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FinTech in Kenya:

Towards an enhanced policy and regulatory framework

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TheCityUK

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Foreword

TheCityUK and the Nairobi International Financial Centre share common goals in wanting to ensure that our respective financial services sectors continue to be attractive, open and competitive in a global market.

TheCityUK and the Nairobi International Financial Centre Authority (NIFCA) signed an MOU in July 2021 aimed at collaborating and fostering an environment that will lead to mutual and improved opportunities for the financial and related professional services industries. The first area of collaboration between TheCityUK and NIFCA has been in the area of FinTech, and in particular, to collaborate in three key areas:

a) identifying strategies aimed at increasing funding options for Kenyan FinTechs;

b) identifying steps that can be taken to support the growth and scaling of Kenyan FinTechs; and

c) identifying proposals that can enhance the policy and regulatory framework to support the growth of Kenyan FinTechs.

Three workstreams were formed with membership including FinTechs, financial and professional services institutions, policymakers and representative bodies, from the UK and Kenya. With respect to the policy and regulatory discussions, PwC were commissioned by TheCityUK to carry out research on the challenges faced by FinTech stakeholders. This report sets out the findings of that research, and makes proposals that are intended to serve as a contribution to the wider discussions on the development of the FinTech sector in Kenya.

With Kenya already East Africa's hub for financial services and the UK a world-leading financial centre, the MoU between TheCityUK and NIFCA will bring mutual benefits and support the development of a long-term strategic link in financial and related professional services between our countries.

As part of its international trade and investment work, TheCityUK has formed several bilateral and plurilateral partnerships with international financial centres across the world. These partnerships open dialogues and enable the respective parties to share best practice on business environments, legal and regulatory standards.

TheCityUK's previous work has covered all areas of financial and related professional services, including international financial centre development, capital market development, green finance, financial innovation, regulation and corporate governance, financial training, qualifications, and Islamic finance. TheCityUK is pleased that many these areas have been identified as potential workstreams for the partnership NIFCA, and hope this work marks only the beginning of a long and fruitful alliance.

With financial services remaining a key component of the Government of Kenya's economic strategy, this partnership is set to contribute strongly to NIFCA's work to connect the Kenyan economy to global financial markets and offer an attractive destination for international firms to operate.

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Introduction

The policy and regulatory environment is a critical factor in the continued success of the Kenyan economy. The Policy and Regulation Workstream of the NIFCA / TheCityUK FinTech Project has strived to identify proposals that will foster a strong and growing FinTech ecosystem.

This report, delivered in association with PwC, summarises the challenges within the existing regulatory and policy landscape for Kenyan FinTechs, alongside a set of recommendations aimed at contributing towards the development of a framework that will build on Kenya's existing framework while further enhancing the operating environment for FinTech firms in the country.

There is much to celebrate in how Kenya has developed into a regional hub of FinTech innovation, as well as a world leader in many areas, including mobile payments. Yet, in such a globally competitive and fast-moving sector, there is always room for improvement.

One of the main themes in the report is the importance of dialogue and genuine partnership between policymakers, regulators and industry. TheCityUK's partnership with the Nairobi International Financial Centre Authority is well placed to contribute towards this type of collaboration, which has been evident in the process of putting this report together.

We hope that these recommendations can contribute towards these goals, and we stand ready to work together to further cement Nairobi's position as a regional hub.

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Executive summary

To establish a robust framework and supporting infrastructure and encourage conditions that will lead to mutual and improved opportunities in the financial sector for Kenya and the United Kingdom (UK), TheCityUK in partnership with the Nairobi International Financial Centre (NIFC) commissioned this study on the Financial Technology (FinTech) policy and regulatory framework in Kenya.

The methodology of the study consisted of a desk-based review of various literature including legislation and policies supporting the FinTech sector in Kenya, previous reports prepared on FinTech policy and regulation and information relating to FinTech regulatory frameworks of other market jurisdictions including the UK, Singapore, United Arab Emirates (UAE), Australia, Rwanda, Ghana, South Africa, Egypt, India, Nigeria, and the United States of America (USA). Consultative engagements were also conducted with key industry stakeholders with a view to getting varied perspectives on the current state of the FinTech policy environment in Kenya and possible improvements that could be made to establish a more inclusive and robust policy and regulatory framework.

Digital platforms have emerged as important tools for financial inclusion across the world. In Africa, the government of Kenya possesses a strong history of involvement in and prioritisation of the digital agenda[1]. Kenya stands out as one of the world leaders in mobile money and home to perhaps the most well-known examples of FinTech-based financial inclusion, M-Pesa.,[2,3] M-Pesa and similar digital financial products have played a significant role in catalysing financial development and inclusion, especially because of the appropriate, affordable, and accessible services that have subsequently been layered onto the mobile and digital platform's infrastructure.

The regulatory approach to FinTech in Kenya can be traced to the regulatory treatment of mobile payments and mobile money.[4] By adapting the legal and regulatory framework to emerging technological and market developments, Kenya mirrored a 'test-and-learn' approach, leading to the phased enactment of a dedicated payments and digital lending regulatory framework and adoption of regulatory sandboxes. However, despite these advances, there is room for improvement. An overarching FinTech regulatory framework that is compatible with emerging FinTech business models would be a key factor in supporting the development of the broader FinTech sector in the country. Also, a tailored regulatory approach to FinTech would mean that the peculiarities of FinTech are addressed in law.[5]

Like in many jurisdictions, FinTech regulation in Kenya is implemented through sector-specific financial services regulation as well as general legislation that cuts across various sectors[6], leading to multiple regulations and regulators across various FinTech activities. Our review of the current state of FinTech regulation therefore involved analysis of the sector-specific financial services regulations and some cross-cutting legislation applicable across various sectors. Owing to the sector-specific regulatory approach taken by financial services regulators, an enabling FinTech framework should look to fostering collaboration between the different regulators to ensure that newcomers are certain of their obligations and can navigate their entry into the financial sector.

During the study, stakeholders expressed confidence in the role regulators play in the financial services sector and acknowledged the value of the test-and-learn approach in adopting innovation. However, the FinTech stakeholders provided suggested recommendations that would help pivot the current regulatory regime to the realities of a rapid growth industry and emergence of new FinTech providers and new technologies.

[1] Ministry of Information, Communications and Technology (2019) Emerging Digital Technologies for Kenya: Exploration & Analysis.
[2] M-Pesa is an electronic money transfer product that enables users to store value on their mobile phones. It was first developed in 2007 as bank product in partnership between Safaricom, a telecommunication (telco) company and the Commercial Bank of Africa. Source: M-Pesa – a success story of digital financial inclusion by Njuguna Ndung'u, Associate Professor of Economics, University of Nairobi and former Governor, Central Bank of Kenya
[3] Didenko, A. (2017) Regulatory challenges underlying FinTech in Kenya and South Africa. Birmingham: Birmingham Centre For The Rule of Law
[4] CCAF (2021) FinTech Regulation in Sub-Saharan Africa, Cambridge Centre for Alternative Finance at the University of Cambridge Judge Business School, Cambridge
[5] DCCAF (2021) FinTech Regulation in Sub-Saharan Africa, Cambridge Centre for Alternative Finance at the University of Cambridge Judge Business School, Cambridge
[6] Didenko, A. (2017) Regulatory challenges underlying FinTech in Kenya and South Africa. Birmingham: Birmingham Centre For The Rule of Law

In efforts to help keep up with technology and spur innovation within the financial sector, the Insurance Regulatory Authority of Kenya (IRA) and the Capital Markets Authority of Kenya (CMA) have set up regulatory sandboxes to allow participating FinTech providers to test their products within a controlled environment, which concurrently supports evidence-based approaches to regulation. Sandboxes allow the regulator to better understand the business models being tested while containing the potential consequences of failure. The Central Bank of Kenya (CBK) and the Communications Authority of Kenya (CA) fosters FinTech innovations through a 'test and learn' approach, assessing the risks against the envisioned benefits.

The Nairobi International Financial Centre (NIFC) was established in 2017 as an operating framework managed by the Nairobi International Financial Centre Authority (NIFCA) to facilitate and support the development of an efficient and globally competitive financial services sector in Kenya. The NIFC has potential to emerge as a regional centre of excellence and FinTech Hub.

Kenya's financial regulators, CBK, CMA, IRA, the Retirement Benefits Authority (RBA) and the Sacco Societies Regulatory Authority (SASRA) signed a memorandum of understanding in 2013, forming the Joint Domestic Financial Sector Regulators Forum (FSRF). The principal objective of the forum is to promote cooperation and collaboration in areas of mutual interest. The forum presents an opportunity for local coordination efforts and provides an implementation channel for some of the necessary action points needed to improve the FinTech sector in Kenya.

Further, the CBK and the Monetary Authority of Singapore (MAS) signed a Cooperation Agreement in 2019 to collaborate on FinTech matters. One of the agreed areas of collaboration was hosting the Afro-Asia FinTech Festival (AAFF). The CBK also holds hackathon competitions, i.e., the Virtual Africa Hackathon (VAH) whose theme in 2020 was "*Harnessing FinTech in addressing Covid-19 effects on healthcare, digital payments and economic recovery*". The overall VAH winners were to take part in the Singapore FinTech Festival, scheduled for December 2020. The Competition Authority of Kenya (CAK) recently teamed up with four (4) other African regulators to tackle competition and consumer protection concerns in digital markets. Such cross-border engagements go a long way in fostering regional sharing of ideas and cross-border collaboration.

In conclusion, Kenya has made notable and significant strides in FinTech. A well-coordinated and harmonised FinTech regulatory framework is key to moving away from duplicity and barriers to entry that are currently plaguing the sector. Any move towards FinTech regulation should focus on:

a) Fostering innovation and the development of new products and services.

b) Boosting financial inclusion while ensuring consumer confidence and trust in market participants.

c) Encouraging competition by making the market accessible to new entrants.

d) Maintaining stability in the market through right-touch regulatory oversight and supervision.

Summary of recommendations

This report recommends prioritised action points to enhance Kenya's FinTech policy and regulatory framework. The detailed challenges and recommendations are set out in the detailed section this report and are summarised below:

Challenge	Short-term (1 - 2 years) recommendations	Medium-term (2- 4 years) recommendations	Long-term (5+ years) recommendation
Uncertainty on applicable regulatory requirements, regulatory overlaps and slow lead times due to the need for a well-coordinated regulatory approach to FinTech and multiple regulators.	Establish a FinTech provider facing one stop shop or FinTech office with staff representation from the relevant regulators. One-stop-shops promote ease of engagement, improve customer experience and facilitate timely and efficient approval processes. **Proposed implementing agencies:** FSRF and NIFCA	Develop a FinTech policy anchored on principles aimed at diversifying the economy and by extension, growing FinTech. The objective of the policy would be FinTech demystification, FinTech transformation and collaboration, encouragement of innovation, outlining of government support measures and highlighting of regulator roles. **Proposed implementing agency:** National Treasury	Achievement of a well-coordinated national FinTech regulatory framework that creates certainty and maintains balance between innovation and risk to public, and a drive towards a unitary licence for FinTech products or business models that cuts across various sectors. **Proposed implementing agencies:** FSRF, NIFCA, National Treasury
Delays in product approvals create barriers to market entry leading to slow FinTech growth.	Create a consolidated FinTech sandbox. The integration of regulatory sandboxes by all financial services regulators is a practical means of reducing lead times for approvals from regulators by allowing regulators to jointly monitor business models with multiple sub-sector elements while allowing the FinTech providers to test their products in the real world, albeit in a controlled environment. **Proposed implementing agency:** FSRF	Lobby for regulatory amendments that introduce service delivery timelines to existing FinTech related laws, regulations and guidelines. Regulators should adopt key performance indicators around their approval processes, which include clear timelines for approvals or requests for additional information. To achieve the key performance indicators, regulators should also consider the implementation of Supervisory Technology (SupTech) to enable service delivery. **Proposed implementing agencies:** NIFCA and FSRF	
Risk-based regulatory practices by regulators combined with limited information exchange between regulators and FinTech providers can lead to imbalance between consumer protection, market stability and innovation.	Encourage even more joint collaborative working groups and forums amongst FinTech providers, regulators and stakeholders to shape FinTech policy and approaches. Continue to strengthen collaboration on FinTech within the FSRF through regular engagements that focus on encouraging FinTech growth and innovation and creating a coordinated policy roadmap. **Proposed implementing agencies:** FSRF and NIFCA	Balancing consumer protection and innovation by promoting FinTech providers and their innovation efforts provided they follow the guidelines set out by the regulatory agencies **Proposed implementing agency:** FSRF	

