framework**”) and Guidelines on MMS in Nigeria (the “**Guidelines**”) on 9th July 2021.

The Framework and Guidelines replace the 2015 CBN Regulatory Framework and Guidelines for Mobile Payment Services in Nigeria (the “**2015 Regulatory Framework**”). The Framework and Guidelines address business rules governing the operation of MMS and specifies the basic functionalities expected of any MMS and solution in Nigeria.

This article examines the provisions of the Framework and Guidelines as well as some recommendations with respect to these provisions.



# 2. HIGHLIGHTS OF THE FRAMEWORK AND GUIDELINES

## 2.1 Participants

Participants in the MMS system include the Regulators – the CBN and the Nigerian Communications Commission (“NCC”) -, Mobile Money Operators, Infrastructure Providers, other Service Providers, Consumers and Mobile Money Agents (the “Participants”).<sup>1</sup>

### MOBILE MONEY PARTICIPANTS



#### Regulators

The main regulators here are the Central Bank of Nigeria (the “CBN”) and the Nigerian Communications Commission (the “NCC”)



#### Mobile Money Operators (“MMO”)

MMOs are required to provide; the infrastructure for MMS; business continuity and disaster recovery plans, to ensure services are always available; and 99.99% system availability and ensure all signed-on participants institutions follow the same rule. MMOs are required to connect to the National Central Switch (NCS) for the purpose of interoperability of all schemes in the system. An MMO can be a bank or a licenced corporate organisation.



#### Infrastructure Providers

They provide the infrastructure that enable switching, processing and settlement facilities for mobile money services. Important infrastructure providers for mobile money service include telecommunication companies and inter-scheme settlement providers.

1. Section 4, Regulatory Framework for Mobile Money Services in Nigeria, 2021

# 2. HIGHLIGHTS OF THE FRAMEWORK AND GUIDELINES



## Other Service Providers

These are providers with specialised skills and resources which support the delivery of MMS by making it more efficient and effective.



## Mobile Money Agents (“MMA”)

This is an entity that is engaged by a MMO to provide specific MMSMMS on its behalf using the agent’s premises. The activities of MMAs are guided by the provision of the Guidelines for the Regulation of Agent Banking and Agent Banking Relationship in Nigeria.



## Consumers

These are the end users of mobile money services.

The Framework and Guidelines define the roles and responsibilities of the Participants in providing MMS and sets the basis for regulating the services offered by the Participants at different levels.


## 2.2. MOBILE MONEY OPERATORS (“MMOS”) MODELS

The Framework and Guidelines identify two models for the implementation of MMS in Nigeria – the Bank Led (i.e. a bank or its consortium is the lead initiator) and Non-bank Led (i.e. a corporate organization duly licensed by the CBN is the lead initiator)<sup>2</sup>. **It, however, excludes the implementation of MMS via the telco-**

2. Section 5, Regulatory Framework, 2021







**-led model i.e., where the lead initiator is a Mobile Network Operator (“MNO”).**

According to the CBN, the exclusion of the telco-led model will enable it exercise full control of monetary policy operations, minimize risk and ensure that the offerings of financial services are driven by organizations that have been licensed by the CBN to do so.

### **2.3. LICENSING OF MOBILE MONEY OPERATORS**


The licensing requirements for MMOs are set out in the circular dated 24th May 2021 issued by the CBN to consolidate the requirements for Payment Services (the “**Consolidated Circular**”). See our [article](#) on the Consolidated Circular.

In addition to the requirements prescribed by the Consolidated Circular, all MMOs<sup>3</sup> shall:

(a) be issued a unique Scheme code by the Nigeria Inter-Bank Settlement System (“NIBSS”) for managing interoperability;

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<sup>3</sup>. *ibid*

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- (b) be issued unique short codes by the Nigerian Communications Commission (“NCC”);
- (c) ensure that all telecommunication equipment are type-approved by the NCC;
- (d) register users of its scheme based on technology standards and requirements of the Guidelines;
- (e) ensure that the registration process within its mobile money scheme fulfils the entire know-your-customer (“KYC”) requirements specified in the Guidelines; and
- (f) insure the total outstanding (unspent) balance which represents Mobile Money Subscribers’ unspent funds up to the applicable coverage level by the Nigeria Deposit Insurance Corporation (“NDIC”).