Challenge	Short-term (1 - 2 years) recommendations	Medium-term (2- 4 years) recommendations	Long-term (5+ years) recommendation
Need for enhanced and continuous technical capacity building amongst regulatory agencies to understand FinTech products.	A framework to continuously identify and prioritise FinTech regulation training needs. Exploring mechanisms to bridge training gaps through staff secondments, exchange programmes and training fellowships as part of the collaborative efforts between local and international regulators and training institutions across jurisdictions. **Proposed implementing agency:** FSRF and National Treasury		
The need for predictable fiscal, policy and incentives for FinTech investment and funding.		Focus on certainty in taxation as one of the fiscal incentives to enable FinTech growth similar to the seven-year tax holiday offered to technology investors in Rwanda. **Proposed implementing agency:** National Treasury	Develop policy interventions to incentivise private equity and venture capital investment towards FinTech. This will help to unlock capital needed for growth. **Proposed implementing agency:** National Treasury
Multiple cross-sectoral, cross-border approvals can be overwhelming, particularly for FinTech products which by their nature, often tend to transcend borders and sub-sectors.		Deeper cross-border collaboration through fostering more cooperation agreements and regional FinTech forums and festivals such as the CBK and MAS cooperation that led to the AAFF. **Proposed implementing agencies:** FSRF, NIFCA	Mutual recognition agreements with a long-term push towards FinTech cross-border passports to allow authorised FinTech providers to operate in other jurisdictions. Passports are contingent on specific regulations across jurisdictions, but notable efforts are being made by intergovernmental organisations such as the EAC to harmonise regional regulatory frameworks. **Proposed implementing agency:** The National Treasury

1. Methodology

The progress made in digital innovation worldwide calls for countries to recognise the evolution of financial services offerings. In Africa, the Government of Kenya possesses a strong history of involvement in and prioritisation of the digital agenda. Kenya stands out as one of the world leaders in mobile money and home to perhaps the most well-known examples of FinTech-based financial inclusion, M-Pesa., M-Pesa and similar digital financial products have played a significant role in catalysing financial development and inclusion, especially because of the appropriate, affordable, and accessible services that have subsequently been layered onto the mobile and digital platform's infrastructure.

FinTech encompasses advances in technology and changes in business models that have the potential to transform the provision of financial services through the development of innovative instruments, channels and systems.[7] Kenya's efforts in the growth of FinTech can be seen through its forward-thinking financial inclusion strategies and incentivising schemes. There is much to celebrate in how Kenya has developed into a regional centre of FinTech innovation, as well as a world leader in many areas, including mobile payments. Yet, in such a globally competitive and fast-moving sector, there is no room for complacency.

The UK has set out a roadmap to cement its position as an open and global financial hub and enhance relationships with jurisdictions around the world. Kenya remains a strategic economic partner to the UK with a new trade deal signed in 2020 targeted at strengthening trade ties between the two countries.

As part of efforts to strengthen the UK and Kenya trading relationship, in July 2021, TheCityUK and the NIFC, established a formal partnership that will help to establish a robust framework and supporting infrastructure to encourage the conditions that will lead to mutual and improved opportunities for the financial and related professional services industries including the following matters relating to FinTech:
a) Funding – Providing advice on and developing funding mechanisms.
b) Policy – Reviewing Policies and Regulations to support FinTech growth.
c) Scaling – Helping FinTechs to scale internationally.

This report specifically looks at matters relating to policy and regulation to support FinTech growth. The regulatory approach to FinTech in Kenya can be traced to the regulatory treatment of mobile payments and mobile money. By adapting the legal and regulatory framework to emerging technological and market developments, Kenya mirrored a 'test-and-learn' approach, leading to the phased enactment of a dedicated payments and digital lending regulatory framework and adoption of regulatory sandboxes.

The future shape of Kenya's regulatory and legislative framework will be a critical factor in its continued success. The Policy and Regulation Workstream of the NIFCA / TheCityUK FinTech Project has contributed to the recommendations proposed to foster a strong and growing FinTech ecosystem.

1. Objective

The objective of this report is to assess the current FinTech policy and regulatory environment through:

i) Engaging with the Kenyan FinTech stakeholder community to provide input and insights.

ii) Reviewing approaches used in other markets to enhance the FinTech sector.

iii) Making recommendations towards improvements to the existing policy and regulatory framework in Kenya.

The goal is to make recommendations which contribute towards the development of an improved policy and regulatory environment that supports the growth of FinTechs, helps them scale, and attract more investment within the confines of a robust regulatory that mitigates risk to other market participants and consumers.

[7] CCAF (2021) FinTech Regulation in Sub-Saharan Africa (Cambridge Centre for Alternative Finance at the University of Cambridge Judge Business School, Cambridge

2. **Methodology**

We primarily relied on desk-based research of existing legislation as well as various reports that have previously analysed FinTech policy and regulation, in addition to interviews with key stakeholders..

The report is divided into the following sections:

Part 1 (Introduction) constitutes this introductory section setting out in brief the objectives of the report, the methodology used in preparing the report and the limitations qualifying the preparation of the report.

Part 2 (Situation Analysis) which: (i) provides an overview of the current FinTech policy and regulatory environment in Kenya and (ii) briefly outlines the key observations identified in our review of previous Kenyan FinTech studies and reports.

Part 3 (Insights from other Markets) comprises an analysis of the regulatory frameworks of select jurisdictions.

Part 4 (Observations from Targeted Consultations and Engagements) summarises insights and input from stakeholders we engaged with during this study.

Part 5 (Recommendations) sets out our recommendations on how the regulatory framework in Kenya with respect to FinTech can be enhanced based on the preceding analysis.

3. **Limitations**

Our review was limited to the laws, regulations and regulatory guidelines prevailing (to the best of our knowledge) as at the time of the review.

For the purposes of the comparative analysis, our review was limited to the following countries: UK, Singapore, UAE, Australia, Rwanda, Ghana, South Africa, Egypt, India, Nigeria, and USA.

We conducted a high-level review of the policies relevant to FinTech in the countries included in the comparative analysis on an 'as is' basis and for research purposes only. We do not represent ourselves as experts in the interpretation of the laws of these countries.

Our report takes into account the fact that the review was limited in scope largely to a desktop review of the written laws and surrounding literature. A more detailed review would need to be conducted to reconcile the written law with the practice within the sector in each of the countries included in this study. This would involve a detailed evaluation of the operations of the regulatory institutions established in each jurisdiction as well as ancillary institutions materially impacting the provision of FinTech services.

This report was undertaken as a regulatory review assignment and the PwC team that authored it was composed of regulatory lawyers in Kenya. Consequently, the focus of this report is primarily on regulatory matters rather than on other aspects such financial, tax and commercial factors impacting FinTech, which are beyond the scope of the assignment.

2. Situation analysis

1. Overview of the current policy and regulatory framework

Like many countries, Kenya does not have an overarching framework for FinTech regulation. The regulation of the FinTech industry addresses the underlying financial activity without particular focus on the technology employed in conducting the financial activity.

2. Regulators in FinTech

Main financial services regulators

National Treasury & Planning Ministry (National Treasury)
The financial services sector in Kenya falls within the overall mandate of the National Treasury. A core mandate of the National Treasury is to formulate, evaluate and promote financial policies that facilitate social and economic development.
Central Bank of Kenya (CBK)
CBK is the primary banking regulator and has the statutory objective of promoting financial stability through maintenance of a well-functioning, stable, market-based financial system.
Insurance Regulatory Authority (IRA)
The IRA's mandate is to regulate, supervise and develop the insurance industry in Kenya.
Capital Markets Authority (CMA)
CMA is a regulating body charged with the prime responsibility of supervising, licensing and monitoring the activities of capital markets intermediaries, including the stock exchange and the central depository and settlement system.
Retirement Benefits Authority (RBA)
The RBA is charged with the supervision and regulation of retirement benefits schemes in Kenya.
Sacco Societies Regulatory Authority (SASRA)
SASRA is the regulatory body mandated with the regulation and supervision of Savings and Credit Co-operative (SACCO) societies. More specifically, SASRA regulates Deposit Taking SACCOs and Non-Deposit Taking SACCOs specified under the Sacco Societies (Non-Deposit-Taking Business) Regulations, 2020.

Technology services regulators

Ministry of Information Communications and Technology (ICT), Innovation and Youth Affairs (ICT Ministry)
Kenya's communications and technology sector falls within the overall mandate of the ICT Ministry.
Communications Authority of Kenya (CA)
The CA is empowered to license and regulate information and communications services, including telecommunications, radio communication and broadcasting. The CA may licence a FinTech company where its operating model incorporates a technological aspect, and the implementation of the innovation requires the FinTech business to establish its own telecommunications infrastructure or result in content generation.

Other relevant regulators

Competition Authority of Kenya (CAK)
CAK's main objective is promoting and protecting effective competition in markets and preventing misleading market conduct throughout The Republic of Kenya.
Office of the Data Protection Commissioner (ODPC)
The ODPC's mandate is to regulate the processing of personal data and to protect the privacy of individuals.
Financial Reporting Centre (FRC)
FRC is a government institution created by the Proceeds of Crime and Anti-Money Laundering Act (POCAMLA) 2009, with the principal objective being to assist in the identification of the proceeds of crime and the combating of money laundering.
Kenya Revenue Authority (KRA)
KRA is an agency of the Government of Kenya that is responsible for the assessment, collection and accounting for all revenues that are due to government, in accordance with the laws of Kenya.

3. National policies and strategies related to FinTech

Digital Economy Blueprint

The Digital Economy Blueprint 2019 is a framework to improve Kenya's and Africa's ability to leapfrog economic growth. The Digital Economy Blueprint was published under the leadership of the National Communications Secretariat and the ICT Ministry. The Blueprint seeks to provide a conceptual framework adopted by Kenya in its quest towards the realisation of a successful and sustainable Digital Economy. The Blueprint defines the Digital Economy as "the entirety of sectors that operate using digitally-enabled communications and networks leveraging internet, mobile and other technologies". The document is hinged on five pillars: a digital government, digital business, innovation-driven entrepreneurship, infrastructure and digital skills and values.

National ICT Policy Guidelines

The ICT Ministry published the National ICT Policy Guidelines (ICT Policy) on 22 July 2020. The main objective, as articulated in the ICT Policy, is to facilitate the creation of dignified jobs that provide financial security and independence to allow for greater innovation and futuristic thinking.

One of the four thematic focus areas addressed by the ICT Policy is an aim to increase the overall size of the digital and traditional economy to at least 10% of the Gross Domestic Product (GDP) by 2030. The ICT Policy aims to achieve this by leveraging Kenya's position as a global leader in mobile money and making it a FinTech infrastructure hub for the region. The opportunities and infrastructure available for FinTech development are expected to provide an enabling environment for businesses to raise capital and attract foreign investment.

The ICT Policy further encourages the establishment of crowdfunding and mentoring networks to assist early-stage start-ups get the funding, management, and technical support they need to grow. The government also proposes the establishment of an anchor fund that will invest in qualifying ventures to encourage other financiers to commit funds to these entities and thereby unlock the capital that local companies need to grow. The ICT Policy also proposes a review of the current taxation regime to align to the requirements for affordable computing, broadband access, financial inclusion, and online work.

Under the ICT Policy, the government proposes to develop financial technology by:

i) Facilitating and supporting the development of new and innovative financial technology services to drive financial inclusion.

ii) Encouraging infrastructure sharing among financial technology service providers.

iii) Developing a financial technology interoperability policy, in conjunction with the CBK, to foster competition.

iv) Promoting innovation in financial technology services.

v) Ensuring that infrastructure sharing is efficient and cost effective for the consumer, while promoting public interest and guaranteeing quality of service.

National Payments Strategy

The recently published CBK National Payments Strategy 2022-2025 (NPS) aims at realising the vision of "a secure, fast, efficient and collaborative payments system that supports financial inclusion and innovations that benefit Kenyans". According to the NPS, the National Treasury is in the process of finalising a digital finance policy for Kenya. The objective of this policy is to strengthen Kenya's digital finance infrastructure and framework. The NPS aims to support the digital finance policy through deployment of a robust, secure, efficient and effective payments system.

4. FinTech regulations

The regulation of Kenya's FinTech industry is based on the underlying financial activity or product. For purposes of this study, we have considered seven FinTech activities: payments, digital banking, digital credit, InsurTech, assets and wealth management, equity crowdfunding and cryptocurrencies.

Payments

The regulatory approach to FinTech in Kenya can be traced to its regulatory treatment of mobile payments.[11] During the launch of M-Pesa in 2007, the CBK and the CA adopted a test-and-learn approach that led to the enactment of a dedicated payments framework comprising the National Payment Systems Act (NPSA) and the National Payments Systems Regulations (2014) (NPSR) to provide a formal framework for the regulation of payments systems and payment service providers.

FinTech companies operating within the payments space are required to be authorised as Payment Service Providers (PSP) by the CBK. An application for authorisation as a PSP is made to the CBK in a standard form accompanied by requisite documents. PSPs are required to keep the funds of their customers ring-fenced from their own and this is done by keeping the money in a trust fund, ensuring that the balance in the trust fund does not fall below the money owed to the customers. The NPSA allows a PSP to appoint agents and cash merchants to provide the services on its behalf. The ultimate responsibility to the customers, however, remains with the PSP.

Digital banking

Digital banking can be described as any banking activity that is completed using a digital device, such as a desktop computer or a mobile banking application. Digital banking captures various banking services, including account information access, transactions such as payments, transfers, lending, savings and investments, support services, and content and news, using digital channels of access for existing bank accounts.

The Banking Act, Cap 488 Laws of Kenya (Banking Act) prohibits any person from transacting banking business, financial business, or the business of a mortgage finance company unless the person is a licensed institution or is an approved agency of a licensed institution, banking business being described to include the acceptance of deposits and employing the money held as deposits by lending, investment or any other manner.

Digital devices as channels for financial services are not regulated separately from the regular business of a licensed bank. There is, however, a requirement under the CBK Prudential Guidelines[12] that such channels be approved by the CBK, particularly where the services are being performed by a third party. The banks are obliged with ensuring the reliability of banking channels including monitoring to ensure they are not used for illegal activities.

Non-bank FinTech entities that take deposits currently do so by offering products in partnership with licensed institutions. For instance, M-Shwari,[13] a combined savings and loans non-bank product, is offered as a product of the NCBA Bank[14] with M-Pesa as a delivery channel.[15]

[11] CCAF (2021) FinTech Regulation in Sub-Saharan Africa, Cambridge Centre for Alternative Finance at the University of Cambridge Judge Business School, Cambridge

[12] CBK/PG/16 - Prudential Guideline on Outsourcing Clauses 4.1.1 as read with 4.1.4

[13] M-Shwari was launched through a collaboration between the Commercial Bank of Africa (CBA) and Safaricom. The M-Shwari account is issued by CBA but must be linked to an M-Pesa mobile money account provided by Safaricom. The only way to deposit into, or withdraw from, M-Shwari is via the M-Pesa wallet. Source: FSD Africa (2016) The Growth of M-Shwari in Kenya – A Market Development Story

[14] NCBA Bank Kenya is a subsidiary of NCBA Group Plc, a large financial services provider in East Africa, and parts of West Africa

[15] Terms and Conditions for the opening and use of the M-Shwari Account

Digital credit

Digital credit is a credit facility or arrangement where money is lent or borrowed through a digital channel. Section 4A(1)(da) of the Central Bank of Kenya Act, Chapter 491 of the Laws of Kenya (as amended by the Central Bank of Kenya (Amendment) Act, 2021) provides CBK with the powers to licence and supervise digital credit providers that are not regulated under any other written law. Currently, there are no substantive regulations around the digital credit sector, but the Central Bank of Kenya (Digital Credit Providers) Regulations are currently being developed.

InsurTech

Insurance Technology (InsurTech) involves the use of innovative technology to positively transform insurance services. Kenya does not have tailored regulation for InsurTech services. Instead, regulation of InsurTech products and services is based on the underlying insurance product or service offered. Insurance business in Kenya is governed by the Insurance Act, 2006 and its subsidiary legislation and regulated by the IRA.

The IRA has introduced an innovation accelerator (BimaLab) and a regulatory sandbox (BimaBox) to support the development of InsurTech products and provide an environment for the testing of innovative insurance solutions with real consumers. The Insurance 'Regulatory Sandbox' Guidance Note, 2019, sets out the general requirements, eligibility criteria and application process for prospective participants. Bima Lab has recorded significant progress in the InsurTech sub-sector, with admission to the innovation lab and successful exit leading to improved financing opportunities and promoting understanding by the IRA of the products by the applicants.

Assets and wealth management

The asset and wealth management sector continues to utilise digital technology platforms and analytics tools to improve efficiency and engage more broadly with clients.[16]

In Kenya, the Capitals Markets Act, 2000 (as amended) stipulates provisions relating to the public offering of securities and asset backed securities. The CMA licences and regulates market intermediaries within the securities industry under the Capital Markets Act. Market intermediaries include stockbrokers, derivative brokers, trustees, dealers, investment advisers, fund managers, investment banks, central depositories, real estate investment trusts (REIT) managers, and online forex brokers. The CMA also issues approvals to operate commodities exchanges, securities exchanges, venture capital companies, collective investment schemes and credit rating agencies.

In addition to the market intermediaries expressly regulated under the Capital Markets Act, the CMA is also granted the power to approve or licence any other person operating in a capacity which seems to have a direct impact on the attainment of the objectives of the CMA, which is the promotion, regulation and facilitation of the development of an orderly, fair and efficient capital market in Kenya. The Capital Markets Act specifically requires that the CMA regulate the use of electronic commerce for dealing in securities or offer services ordinarily carried out by a licensed person.[17] These would include, for example, providers of technology infrastructure used in asset and wealth management such as portfolio management platforms, research engines, Know-Your-Customer (KYC) systems, analytics tools and settlement systems.

[16] PwC (2016) Sink or Swim: Why wealth management can't afford to miss the digital wave
[17] Capital Markets Act s.11(3)(s)

Equity crowdfunding

Kenya does not have bespoke regulation around equity crowdfunding[18]. There has, however, been a move by the CMA to regulate investment-based crowdfunding through the Capital Markets (Investment Based Crowdfunding) Regulations, 2021 which are currently in draft form. Under the draft regulations, platform operators operating in Kenya are proposed to be licensed by the CMA.

In the absence of specific regulations, the CMA can issue a letter confirming that a crowdfunding model does not need to be regulated under the Capital Markets Act. The CMA recently allowed a debt-based crowdfunding platform known as "Pezesha" (owned by Pezesha Africa Limited) to operate after monitoring it within its regulatory sandbox, subsequently issuing a letter of "no objection".

Cryptocurrencies

Cryptocurrencies are not considered legal tender in Kenya.[19] Furthermore, based on growing interest and reports in the media on the use of Bitcoins by Kenyans, CBK issued a public notice in December 2015, warning the public against using virtual currencies, such as Bitcoin.[20]

The CMA, on the other hand, is tasked with several responsibilities including the creation, maintenance and regulation of a market in which securities can be issued and traded in an orderly, fair and efficient manner, and the protection of investor interests. The case of Wiseman Talent Ventures v Capital Markets Authority, 2019 (eKLR) (the Wiseman Case), provides an important perspective on Initial Coin Offerings (ICOs), a key stage in the life cycle of most emerging cryptocurrencies. ICOs were brought under the regulatory lens of the CMA by the courts based on their nature and features, as the CMA is tasked with regulating public offers of securities.

In deciding the Wiseman Case, the judge clarified that while there was no comprehensive legal framework around cryptocurrency, regulators had residual jurisdiction to regulate certain features of the cryptocurrencies. For example, if they were to be considered currencies, they would fall under the jurisdiction of the CBK. If, as in the current case, they were to be considered investments, they would fall under the jurisdiction of the CMA.

[18] CCAF (2021) FinTech Regulation in Sub-Saharan Africa, Cambridge Centre for Alternative Finance at the University of Cambridge Judge Business School, Cambridge
[19] Comments from the CBK provided on March 16, 2022
[20] to be accessed at < https://www.centralbank.go.ke/images/docs/media/Public_Notice_on_virtual_currencies_such_as_Bitcoin.pdf>

5. Cross-cutting regulations applicable to FinTech providers

Information and communication technology

The Kenyan Information and Communications Act (1998) regulates the Kenyan ICT sector, including communication and electronic transactions. The Communications Authority of Kenya (CA) is mandated with the licensing of ICT service providers. The CA has in place the Unified Licensing Framework (ULF), which was adopted to be technology and service neutral. Under the ULF, the ICT market is divided into four major categories: (i) Network Facilities Provider (NFP); (ii) Application Service Provider (ASP); (iii) Content Service Provider (CSP); and (iv) Community Network and Services Provider (CNSP).

FinTech entities incorporating telecommunications in their operational models are required to be licensed under the ULF. Most FinTech entities will require a CSP license to offer their services over telecommunications infrastructure (including SMS and the internet). Some FinTech entities, however, might require different licenses, depending on their operational model. For example, Mobile Network Operators (MNOs) such as Safaricom and Airtel Kenya require a NFP (Tier 1) license while Mobile Virtual Network Operators (MVNOs) such as Equitel need an ASP license.

Data protection and privacy

Article 31 of the Constitution of Kenya grants every person the right to privacy, which includes the right not to have information relating to their family or private affairs unnecessarily required or revealed, or to have the privacy of their communications infringed. The Data Protection Act, 2019 (DPA) was enacted to give effect to these provisions.

The DPA regulates the processing of personal data, which it defines as information relating to an identified or identifiable natural person. This is a key consideration to FinTech entities as they shall be required at one point or the other to interact with personal data. This could be as customer KYC, transactional information or even operational information such as employee or supplier records.

The DPA sets basic principles of processing personal data. The Data Protection (General) Regulations (DPGR) published in January 2022 expound on the elements of each of these principles and provide for mechanisms through which a person may exercise their rights as conferred by the DPA, such as complaint mechanisms, requests for data deletion or information requests.

The DPA requires organisations to implement data protection by default and by design, which involves the organisation making data privacy considerations during the entire development process and integrating them into the organisation's operating procedures. It also requires that organisations grant the highest possible level of protection to the data subjects by default and have them opt out of certain protections rather than having them start without the protection and opt in. The DPA obliges organisations to put in place technical and organisational measures to implement the data protection principles and to integrate necessary safeguards during the processing.

The DPA restricts the processing of certain types of information outside of Kenya on the grounds of strategic interests of the state. The DPGR lists the running of systems designated as protected computer systems under the Computer Misuse and Cybercrime Act as being of strategic interest to the state. Such systems include systems related to communications infrastructure, banking and financial services, and payment and settlement systems and instruments. These form the backbone of most FinTech entities and as such, most FinTech entities will find themselves subject to the restriction in the DPGR. The requirement that information be processed in Kenya, however, is satisfied by storing at least one serving copy of the concerned personal data in a data centre located in Kenya.