## **2.4. PERMISSIBLE ACTIVITIES/NON-PERMISSIBLE ACTIVITIES OF A MOBILE MONEY OPERATOR**

The Guidelines provide a list of permissible<sup>4</sup> and non-permissible activities for<sup>5</sup>

4. Section 7.2.1 Guidelines on Mobile Money Services in Nigeria 2021

5. Section 7.2.2(g) and (h), Guidelines, 2021

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MMOs.

### **Permissible Activities**

- (a) Wallet Creation and Management;
- (b) E-money issuing;
- (c) Agent recruitment and management;
- (d) Pool account management;
- (e) Non-bank acquiring as stipulated in the regulatory requirements for non-bank merchant acquiring in Nigeria;
- (f) Card Acquiring; and
- (g) Any other activities that may be permitted by the CBN.

### **Non-permissible Activities**

MMOs are prohibited from undertaking the following activities:

- (a) Granting of any form loans, advances and guarantees;



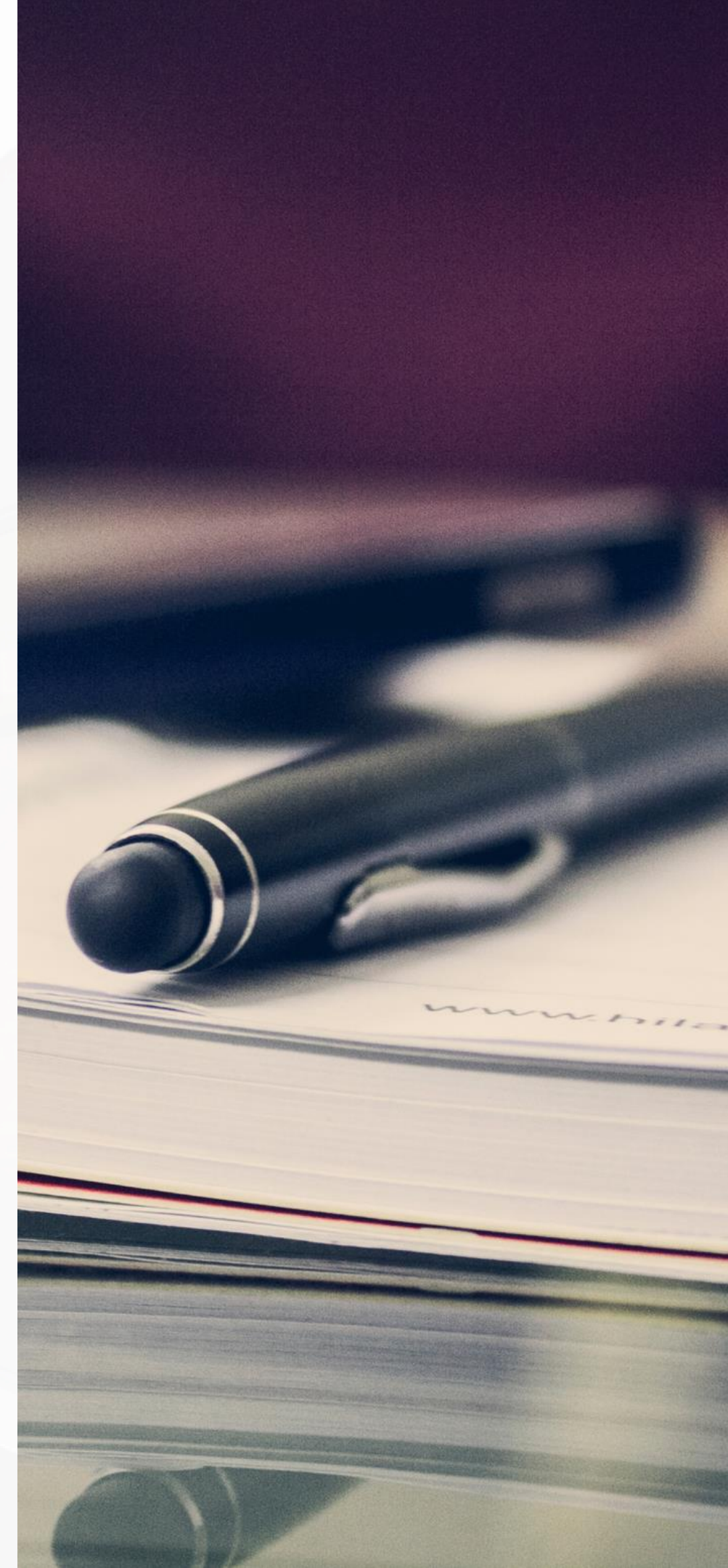
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- (b) Accepting foreign currency deposits;
  - (c) Dealing in the foreign exchange market except carrying out payments and remittances (including inbound cross-border personal remittances) services through various channels within Nigeria and sale of foreign currencies realized from inbound cross-border personal remittances to authorized foreign exchange dealers.
  - (d) Insurance underwriting;
  - (e) Accepting any closed scheme electronic value (e.g. airtime) as a form of deposit or payment;
  - (f) Establishing any subsidiary;
  - (g) Undertaking any other transaction which is not prescribed by the Guidelines; and
  - (h) Undertaking any other activities that may be prohibited by the CBN.