Cybersecurity

The constitutional right to privacy protects persons from having the privacy of their communications infringed. The Computer Misuse and Cybercrimes Act, 2018 (CMCA) breathes life into this constitutional provision by laying out the country's cybersecurity regulatory framework. The Act's primary objectives include the protection of confidentiality, integrity and availability and the prevention of the unlawful use of computer systems.

The CMCA defines critical infrastructure to include processes, systems, facilities, technologies, networks, assets and services essential to the economic wellbeing of Kenyans. It defines 'protected computed systems' to include those used directly in connection with the provision of services directly related to communications infrastructure, banking and financial services, payment and settlement systems and instruments[21], which definition captures FinTech services.

The CMCA establishes the National Computer and Cyber Crimes Co-ordination Committee (NC4) which is tasked with establishing codes of cyber security practice and advising the Government on security related aspects touching on matters such as blockchain technology, critical infrastructure, mobile money and trust accounts.

In 2012, the CBK issued the Information and Communications Technology Risk Management Guidelines in a preliminary effort to guide banks in mitigating the cyber risks that arise due to the use of ICT. The CBK has also published a Guidance Note on Cybersecurity[22], applicable to licensed banks. The Guidance Note provides the minimum requirements that must be adhered to by all banks in establishing their information security framework. The CBK extended the coverage of cybersecurity guidelines to PSP's by issuing a Guideline on Cybersecurity for PSP's (PSP Guideline) in July 2019. The PSP Guideline sets the minimum standards that PSPs are required to adopt to develop and implement effective cybersecurity governance and risk management frameworks. It further outlines the minimum requirements that PSPs are required to build upon in the development and implementation of strategies, policies, procedures and related activities for mitigating cyber risk.[23]

Consumer protection

Consumer protection in Kenya is catered to under several different laws including the Constitution of Kenya, the Consumer Protection Act, 2012, the CBK Prudential Guideline on Consumer Protection, the Competition Act, 2010 and the Insurance Act. Most financial sector legislation has sector-specific consumer protection provisions built in.

In 2016, the Competition Authority of Kenya (CAK), relying on its cross-cutting sectoral mandate that extends to all firms in Kenya, issued an order to financial service providers to fully disclose all applicable charges for transactions delivered via mobile phone (including principal value and any additional fees) prior to completing transactions.[24] The CBK has also provided guidance in this regard by issuing the Kenya Banking Sector Charter in 2019 (Charter). The Charter applies to institutions conducting banking business; financial business; the business of a mortgage finance company; and microfinance banks. The Charter, whilst governing these institutions, is hinged on four broad objectives – customer-centricity, risk-based credit pricing, transparency and entrenching an ethical culture.[25]

[21] Section 20(2)(c) Computer Misuse and Cybercrimes Act, 2018
[22] Central Bank of Kenya Guidance Note on Cybersecurity, 2017
[23] Comments from the CBK provided on March 16,2022
[24] CCAF (2021) FinTech Regulation in Sub-Saharan Africa, Cambridge Centre for Alternative Finance at the University of Cambridge Judge Business School, Cambridge
[25] Comments from the CBK provided on March 16,2022

Anti-money laundering and KYC

The Proceeds of Crime and Anti-Money Laundering Act, 2009 (POCAMLA) establishes Kenya's Anti-money Laundering (AML) regulatory framework. POCAMLA applies to financial institutions, as such, FinTech providers are automatically designated as reporting institutions under POCAMLA. This designation requires them to register as reporting institutions with the Financial Reporting Centre (FRC). Reporting institutions are required to undertake customer due diligence on new customers and monitor the customer transactions for any large cash transactions or suspicious transactions on their platforms. In addition, they are required to establish and maintain internal controls and reporting procedures around AML.

Reporting institutions are obliged to take reasonable measures to prevent the use of new technologies for money laundering purposes. As such, FinTech entities are required to consider the money laundering risks posed by products that are brought into the market.

A key challenge that FinTech entities may face is in conducting customer due diligence in the manner required by the POCAMLA, which was drafted with brick-and-mortar institutions in mind. They will be required to formulate mechanisms through which due diligence can be carried out to a satisfactory degree while only interfacing with the customer electronically.

The Prevention of Terrorism Act, 2012 stipulates that entities (financial institutions included) are obliged to monitor products and services for possible use in aiding and supporting terrorist activities. Should these financial institutions have reasonable grounds to believe that property they hold is under the control of terrorist organisations financial institutions must report their suspicions to the FRC.[26] The CMA has also issued Guidelines on the Prevention of Money Laundering and Terrorism Financing in the Capital Markets.[27]

6. Programmes and schemes underpinning the thriving Kenyan FinTech sector

The Government of Kenya has had a focus on financial inclusion as part of boosting attainment of long-term development aspirations of Vision 2030 and the medium-term aims of the Big Four Agenda. Kenya boasts impressive growth in financial inclusion with results of the 2021 FinAccess Households survey revealing that formal financial inclusion has risen to 83.7%, up from 26.7% in 2006.

The NIFC was established under the Nairobi International Financial Act, 2017 as an operating framework managed by the NIFCA to facilitate and support the development of an efficient and globally competitive financial services sector in Kenya. One of the key objectives of NIFCA is to review and recommend, in collaboration with the relevant regulatory authorities, developments to the legal and regulatory framework to develop Kenya as an internationally competitive financial centre.

The CBK, CMA, IRA, RBA and SASRA signed a memorandum of understanding in 2013, forming the Joint Domestic Financial Sector Regulators Forum (FSRF).[28] FSRF has several other institutions with observer status, that is, those with a mandate in the financial sector but are not regulators. The FSRF provides a mechanism for collaboration and cooperation in information sharing, prudential supervision, financial stability and financial inclusion issues, among other areas of mutual interests. As such, the FSRF's mandate also includes but is not limited to information sharing, legal and policy issues, regulation and supervision approaches/ frameworks, fostering financial stability surveillance, assessment and analysis, communications and public relations and investigation and enforcement.[29]

The FSRF also has a technology and innovations sub-committee that is mandated to work on collaboration between the regulators on promoting adoption of technology and innovations to enhance effective regulation and supervision. Under

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[27] CCAF (2021) FinTech Regulation in Sub-Saharan Africa, Cambridge Centre for Alternative Finance at the University of Cambridge Judge Business School, Cambridge

[28] Comments from the CBK provided on March 16, 2022

[29] Kenya Financial Sector Stability Report, 2021. To be accessed at <https://www.centralbank.go.ke/uploads/financial_sector_stability/1995278959_Kenya%20Financial%20Sector%20Stability%20Report%202020.pdf>

the sub-committee, FSRF members identified FinTech liaison persons for information sharing and engagement on FinTech matters cutting across multiple regulators.

At the point of writing this report, each of the CMA and the IRA has a regulatory sandbox to assist FinTech entities with the IRA establishing an innovation lab. Regulatory sandboxes are controlled environments in which products can be tested in a live environment to allow for evaluation by regulators while providing real-world data on the functioning of the product in question. Sandboxes have been lauded as an effective way to allow policy makers keep up with the pace of technological advancements by formulating specific regulations while monitoring the product in operation. This yields better regulations as the regulators can better understand the product and thereafter create regulation against the backdrop of their policy objectives.

Several success stories have emerged from the sandboxes, including the CMA sandbox hosted Pezesha, a debt crowdfunding FinTech, whose time within the sandbox has helped the regulator gain insights into the crowdfunding space and resulted in the drafting of the Capital Markets (Investment Crowdfunding) Regulations to regulate crowdfunding in Kenya.

The CBK fosters FinTech innovations through a 'test and learn' approach, assessing the risks against the envisioned benefits. The CBK's ongoing FinTech initiatives include the Afro-Asia FinTech Festival (AAFF) held in collaboration with the MAS. The inaugural edition of AAFF was held in 2019 and virtual editions held in 2020 and 2021. CBK also held hackathon competitions in 2019 and 2020 in conjunction with industry partners and other stakeholders. In addition, through CBK's facilitation, Kenyan FinTech providers participated in the Safari Oceans Barbados-Kenya Business Alliance Forum in Barbados in 2021.[30]

7. Summary of licencing, registration, and authorisation requirements

Product/Institution	Regulator	Requirement
Digital credit	CBK	CBK licence to conduct digital credit busines
Digital banking	CBK	CBK banking business licence
Digital payments	CBK	CBK authorisation to act as PSP
Insurtech	IRA	IRA licence to provide insurance services
Equity crowdfunding	CMA / CBK	Letter of no objection from the CMA and/or CBK. Draft regulations require equity crowdfunding platform operators to be licenced by CMA
Asset and wealth management	CMA	CMA market intermediary licence
Cryptocurrencies	CBK / CMA	Given that cryptocurrency is not legal tender in Kenya, the CBK currently does not have a regulatory mandate.[31] Based on case law, where cryptocurrencies are classified as securities, regulatory mandate lies with CMA.
FinTech with telecommunication infrastructure or content generation	CA	CA is a channel regulator for: Network Facilities Providers, Application Service Providers, and Content Service Providers
FinTech providers processing or controlling personal information	ODPC	Data privacy registration with the ODPC
All financial service providers	FRC	Register as AML reporting institutions with the FRC

[30] Central Bank of Kenya (2022), National Payments Strategy 2022 - 2025
[31] Ibid.

8. Observations from FinTech studies and reports

We undertook a high-level review of the studies and research materials on FinTech policy curated by various organisations and stakeholders. These helped us understand the FinTech framework in other jurisdictions, challenges faced and recommendations that Kenya could adopt in its policy and regulatory framework. We present below the recommendation from these studies and reports on how best policy can improve FinTech.

The Kalifa Review of UK FinTech (the Kalifa Report)[32] proposed that the UK should consider what its future framework for the regulation of financial services (including FinTech) should look like. The Kalifa Report proposed:

i) Delivering a digital finance 'package' that creates a new regulatory framework for emerging technology. This would include:
  a) developing a comprehensive FinTech strategy
  b) adopting specific policy initiatives that will help create an enhanced environment for FinTech, and where appropriate, help to drive global initiatives in FinTech.

ii) Implementing a 'scale box' that supports firms focussing on innovative technology to grow. This would allow FinTech entities focusing on innovative technology to receive additional support (particularly in their growth phase and/or in relation to the priority FinTech areas). This would include:
  a) enhancing the regulatory sandbox present
  b) creating a new, permanent 'digital sandbox' to encourage collaboration
  c) taking steps to support partnering with FinTech and Regulatory Technology (RegTech) firms
  d) providing additional regulatory and supervisory support for regulated firms in the growth phase.

iii) Securing FinTech's position as an integral part of UK trade policy. This would involve:
  a) making FinTech an integral part of its trade policy
  b) the UK continuing to establish FinTech bridges with other countries.

The BFA Global and the Cambridge Centre for Alternative Finance report on FinTech Regulation in Kenya (the BFA Report)[33] sought to provide information to support FinTech start-ups working in Kenya, and those seeking to enter the Kenyan FinTech market. The report provided an overview of Kenya's regulatory regime, the challenges in Kenya's regulatory environment and recommendations on how to engage with regulators. The BFA Report highlights the following challenges in relation to Kenya's regulatory approach to FinTech:

i) Regulatory overlap due to a plurality of regulatory authorities operating in the finance sector.

ii) Fragmentation in the finance legal framework.

iii) Legal and regulatory gaps within the FinTech framework. The report highlights the following gaps:
  a) No tailored approach/framework for FinTech regulation.
  b) Unregulated initiatives which may arise because of limited regulatory scope.
  c) The focus on an entity/ institution-based approach as opposed to an activity-based approach poses challenges to the regulation of certain categories of FinTech activity.
  d) Regulatory barriers that artificially limit cross-border application of innovations.
  e) Regulators in Kenya may have limited financial and human resources to engage with the wide spectrum of FinTech products and services.

[32] UK Government; accessed at <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/978396/KalifaReviewofUKFintech01.pdf>
[33] BFA Global; accessed at <https://bfaglobal.com/wp-content/uploads/2021/12/0.-Fintech-Regulation-in-Kenya.pdf>

The BFA Report provides the following recommendations as to how start-ups can effectively engage with regulators:

i) Start-ups should review requirements before approaching the relevant regulator(s) and arm themselves with specific questions. Start-ups should consider which laws and regulations might apply to their business and consider future regulatory developments that may impact the company as it grows.

ii) Engaging with regulators early to familiarise them with their company and products/services. This will enable the regulators to provide informal guidance and clarification regarding regulatory requirements as the company grows and regulations change over time.

iii) Thinking like a regulator by considering the regulators' objectives in the regulatory efforts.

The UK FinTech: On the cutting edge – An evaluation of the international FinTech sector study report commissioned by the Economic Secretary to the Treasury (the HM Treasury Report)[34] sought to assess how the UK FinTech ecosystem compares to that of selected international FinTech ecosystems. The HM Treasury Report provided the following recommendations as to the policy framework:

i) Creating a FinTech 'delivery body' to drive-high impact policy initiatives to implementation as quickly as possible.

ii) Building on the Financial Conduct Authority (FCA) position by broadening support and dialogue with technology firms and foreign FinTech entities and forming a clear strategy on high-impact initiatives such as RegTech and the regulatory sandbox platform.

iii) Delivering practical business support to FinTech entities by making efficient use of unused government buildings to be used by both start-ups and scale-ups, creating a live database of professional services providers and working with the FCA to review bank KYC procedures and use a materiality threshold to assist small start-ups with low turnover.

iv) Building FinTech 'bridges' to support UK FinTech entities expand internationally and thus provide UK FinTech entities looking to expand with valuable contacts at a point in time when it suits them.

The Cambridge Centre for Alternative Finance study on FinTech Regulation in Sub-Saharan Africa (CCAF Report)[35] recognised Kenya as one of its regulatory benchmarking countries due to its approach towards FinTech. The CCAF Report provides the following examples of positive practises undertaken by Kenya:

i) Support by Kenyan financial sector regulators and encouraging innovation and FinTech. The CCAF Report outlines the CMA and IRA's respective regulatory sandboxes as a way through which FinTech has benefitted from regulators' actions.

ii) Simplified customer due diligence, for example, The Integrated Population Registration System (IPRS) that enables authorised entities to check the validity of identity documents, in particular the national ID card.

iii) Regulatory efforts in enhancing consumer protection, for example, the CAK issuing an order to financial service providers to fully disclose all applicable charges for transactions delivered via mobile phone (including principal value and any additional fees) prior to completing transactions.

[34] UK Government; accessed at <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/502995/UK_FinTech_-_On_the_cutting_edge_-_Full_Report.pdf>

[35] JBS; accessed at <https://www.jbs.cam.ac.uk/faculty-research/centres/alternative-finance/publications/FinTech-regulation-in-sub-saharan-africa/>

The CCAF Report outlined the following regulatory challenges observable in the Kenyan market:

i) Overlapping regulatory mandates arising from a plurality of regulatory authorities with oversight over different segments of the financial sector.

ii) Regulatory approach, and specifically an entity/ institution-based approach as opposed to an activity-based approach, posing challenges to the regulation of certain categories of FinTech activity.

iii) Unregulated initiatives may arise on account of limited regulatory scope, whereby a product/service may not be overtly prohibited.

The CMA Regulatory Sandbox Milestones Report[36] lists the following key lessons learnt by the CMA in working with innovators to build appropriate consumer protection safeguards into new products and services. The lessons highlighted include:

i) Regulators working closely with applicants to enhance the product to ensure all risks are adequately covered.

ii) In multi-peak jurisdictions, regulators must coordinate and cooperate on FinTech regulation.

iii) To eliminate the element of mistrust between the CMA and FinTech entities there is need for the regulator to be open and act in good faith with applicants.

iv) The regulator must take every opportunity to learn new ideas. This puts the regulator ahead of the market or at least at par with the market.

v) The regulator must listen to new ideas and assess them on their merit and workability and should not dismiss any idea before doing a proper assessment of it.

vi) Regulators should use internal resources and expertise which allows regulators to quickly review innovations and promptly advise on their suitability.

Kenya ICT Action Network's Policy Guidance Note: 'Towards an Inclusive and Sustainable FinTech Ecosystem in Kenya: Current outlook, challenges and policy options for the sector'[37] lists the following regulatory challenges underlying FinTech regulation in Kenya:

i) Uncertainty regarding existing regulations particularly for new FinTech solutions, whose regulatory status cannot be clearly determined, either because there is a 'gap' in regulation, or because different regulations conflict with each other.

ii) Regulatory fragmentation requiring engagement with multiple regulators cutting across several sectors.

iii) Weak oversight agencies as a result of inadequate resources, staff, expertise, and tools and technology.

iv) Most authorities tend to focus on how FinTech is affecting the domestic financial landscape while cross-border issues are generally not being discussed.

[36] to be accessed at <https://mail.google.com/mail/u/0/#search/vchelangat%40cma.or.ke/WhctKKXPdhPCRHFlZcmFNhWbtRPjxTQFJkhrwHcqDshMhZzJNvKkSMvBXFXMdLLdXgjxCVg?projector=1&messagePartId=0.7>

[37] to be accessed at <https://www.kictanet.or.ke/mdocs-posts/towards-an-inclusive-and-sustainable-FinTech-ecosystem-in-kenya/>

3. Insights from other markets

1. Justification for countries selected

We undertook a high-level review of the policies governing FinTech services in several countries. We classified the markets under review into Category 1 and Category 2 countries. Category 1 countries are considered to have developed progressive financial services regulatory policies and frameworks and as such, are setting global standards. Category 2 countries, which have achieved varying levels of regulation, comprise specific identifiable regulatory practices that can be emulated.

In this section, we conducted a more detailed analysis of Category 1 jurisdictions, which comprise:

i) The UK has set a global standard for its agility in keeping up with modern FinTech trends. Due to this, it has become the foremost jurisdiction for both financial inclusion and consumer choice as well as the provision of an enabling environment for innovation. UK financial services regulators are at the forefront of incorporating innovative ideas into policies and regulations to sustain the growth of FinTech entities. There are numerous approaches that can be borrowed from the UK by Kenya, despite the disparity in size and complexity between the two. Indeed, this has been the norm as far as the Kenyan legislative process is concerned.

ii) Singapore has established an enviable position as a leading Asian financial technology centre with an exciting innovation ecosystem, a great talent pool and fantastic infrastructure.[38] Singapore has a strong financial system despite not having an all-inclusive regulatory framework. The technology-based approach in Singapore's policy allows numerous entrants into the FinTech space to plug-in and conduct business. Singapore was cited in some of our stakeholder interviews as a benchmark model for FinTech development that Kenya should seek to emulate. Furthermore, CBK and MAS signed a Cooperation Agreement in 2019 to collaborate in FinTech. Part of the collaboration included holding the AAFF.

iii) UAE identified FinTech development as a national priority[39], setting itself as among the countries that are leading the way in so far as providing an ideal environment for the kind of radical innovation that is taking financial services into the future[40]. As relates to FinTech policy and regulatory developments, two UAE financial free zones are particularly active, the Abu Dhabi Global Market (ADGM) and the Dubai International Financial Centre (DIFC). Despite challenges relating to fragmented regulation, the regulatory authorities in these regions are making notable efforts to build themselves into FinTech hubs for the region.

Regarding Category 2 jurisdictions, we undertook to briefly analyse specific policy and regulatory approaches and assess how they could be adopted in Kenya to address some of the challenges faced by the Kenyan FinTech regulatory environment. These countries included:

i) Rwanda, which has established sector led groups to frame the conversation regarding FinTech regulation and continued investment. As part of this, the country implemented a central bank led regulatory sandbox.

ii) South Africa, which has had increasing instances of initial coin offerings of both local and foreign/off-shore issuers, has demonstrated a positive response by state-led working groups to better understand the emergence of FinTech, with a specific focus on InsurTech, Crypto assets, and Distributed Ledger Technology Solutions.

iii) Nigeria, which is the largest African economy and is home to over 200 standalone FinTech companies, has established privately initiated innovation sandboxes that provide funding, technical assistance and growth initiatives for FinTech entities.

[38] Quoted by New Zealand-based Youtap, a mobile financial services company, which relocated its corporate headquarters to Singapore
[39] FinTech is deeply rooted in the UAE Vision 2021 National Agenda which urges the UAE's population to embrace technology. In line with the Agenda, the UAE's National Innovation Strategy (NIS) aims to make the UAE one of the most innovative countries in the world by 2021
[40] https://www.investmentmonitor.ai/uae/the-age-of-fintech-in-the-uae

iv) Ghana has a dominant FinTech market. Given the increased sophistication of the operations of local FinTech entities, this has had the added effect of increasing financial inclusion as well as widening the tax revenue stream. In a notable move, the Bank of Ghana has introduced policy measures to govern crowdfunding.

v) Egypt, which is one of the three largest economies in Africa, has made attempts to regulate FinTech entities after passing a law on 5 January 2022 to this effect.[41]

vi) India has one of the most vibrant FinTech markets globally with several state and regulator-led initiatives designed to not only increase the ease of entry into the FinTech space, but also allow FinTech entities to scale up their operations rapidly, features low barriers to market entry.

vii) Australia has experienced consistent growth in the number of active FinTech and local and foreign investment. Key characteristics include a sophisticated framework of policy and legislation that has been developed as part of extensive discussions between regulators and industry players.

viii) The USA forms the biggest single area by number of FinTech hubs.[42] This is largely attributable to the historical growth of Silicon Valley as a global technology and innovation hub over decades and New York's position as a leading global centre for finance. When it comes to regulation, one of the areas the USA stands out in is its focus on consumer protection. The country's forward-thinking privacy and AML reporting standards both at state and federal level are important factors that boost consumer confidence in the FinTech sector.

[41] Ahram Online; available at: https://english.ahram.org.eg/News/454708.aspx
[42] Findexable Limited, 2019, The Global FinTech Index 2020

2. Observations from Category 1 Jurisdictions

The United Kingdom

i) FinTech regulations

The UK does not have a dedicated set of regulations governing FinTech providers. FinTech entities are subject to the existing banking and finance framework depending on the activities they carry out. The main regulatory authorities are the Financial Conduct Authority (FCA) and the Prudential Regulation Authority (PRA).