## **2.5. OPERATIONS OF SAVINGS WALLET**

Pursuant to the provisions of the Framework and Guidelines, MMOs may now offer







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savings wallet i.e. a wallet earning interest, services to meet the demands of the unbanked in Nigeria<sup>6</sup>, subject to a no-objection from the CBN.<sup>7</sup>

Where a MMO is desirous of providing a savings wallet, it shall:

- (a) operate a Savings Wallet Principal Pool Account (“**SWPPA**”)<sup>8</sup> and a Savings Wallet Interest Pool Account (“**SWIPA**”)<sup>9</sup> in a settlement bank with funds having NDIC protection under the pass-through insurance arrangement;<sup>10</sup>
- (b) ensure that the funds are invested only in the Nigerian Treasury Bills (**NTB**);<sup>11</sup>
- (c) ensure that the sum of the principal amount invested and the balance on the savings wallet principal pool account with the settlement bank equals the sum of outstanding balances of savings wallet holders;
- (d) ensure that the fees and charges for the management of investment shall not exceed 10% of the interest income on savings wallet funds investment;<sup>12</sup> and
- (e) inform subscribers on the procedure for determining interest amount

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6. Section 17.0, Regulatory, 2021

7. Section 10.1 Guidelines 2021

8. The SWPPA holds all funds on holder’s savings wallet.

9. The SWIPS holds interest accruing from the investment of the funds of the savings wallet holders.

10. Section 10.1.1 Guidelines 2021

11. Section 10.1.2 (a) Guidelines 2021

12. Section 10.1.3 (a) Guidelines 2021



distributable to subscribers; minimum balance on the savings wallet that qualify to earn interest; allowable number of withdrawals to be entitled to earn interest; minimum savings period to earn interest; and applicable balance that would earn interest.<sup>13</sup>

It should be noted that deposit money banks serving as settlement banks are prohibited from offsetting any other transactions of the MMO against the SWPPA and SWIPA. In addition, MMOs shall comply with the minimum disclosure requirements on the financial statements as stipulated by the CBN.

## **2.6. KNOW YOUR CUSTOMER (KYC) AND CUSTOMER DUE DILIGENCE (CDD) REQUIREMENTS**

The Framework and Guidelines incorporate the provisions of the CBN Anti-Money Laundering and Combating the Financing of Terrorism (AML/CFT) in Banks and other Financial Institutions in Nigeria 2013 (as amended) on KYC and CDD.

The transaction and balance limit for Mobile Money Wallet are as follows: <sup>14</sup>

13. ibid

14. Section 16, Guidelines 2021



KYC Level	Daily Cumulative Transaction limit (Outflow) (₦)	Cumulative Balance Limit (₦)
1	50,000	300,000 in line with the three-tiered KYC <sup>15</sup>
2	200,000	500,000 in line with the three-tiered KYC
3	5,000,000	Unlimited, as provided in the three-tiered KYC

### 2.7. DISPUTE RESOLUTION MECHANISMS

MMOs are required to put in place dispute resolution procedures.<sup>16</sup> Disputes between Participants shall be settled within 14 days failing which, such disputes may be settled in accordance with the provision of the Arbitration and Conciliation Act, A18, Laws of the Federation of Nigeria, 2004.<sup>17</sup>

The Guidelines expunged the requirement to escalate complaints to the CBN prior to arbitration where parties were dissatisfied and unable to settle the

15 Section 46, CBN AML/CFT in Banks and Other Financial Institutions in Nigeria 2013 (as amended)

16. Section 7.6, Guidelines 2021

17. Section 19, Guidelines 2021



dispute within 14 days provided in the 2015 Guidelines.<sup>18</sup>

## 2.8. STATUTORY RETURNS AND ANNUAL REPORTING

MMOs are required to submit data and other information on mobile money operations including nature, value and volume of transactions; incidents of fraud; nature and number of customers complaints and remedial measures taken to the CBN at the end of every month and no later than the 14th of the following month.<sup>19</sup>