Regulated area	Regulator	Regulations
Payments Regulations	FCA	The Payment Services Regulations, 2017 (PSR) are the UK's domestication of the Second Payment Service Directive (PSD2) which is a series of EU guidelines issued by the European Banking Authority (EBA) on payment services in the form of technical standards, guidelines, opinions and other publications. The PSR's have since been expanded in scope to include the operations of third parties that are involved in open banking. The Electronic Money Regulations 2011 (EMR) provide a regulatory and licensing framework for issuers and distributors of electronic cash.
Offering of credit services over an electric medium	FCA or PRA depending on the context	The Financial Services and Markets Act (Regulated Activities) Order 2001 (SI 2001/54444) (RAO). regulates specified financial activities or investments subject to the exemptions provided by the RAO.
Cryptocurrencies	FCA	The FCA Guidance on Crypto assets issued in July 2019 serves to define crypto assets and what falls within the parameters of regulation. The UK Jurisdiction Taskforce in November 2019 developed an authoritative statement to guide the application of regulations and the operation of the commercial court in respect of the definitions of crypto assets, smart contracts, and their transfer. The FCA issued a consultation paper on the strengthening of financial promotion rules for high-risk investments, including crypto assets in January 2022. The purpose of the paper is to ensure that the UK financial promotion regime for high-risk investments is robust and remains fit for purpose. This is in line with the FCA Consumer Investments Strategy, published on 15 September 2021. A key part of the Strategy is addressing the harm from consumers investing in high-risk investments that do not match their risk tolerance.[43] Aside from these guidance notes, there is no specific supporting regulatory framework directed at cryptocurrencies or crypto assets in the UK.
AML	FCA	Regulated under the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (MLR). After transposing the EU's 5th Anti-Money Laundering Directive (5MLD) the UK's money laundering regulation has come up with obligations for crypto wallet providers in respect of AML requirements. This necessitates registering with the FCA, in addition to implementing KYC and standard AML checks.
Data Protection	Information Commissioner's Office (ICO)	The Data Protection Act 2018 is the UK's implementation of the GDPR.
Cybersecurity	ICO, Office of Communications, or the Secretary of State for Health in specific instances.	Data breaches and use of electronic communication and information technology systems fall under the scope of these regulations: Network and Information Systems Regulations, 2018 (NIS Regulations); Communications Act, 2003; Privacy and Electronic Communications (EC Directive) Regulations, 2003 (PECR) Computer Misuse Act, 1990; Electronic Identification and Trust Services for Electronic Transactions Regulations 2016.

[43] https://www.fca.org.uk/news/press-releases/strengthen-financial-promotions-rules-protect-consumers

ii) Incentivising schemes

The FCA took extensive steps to incentivise FinTech entities to innovate and get involved in driving the regulatory process as key stakeholders through projects such as a Regulatory Sandbox, the Innovation Hub and the Global Financial Network.

The FCA sandbox has become a blueprint for fostering innovation around the world. The sandbox is committed to including a scale-box, which serves to provide requisite support to FinTech entities to accelerate the growth of their operations, enhancing the Regulatory Sandbox, making permanent the digital sandbox pilot, introducing measures to support partnering between incumbents and FinTech and RegTech firms, and providing additional support for regulated firms in the growth phase.[44] The Innovation Hub is open to both regulated and unregulated businesses and allows them to introduce products into the market.

The Bank of England also has avenues to engage with FinTech providers through its FinTech Hub. The objective of the FinTech Hub is to implement FinTech in its own operations, understand FinTech operations and assess the potential risks. Other regulator-led initiatives include the Information Commissioner's Office launch of their sandbox that seeks to improve compliance of entities with the data privacy laws.

Open Banking Rules were announced in 2018 by the Competition and Markets Authority (CMA). Open banking is a set of technologies allowing customers to give permission to companies other than their banks and building societies secure access to account data securely. Open banking is beneficial as it connects banks, third parties and technical providers enabling them to simply and securely exchange real-time, accurate, and detailed data to their customers' benefit.

As regards crypto assets, the country has demonstrated efforts to regulate their transmission given the potential for issues that may arise under the themes of consumer protection and money laundering. The UK Jurisdiction Taskforce Guidance Notes were an important step to help judicial authorities navigate the onset of disputes that have Distributed Ledger Technology as a subject matter. This may serve to increase confidence in the protections offered by the law and increase the volume of transactions in the sector.

[44] Kalifa Review of UK FinTech

Singapore

i) FinTech regulations

Singapore has a series of guideline regulatory instruments which provide FinTech specific indications on the application of the general financial services' regulatory framework.

Regulated area	Regulator	Regulations
Digital tokens and e-payments	Monetary Authority of Singapore (MAS)	FinTech specific guidelines include the E-Payments User Protection Guidelines, Guide to Digital Token Offerings and Guidelines on the Provision of Digital Advisory Services.
Payment services	MAS	The Payment Services Act 2019, whose scope extends to both classic banks and non-bank licensed entities. General activities regulated include issuance of payment accounts, card services, money transfer, e-money issuance, digital payment token services (understood to be 'cryptocurrencies' in this jurisdiction) or providing platforms for the exchange of digital payment tokens.
Securities and derivatives	MAS	The Securities and Futures Act regulates activities and entities in the securities and derivatives sector.
Lending	MAS	The Money Lenders Act regulates moneylending, credit bureaus, and the collection, use and disclosure of data subject/borrower information and data.
Commodity trading	MAS	Commodity Trading Act regulates specified types of commodity trading.
Insurance	MAS	The Insurance Act regulates insurance business, intermediaries, and related institutions.
Data Protection	Personal Data Protection Commission (PDPC)	Personal Data Protection Act (PDPA), 2012 establishes guidelines for registered entities in respect of reporting timelines in case of data breaches, consent frameworks; extent of collection of data subject data, general obligations for data handlers and applicable KYC onboarding processes.
Cybersecurity	Commissioner of Cybersecurity (CoC) who heads the Cybersecurity Agency (CSA), MAS (in the context of financial service providers), and the PDPC.	Singapore has an ecosystem of cybersecurity statutes that handle both general obligations to secure data and critical information infrastructure to more specific instances of how financial institutions can manage cyber risks as well as guidelines in respect of measures to curb the threat of cyber-attacks. Cybersecurity laws include the Cybersecurity Act, 2018, the Computer Misuse Act, MAS Guidelines on Risk Management Practices, and MAS Notices on Cyber Hygiene.
AML	MAS	Singapore applies a general international framework based on the guidelines provided by the Financial Action Task Force (FATF). MAS, in light of this, has released various sector specific notices specific to banks and finance companies.

ii) Incentivising schemes

As part of a joint effort between the MAS and the Singapore National Research Foundation (NRF), a FinTech Office has been established to act as the one-stop shop for FinTech and establish Singapore as an international FinTech hub of repute. The FinTech Office manages a series of grants and schemes such as:

a) the MAS led Financial Sector Technology and Innovation (FTSI) scheme;

b) the Enterprise Singapore led Enterprise Development Grants (EDG).

Should applicants to the FTSI have viable ideas that pass through the FTSI Proof of Concept Scheme, they can qualify for funding support of up to 50% to 70% of qualifying costs with an upper limit of US$ 400,000.[45]

The establishment of the FinTech & Innovation Group (FTIG) by the MAS has also been a positive step in the development of sector specific guidelines for the FinTech sector. The FTIG primarily dedicates itself to the development of policies to facilitate the use of emerging technologies.[46]

Singapore is also famous for its FinTech centric events, such as the Singapore FinTech Festival, Singapore Week of Innovation, and Finnovate Asia. These events encourage global participation in innovations, investments, and cybersecurity management landscape.[47]

United Arab Emirates

i) Primary FinTech regulations

UAE is considered a rising FinTech destination due to its focus on policy efforts to build FinTech success at scale. The UAE's regulatory framework is distinguished along financial zones. There exist two separate financial zones in the UAE – onshore or mainland, which falls under the remit of the federal state, and offshore or free zones, comprising of the Dubai International Finance Centre (DIFC)[48] and the Abu Dhabi Global Market ADGM.[49] While onshore located companies operate within the regulatory boundaries of the UAE and are governed by domestic UAE laws, DIFC and ADGM companies are primarily governed by English Common Law and international commercial law norms.

[45] https://www.mas.gov.sg/development/FinTech
[46] https://www.mas.gov.sg/who-we-are/Organisation-Structure/Fintech-and-Innovation
[47] Source: https://fintechweekly.com/magazine/articles/top-5-countries-leading-in-fintech-innovation
[48] All DIFC related regulations are available here.
[49] All ADGM related regulations are available here.

Regulated area	Regulator	Regulations
Financial services	UAE Onshore: UAE Central Bank Securities and Commodities Authority (SCA)	The UAE Central Bank published the Regulatory Framework for Stored Values and Electronic Payment Systems 2017 and the UAE Decretal Federal Law on the Central Bank and Organisation of Financial Institutions and Activities, 2018. These laws regulate money remittances, peer-to-peer digital payment, insurance (replacing the local insurance agency after a merger), transactions and retail credit and debit transactions. These regulations do not apply to legacy bank transactions, payments related to transfers of securities or assets, internal fund transfers between PSP's and technical service providers. The Crypto Asset Activities Regulation No. 23 of 2020 provides a crypto asset licensing regime as governed by the SCA which defines various classes of investors to whom crypto assets may be offered.
Financial services	Abu Dhabi Global Market (ADGM): Financial Services Regulatory Authority (FSRA)	The Financial Services and Markets Regulations 2015 (FSMR) and the Guidance Regulation of Crypto Asset Activities in the ADGM (ADGM Crypto Guidance) govern the operation of financial services in the ADGM. The FSMR consists of a policy framework, guidance manual for digital securities, virtual assets, and private financing platforms. The ADGM Crypto Guidance covers a wide range of issues, from indicating the risk involved in investing in Crypto Assets to governing the relationship between investors and intermediaries.
Financial services	Dubai International Finance Centre (DIFC): Dubai Financial Services Authority (DFSA)	DIFC Law No. 1 of 2004 is the regulatory framework for financial activities in the DIFC. This is supplemented by guidance provided in the DFSA Handbook, which defines financial services broadly to include: money services, asset management; advising on financial products, managing collective investment funds, operation of exchanges, insurance, trust services and fund administration.
Consumer Protection	UAE Onshore	The Consumer Protection Regulations, 2020 provides protection of consumer interests when using any financial service in the UAE Onshore Region. This, however, does not limit other regulations from offering additional consumer protections.
AML	UAE Onshore: Central Bank of the UAE and Executive Office of the AML and Countering the Financing of Terrorism	The Federal Decree No. 20 of 2018 on Anti-Money Laundering and Countering the Financing of Terrorism regulations were issued to develop the legislative and legal structure of the nation to ensure compliance with international standards on anti-money laundering and countering the financing of terrorism.
Data Protection Provisions	UAE Onshore, DIFC and ADGM	There is no comprehensive data protection law in the UAE. However, UAE law obliges entities to store data locally within the UAE (this does not apply to entities in the DIFC and ADGM free zones). The DIFC and ADGM have local data protection laws that govern the collection, use, retention, processing and transfer of personal data. These laws have been modelled against the backdrop of the EU GDPR.
Cybersecurity	UAE Onshore, DIFC and ADGM	There is a comprehensive UAE Cybercrimes Law (Federal Law No. 5/2012 on Combating Cybercrime) which sets out that the primary offences in the UAE relating to violations of technology security and crucially commercial and financial transactions that have their origin on the internet or IT infrastructure. There are provisions in the Cybercrimes Law that allow for extraterritorial judicial actions by UAE authorities.

ii) Incentivising schemes

Development of a conducive ecosystem for innovation through deliberate strategy and policy initiatives is the driving force that sets UAE apart in FinTech. Notable efforts have gone into creating a conducive environment for FinTech to thrive in the UAE, in a bid to diversify their economies.

UAE has numerous FinTech friendly strategic initiatives aimed at diversifying the economy and by extension, growing FinTech. The UAE's Vision 2021 National Agenda (Agenda) announced in 2010 aims to position the UAE, by 2021, as one of the top performing countries in the world across several national indicators. In line with the Agenda, the UAE's National Innovation Strategy (NIS) aims to make the UAE one of the most innovative countries in the world by 2021.

In April 2018, the government launched the Emirates Blockchain Strategy 2021 (Blockchain Strategy) which focuses on a drive to shift e-government services to blockchain technology. In April 2019, the UAE Cabinet adopted the National Artificial Intelligence Strategy 2031 (AI Strategy) as part of its effort to be at the forefront of global innovation and place itself as a leader in bleeding edge technology. Other policy initiatives include the Dubai Plan 2021 and the Abu Dhabi Economic Vision 2030, which are all aimed at strengthening and promoting financial services sectors and creating a favourable, competitive marketplace for both start-ups and incumbents to flourish.[50]

Various regulators in the UAE have established regulatory sandboxes to allow for the development and testing of FinTech products within an observed, cost effective, and low risk environment. There are three regulatory sandboxes in the region:

a) ADGM Reglab: The first regulatory sandbox in the Middle East and North Africa (MENA) region and the world's second most active FinTech sandbox.[51] Applicants for this regulatory lab must demonstrate a solution still in its ideation phase that is ready for testing.

b) Innovation Testing Licence Programme (ITLP): The DFSA's version of a sandbox that has an extensive licensing and application process for prospective FinTech entities. The application process is in two phases: an application for consideration for the programme and seeking authorisation from the DFSA to operate within the programme.

c) Insurance Sector Regulatory Sandbox (ISRS): The UAE Central Bank as part of its mandate as the insurance service providers regulator has indicated that the objective of the insurance sandbox is to understand emerging products in the sector, transform the UAE insurance market to a smart insurance market and support emerging FinTech entities in the region. To do this, the sandbox has its own Sandbox Regulations.

Lastly, the global approach taken by the DIFC and the ADGM may provide Kenya with useful insights on how to adopt norms of international best practice without an extensive and at times time consuming domestication process. Adopting generally accepted guidelines that private actors agree upon and regulators enforce where required, without necessarily enacting them through a local legislative framework, could offer an expedient mode of implementation of FinTech enabling regulations.

[50] Milken Institute (2019) The rise of FinTech in the Middle East by Jackson Mueller and Michael S. Piwowar
[51] https://u.ae/en/about-the-uae/digital-uae/regulatory-sandboxes-in-the-uae

Summary comparison of Category 1 Jurisdictions

	Kenya	UK	Singapore	UAE
Financial services regulators	CBK CMA IRA SASRA RBA	FCA PRA	MAS	UAE Central Bank SCA ADGM DFSA
Blanket FinTech regulations	N/A	N/A	N/A	N/A
Incentivising schemes	CMA Regulatory Sandbox IRA Regulatory Sandbox, Bima Lab CBK Test-and-Learn approach Afro-Asia FinTech Festival Technology and Innovation sub-committee of FSRF	FCA Regulatory Sandbox Bank of England FinTech Hub	FinTech Office FinTech Innovation Group Singapore FinTech Festivals	ADGM Reglab ISRS DIFC

3. Observations from Category 2 Jurisdictions

Rwanda – Central Bank regulator led sandboxes

The National Bank of Rwanda alongside the Kigali International Financial Centre established a regulatory sandbox framework as part of the 2018-2024 Rwanda Payment System Strategy (RPSS).[52] The sandbox is open to both licensed and unlicensed entities.

Kenya may benefit from the goodwill that a CBK led sandbox may generate, like the already existing CMA and IRA led sandboxes. A more practical approach in this regard, would be:

i) Engendering a collaboration between the CBK and the NIFC to establish a joint sandbox for FinTech entities to get them licence ready in the most expedient way possible.

ii) Expanding the CMA sandbox to encompass a wider variety of FinTech products extending to the broader financial services sector.

iii) Allowing the development of sector specific FinTech sandboxes as governed by a general set of guidelines.

South Africa – State led collaboration with FinTech entities

South Africa has established numerous working groups as part of a joint effort between the government and private stakeholders to fully understand the emergence of DLT's (in specific, cryptocurrencies). The Crypto Assets Regulatory Working Group (CARWG) was established under the Intergovernmental FinTech Working Group (IFWG) to analyse the developing area of crypto asset trade and regulation. The IFWG's members are drawn from core governmental functions (National Treasury, South African Revenue Services, the Financial Intelligence Centre, the South African Reserve Bank and the Financial Sector Conduct Authority).[53]

[52] A PDF version of the RPSS is available here.
[53] https://govchain.world/south-africa/#:~:text=In%202019%2C%20the%20South%20African,a%20unified%20intergovernmental%20regulatory%20framework.

Ghana – FinTech and Innovation Office

Based on an overarching focus on developing technological services, the main regulator, Bank of Ghana, established a FinTech and Innovation Office with specific responsibility for electronic money issuers (mobile money operators), payment service providers, closed loop payment products, payment support solutions and other innovative forms of payment delivered by non-bank entities. This demonstrates an example of agility of the regulator to practically tackle emerging themes in the FinTech space.[54]

Other agile regulatory efforts include the development of a crowdfunding policy (that intends to update the traditional crowdfunding model) in recognition of the need to both protect consumers and improve financial inclusion among the unbanked population. Developing a policy framework that seeks to balance the objective of the sector enabling regulation and consumer protection is key to growth of FinTech.

Nigeria – Privately initiated sandboxes

Private entities in Nigeria such as Financial Services Innovators (FSI) have established innovation sandboxes that provide funding, technical assistance, and growth initiatives for FinTech entities.[55] Whereas there is a vibrant innovation hub culture in Kenya, private sandboxes are not as widespread. As was witnessed in Nigeria, there is a likelihood that creation of sandboxes within the private sector may encourage larger government entities such as the CBK and the ICT Ministry to provide support.

Egypt – Oversight certainty

The Central Bank of Egypt in collaboration with the Financial Regulatory Authority has drawn up a series of rules and regulations that define the scope of FinTech to include Robo-advisory, nano-finance, InsurTech, and (tech-enabled) consumer finance, among others. This is a step in the right direction, creating certainty by establishing, in the first phase, what is being regulated, thereafter, coming up with sector specific regulations.

India – Low barriers to entry

Due to an emphasis by regulators to support the implementation of more efficient electronic payment systems in India, there has been an emphasis on establishing the most efficient ways to ease the burden on market entrants. For instance, due to the restrictions on movement during the Covid-19 pandemic in India, FinTech entities were unable to obtain biometric data to fulfil their KYC obligations. As such, the local FinTech regulator gave leeway to utilise digital formats of collecting this data i.e., video calls and verification of electronic records.[56]

[54] https://www.bog.gov.gh/pressreleases/bank-of-ghana-establishes-FinTech-and-innovation-office/
[55] https://bfaglobal.com/wp-content/uploads/2021/06/0.-Fintech-Regulation-in-Nigeria-16-March-2021.pdf
[56] https://bfsi.economictimes.indiatimes.com/news/banking/indian-bank-launches-video-kyc-facility-enabled-by-vcip-technology/87606583

Australia – Multi-stakeholder involvement in regulation and policy making

Australia is perceived as an ideal market to test products due to policy initiatives, regulatory framework and demographics, specifically a consumer base willing to adopt novel technology, with steady growth in rates of adoption. Australia has been eager to involve interested parties in shaping the policy directions of the FinTech space. This approach seeks to understand industry requirements and balance these against concerns of consumer protection.

The Consumer Data Right (CDR) seeks to grant greater control to consumers over the use of their banking data and act as the lynchpin for an open banking system. As part of the Australian Securities and Investments Commission's (ASIC) outreach to players with crowd-sourced funding products, the regulator has established an Innovation Hub, which operates primarily like a regulatory sandbox. The ASIC's Innovation Hub provides start-ups and scaleups an opportunity to explore any potential regulatory obligations as appropriate to their context.

USA – Robust reporting mechanisms

The US has a highly complex and multi-faceted regulatory and supervisory framework involving several authorities both at the federal and state levels. The US has placed minimal restrictions on the types of business that FinTech providers can engage in. As a result, there exists a diverse ecosystem of FinTech in the US that caters for various markets and purposes. However, due to the increasingly global scale of the consumer base that US based FinTech entities serve, and the ensuing risk, this has necessitated the introduction of forward-thinking financial and AML reporting standards both at state and federal level, increased scrutiny by regulators in respect of previously unregulated initial coin offerings (as a result of the inherent volatility of cryptocurrency ventures) and AML provisions in law that seek to capture transactions made in virtual currencies and digital cash substitutes.

Developing a reporting framework that anticipates the differences between FinTech entities and traditional banks is essential to reduce risk, protect consumers and enhance market confidence. As such, a FinTech customised reporting framework that incorporates schemes for reporting financial transactions, data privacy breaches, suspicious transactions and cybersecurity related events should be incorporated into legislation.

4. Observations from targeted consultations and engagement on policy and regulatory challenges encountered

The FinTech community in Kenya is vast, with different players cut across different sectors. As FinTech continues to develop, there are varied expectations relating to the country's policy and regulatory direction. Different players have different views on how best to structure the policy and regulatory framework to ensure growth. This context informed our engagement with various members of the Kenyan FinTech stakeholder community to obtain input on Kenya FinTech policy and regulatory challenges and recommendations for improvement.

During this study, we conducted interviews with representatives drawn from Kenyan FinTech providers, regulators, multi-stakeholder think-tanks and member organisations.

1. Challenges facing FinTech in Kenya from stakeholder's perspective

Most stakeholders recognised the transformative role that innovation has played in Kenya's financial services sector. The challenges they highlighted were as follows:

Regulatory overlaps that create uncertainty

The FinTech stakeholders highlighted difficulties in understanding which regulations apply and who will regulate their FinTech, particularly those that cut across different sectors. Unfortunately, there is no central point of contact for information, resources, or guidelines on FinTech licences, processes, or costs to acquire licences and approvals. This leads to repetitive applications and duplicated evaluations, leading to increased costs to the detriment of FinTech companies.

Slow lead times due to the need for increased capacity in regulatory agencies

Participants also indicated the need to increase capacity and expertise when reviewing novel or complex FinTech products. Due to their novelty and technological intricacies, FinTech products are complex. Regulatory agencies require increased knowledge and capacity to comprehensively evaluate complex FinTech innovations, which would no doubt reduce the long lead times for approvals.

Absence of regulatory sandbox in some sub-sectors

The only financial services sub-sectors that have created a regulatory sandbox are the capital markets and the insurance sectors. Other financial sub-sectors do not have regulatory sandboxes. As a result, FinTech providers who do not fall in either insurance or capital markets categories lack an environment to test their products. A sandbox framework has proven critical in allowing FinTech businesses to grow, at the same time allowing regulators to interact closely with FinTech providers, understand their offering better and as such, build a suitable and adequate regulatory framework to match the business and market profile.

Risk-based versus innovation based regulatory approaches

It was observed that regulatory agencies often apply a rigid risk-based approach towards innovation in financial services. FinTech Stakeholders noted that an imbalance is created when regulation tilts the scale towards consumer protection and market stability to the detriment of innovation. This leads to innovative products either taking too long to be approved (if at all) or being rejected by the regulators as they are seen to affect market stability.

A key driver to the risk-based regulatory approach is the limited ability for information sharing within the industry. FinTech players highlighted two angles with respect to information sharing: (i) a lack of information sharing between regulators and FinTech players; and (ii) a lack of information sharing amongst regulators. Majority of the stakeholders see the need for increased formal and informal engagement across the sector to align on how best to improve integration of the FinTech ecosystem in the country.

Some stakeholders also expressed the need for increased capacity building to be able to review and regulate certain FinTech products. Other stakeholders also highlighted the misconception that FinTech would displace traditional banks. Such a perception lends itself to slow responsiveness of traditional legacy banking in fully embracing FinTech.

Lastly, FinTech stakeholders would like to see a harmonised and coordinated approach amongst the regulators which would enable them to keep abreast of the advancements in innovation, while maintaining regulatory oversight to prevent any unlawful or unethical practices that might harm consumers and dent market integrity.

Lack of a national FinTech policy

Due to lack of a clear policy framework, the definition of FinTech is unclear, which services qualify to be FinTechs, the different categories, and what FinTechs can and cannot do. It was a common theme among the stakeholders to highlight the inefficiencies associated with a lack of a clear policy and regulatory framework in FinTech entities leading to Kenyan regulators not keeping up with the innovations in FinTech due to lack of common objectives.

Lack of government incentives and support

An overall challenge that some FinTech providers expressed is inadequate government fiscal incentives and support particularly funding initiatives. Government support in this sense can range from direct fiscal incentives to policy and regulatory initiatives to formal and informal engagements with the industry with the aim of promoting FinTech growth, profitability and funding.