MMOs are also required to submit audited annual returns within the first three months after the year end or 31st of March.<sup>20</sup>

## 2.9. RESOLUTION OF FAILED MOBILE MONEY OPERATORS

In a bid to ensure that the funds of mobile money wallet subscribers are safe, the Guidelines now contains provisions for the resolution of failed MMOs. The Guidelines states that the NDIC shall provide deposit insurance to cover and

18. Section 17.1, 2015 Guidelines

19. Section 22, Guidelines 2021

20. Section 23 Guidelines 2021







guarantee the mobile money deposit wallet subscribers.<sup>21</sup> In view of this, in the event of the failure of the settlement Bank, the NDIC will give effect to the maximum coverage level prescribed in the NDIC framework for the Establishment of Pass-through Deposit Insurance for subscribers of MMO in Nigeria.<sup>22</sup>

In the event of failure of a MMO, the CBN will facilitate the assumption of the deposit liability of the failed MMO by another MMO or any other financial institution as it deems fit<sup>23</sup> and the subscribers' funds in the pool account shall be transferred to the MMO appointed to assume the liability.<sup>24</sup>

## **2.10. REMEDIAL MEASURES AND SANCTIONS**

Failure to comply with provisions of the Guidelines attracts sanctions including withholding corporate approvals, financial penalties, suspension, and revocation of operating license. Sanction may be imposed against the MMO, its board of directors, officer of agents.<sup>25</sup>


21. Section 21(a), Guidelines 2021

22. Section 21(b), Guidelines for Mobile Money Services in Nigeria 2021. The maximum coverage for the subscribers of MMO is ₦500,000. Section 7.2, NDIC framework for the Establishment of Pass through Deposit Insurance for the NDIC will give effect to the maximum coverage level prescribed in the NDIC framework for the Establishment of Pass through Deposit Insurance for subscribers of MMO in Nigeria 2015

23. Section 21(c) Guidelines 2021

24. Section 21(d) Guidelines 2021

25. Section 25 Guidelines 2021



CBN may also take corrective actions against the MMO as prescribed from time to time for non-compliance.<sup>26</sup>

### **3. COMMENTARY**

With the introduction of savings wallet and other provisions in the Framework and Guidelines, it is evident that the CBN is taking active steps to meet the demands of the unbanked in Nigeria in line with its commitment to promote financial inclusion and reduce financial exclusion.

Notwithstanding the foregoing, it should, however, be noted that Nigeria is currently lagging behind other African countries, such as Ghana and Kenya, in the penetration of MMS. The success of MMS in Ghana and Kenya is linked to the adoption of the tech-led model for MMO. In Ghana, MTN has invested heavily in mobile money services with great success serving over 100,000 customers.<sup>27</sup> In addition, the adoption of the telco-led model has significantly contributed to improving the financial inclusion rate in Nairobi.<sup>28</sup>

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26. Section 24 Guidelines 2021

27. Michael Ajifowoke, "CBN Regulations holding back mobile money revolution in Nigeria" (2021 ) <https://techcabal.com/2021/07/23/cbn-regulations-holding-back-mobile-money-revolution-in-nigeria/>

28. ibid



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In Nigeria, telcos can only acquire a Payment Service Bank licence and they face the same restrictions as MMOs. These restrictions appear counterproductive to the CBN's financial inclusion strategy to bank the unbanked.

Given the rapid growth of the Nigerian population and taking a cue from countries like Kenya, there is a strong case to be made that the tech-led model should also be adopted in Nigeria, albeit with supervision from the CBN which will regulate healthy competition taking into account the Nigerian context and past performance, to adequately meet the demands of the unbanked in Nigeria and drive financial inclusion as set out in the National Financial Inclusion Strategy document.

#### **4. CONCLUSION**

It remains to be seen whether the adoption of only the Bank-led and Non-bank led model to the exclusion of the tech-led model will achieve the financial inclusion targets. For fintech companies who are MMOs but are keen to accept foreign currency deposits, we expect to see them acquire International Money Transfer Operator's (IMTO) licences. Irrespective of the steps taken by fintech companies, there will be the increased participation in MMS activities by both the regulators and potential investors in promoting financial inclusion, as well as investments in the mobile money system.



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