Tax unpredictability

Some stakeholders pointed out tax unpredictability surrounding FinTech in Kenya as a key challenge. Tax stability in any economy is crucial and the same is needed in the FinTech subsector. FinTech, and corresponding investments in FinTech, results in a range of taxation issues that are not addressed in the current tax framework.

Cross-border regulatory oversight

Technological solutions are often borderless. This presents a challenge to market entrants due to multiple regulatory approvals required across jurisdictions in laws. This factor also brings about enforcement issues to regulators due to jurisdictional overlaps in enforcement.

1. Recommendations from stakeholders

National FinTech policy

A national digital financial services policy, or a similar national policy framework on FinTech should be developed that supports FinTech transformation and collaboration, encourages innovation through technology in delivering financial services, outlines the government support measures that will be undertaken to incentivise FinTech companies and highlights regulators' role in FinTech.

Need for regulatory reform

Most stakeholders agreed that FinTech regulation is necessary to provide guidance to prevent rogue, fraudulent or defective practices. Some stakeholders supported supervision of FinTech under a single sector regulator. Others were of the view that it is not necessary to merge FinTech into one regulatory framework but rather what is needed is clarity of policy. One stakeholder added that to create an enabling environment, speed and agility are critical in the licensing/approval process. The regulations should be based on underlying pillars of adequacy, certainty, simplicity, and timeliness. Furthermore, technology neutral regulations, i.e., regulations with a focus on regulating conduct of actors in the market instead of their use of technology were cited as a means of encouraging innovation through regulatory reform. To prevent the misuse of these technologies, the regulatory framework should provide FinTechs, their management teams and consumers a reporting framework that assists them to identify and mitigate resilience risks e.g. cyber-attacks, consumer rights abuses or money laundering.

To address the fragmented regulatory state of FinTech, some stakeholders called for a unitary licencing framework. This would comprise a single licensing framework for any FinTech product or business model that cuts across various sectors. For example, for a product with elements of insure-tech, secure-tech, loan-app, the single unitary licence would cover all the products instead of dealing with each individual regulator separately.

FinTech office

Stakeholders called for a FinTech office or one stop shop that will act as a central point of contact for information, resources, and guidelines on FinTech licences, processes, or costs to acquire licenses and approvals. The office will also facilitate engagements between FinTech providers and regulators, play an active role in market entry support, lobbying and championing for improved service delivery.

Blended FinTech sandbox

To address fragmentation in regulation, stakeholders recommended that regulators should work in partnership with private sector stakeholders to create a single sandbox where products are tested in a controlled environment and in a limited scope. This will help to clarify regulatory regimes, balance regulators' concerns and ensure a coordinated approach.

Using a regulatory sandbox may enhance financial inclusion by improving the capacity of regulators to understand innovation and approve new, affordable products or services, which address the needs of excluded and underserved customer segments. Parties recognise the growth in financial inclusion generated by the innovations emanating from the CMA's FinTech regulatory sandbox. For example, Pezesha Africa Limited is one of the firms admitted to the regulatory sandbox, that seeks to deepen financial inclusion to the underserved Micro, Small and Medium Enterprises (MSMEs) by connecting them with affordable working capital from investors.

Partnership framework between innovators and licensed entities

There was a recommendation on the need for a framework that brings together innovators, regulatory agencies and licensed entities. Due to the current regulatory framework only recognising licensed entities to undertake select activities, a FinTech firm that has successfully passed through an innovation facilitator such as an innovation lab ultimately may not be able to offer its product to the public. A partnership framework where regulatory agencies can provide support to the FinTech in seeking a licensed partner lowers barrier to entry in markets, allows FinTech providers to develop their product in a regulation-compliant way and reduce regulatory uncertainties. The framework can also be independent of the regulatory agencies, with a direct link established between FinTech providers and licensed entities.

Balancing financial stability and innovation

FinTech stakeholders recommended that future regulations should aim to create a balance between financial stability and promoting innovations. Such an approach will create market stability and promote innovative finance products that meet evolving customer needs.

Government incentives

Tax incentives, market entry clarity and easing of regulatory bottlenecks for FinTech providers are among the government support mechanisms that FinTech providers requested for, as part of an innovation-centric ecosystem. In addition, the FinTech stakeholders recognised the need for enhanced and continuous capacity building amongst regulators especially in identifying and enabling new FinTech products and services.

Formal forums for information sharing

Regulators should continue to hold and participate in even more forums with FinTech stakeholders to understand each other's views on market regulation and to explain their approach to FinTech regulation. These engagement forums should be structured, diarised, and include FinTech stakeholders. FinTech stakeholders are keen to continue their formal and informal engagements with regulators to provide their views on new regulations, guidelines, and policy notes. Continued information sharing between regulators and FinTech stakeholders would enable regulatory bodies to develop guidance and policy that is based on a better understanding of the FinTech landscape and develops a collaborative regulatory culture.

Cross-border collaboration

In a move towards recognising the borderless effects that FinTech products or business models may have, stakeholders recommended that regulators should establish even more initiatives aimed at cross-border collaboration and sharing information towards a better global framework on FinTech regulation. The initiatives would also include cross pollination of skills between regulatory agencies with the overall effect of knowledge sharing. The upskilling that this would have on regulatory agencies would be beneficial towards a better understanding of innovations presented for approval.

Enhancing cross border collaboration was a key recommendation observed in the literature review conducted over the course of this study. In this instance, the objective of such collaboration is the alleviation of instances of conflict of jurisdiction (also noting the potential effects of cross border money laundering activities) and creating more efficient cross border regulatory processes.[57]

[57] CCAF (2021) FinTech Regulation in Sub-Saharan Africa, Cambridge Centre for Alternative Finance at the University of Cambridge Judge Business School, Cambridge.

5. Recommendations

Short-term recommendations

These are recommendations we believe can be implemented within the next two years.

1

Establish a dedicated FinTech office one-stop-shop

A dedicated FinTech office similar to the Singapore or Ghana FinTech Office, would be useful as a central point of contact for FinTech information. The one-stop-shop will give FinTech providers and innovators a single access point and will be particularly beneficial in providing a unified approach to the approval of FinTech products by regulators. Staff from the various regulators involved can be co-opted to the FinTech office through the Joint Domestic Financial Sector Regulators Forum (FSRF) and NIFCA.

A unified FinTech office will allow the coordination of licencing requirements and the centralisation of the FinTech licencing process, leading to efficiencies. One-stop-shops can significantly improve the customer experience through enhanced service. Key elements in the design and delivery of a one-stop-shop, include speed, engagement, responsiveness, value, and integration.

Proposed implementing agencies: FSRF and NIFCA

2

Create a consolidated single FinTech sandbox

A single sandbox environment, similar to the UK FCA Regulatory Sandbox, could be set up so as to identify any regulator overlaps during the testing stage and collaboratively address them jointly as regulators. The sandbox would have common guidelines established in consultation with all relevant stakeholders. Products in the sandbox would be tested in a controlled environment and in a limited scope to balance regulators and innovators concerns and ensure a coordinated approach.

Proposed implementing agency: FSRF

3

Strengthen collaborations

Continue to strengthen collaboration in FinTech within the FSRF through regular regulator-based engagements that focus on encouraging FinTech growth and innovation. The ongoing work FSRF is conducting on FinTech collaboration can be expanded to include input into the development of a FinTech policy.

The FSRF and NIFCA should also encourage more joint collaborative working groups and forums amongst FinTech providers, regulators and stakeholders to shape FinTech policy through organisations such as the Association of Kenyan FinTechs. Kenya should establish structured multi-party working groups and forums to fully understand the emergence of FinTech. These engagement forums should be frequent, consistent, planned, diarised, and include all relevant stakeholders. These engagements will promote information flows that will strengthen the sector.

Proposed implementing agencies: FSRF and NIFCA

4

Capacity building within regulatory agencies

There should be a framework to continuously identify and prioritise FinTech regulation training needs and a mechanism to facilitate training and development courses that enable regulators to understand and regulate new and complex innovations in financial technology. Collaborative efforts such as staff secondments, exchange programmes and training fellowships across jurisdictions would allow regulator staff to upskill and be better equipped to evaluate emerging FinTech products and innovations.

As part of the collaborative efforts between local and international regulators and training institutions, there is room to initiate secondment or exchange programmes, where regulator staff may be engaged by foreign regulators such as the FCA in the UK or the MAS in Singapore, and vice versa. The technical assistance that would take place in these programmes would be beneficial for regulators in understanding the nuances of the FinTech sector and should improve their response to the changes in technology. Aligning themselves with international best standards has been cited as a key objective of regulators. The CBK, as part of the NPS, sets out training as a practical way of meeting this objective.

Proposed implementing agency: FSRF and National Treasury

Medium-term recommendations

These are recommendations we believe can be implemented within the next two to four years.

5

Develop a dedicated FinTech Policy

To augment the broader Digital Economy Blueprint, ICT Policy and proposed digital finance policy, policymakers should prioritise the development of a dedicated FinTech policy aimed at diversifying the economy and by extension, growing FinTech, as demonstrated in the UAE. A national FinTech policy framework that supports FinTech transformation and innovation, promotes industry growth and removes duplicative regulations in financial services would create certainty in FinTech services and products. The main objective of this policy would be FinTech demystification, collaboration, encouragement of innovation, outlining of government support measures and highlighting of regulator roles, taking into account Kenya's development goals in so far as increasing access to financial services and reducing the poverty gap.

Proposed implementing agency: National Treasury

6 Lobby for regulatory amendments and supervisory technology

Regulations should be based on underlying pillars of adequacy, certainty, simplicity, and timeliness. Efforts should focus on building strong FinTech regulations by establishing and reinforcing rules and regulations that clearly define the scope, responsibilities and timelines as relates to regulators and service providers. In due course, well considered and widely consulted sector wide regulatory reforms (such a unitary licensing framework for FinTech products or business model that cuts across various sectors), will further help create the much-needed efficiencies in the FinTech ecosystem.

Regulators should have key performance indicators around their approval processes, which include timelines for approvals or alternative responses and remedial measures in case timelines are not adhered to. In doing this, due regard should be given to the focus of a strong regulatory framework, being - safeguarding consumers, promoting innovation and robust competition, maintaining stability in the market and guaranteeing financial inclusion.

Integrating a tiered approach to regulatory scrutiny may be instrumental in reducing the barriers to entry. For instance, introducing an approach to regulation that is primarily based on the size and type of FinTech provider and the scope of their services, would expediate the entry of ‘smaller’ FinTech entities into the market, given that they need not be subjected to the same level of scrutiny as FinTech entities with more complex and riskier business models.

Regulators can also embrace Supervisory Technology (SupTech) as part of service delivery enhancement. SupTech is the use of innovative technology by regulatory bodies to support supervision of regulated entities. SupTech is intended to assist regulatory agencies in assessing and approving products presented before them and to allow the regulators to get real-time insights into the operations of the FinTech entities, at the same time spurring technology-based exposure within the regulator. Kenya already has a digital architecture upon which regulators of financial institutions and FinTech entities can plug in their systems. The E-Citizen platform is the Kenya government’s official platform for the delivery of various government services from the Lands, Registration of Persons and Immigration registries among others. E-Citizen can be leveraged by the FinTech regulators to create increased efficiencies in regulatory procedures and periodic compliance requirements.

Proposed implementing agencies: NIFCA and FSRF

7 Balancing consumer protection and innovation

Regulators should strike a balance between financial stability and promoting innovation. Following on from the FCA’s consultation paper on strengthening our financial promotion rules for high-risk investments, including crypto assets, regulators should certainly seek to provide measures aimed at protecting consumers.

On the other hand, consumers may seek to invest in FinTech entities (and their products) without fully understanding the risks associated. Regulatory agencies should therefore prescribe clear rules and regulations aimed at protecting investors and promoting FinTech providers and their innovation efforts as long as they follow the guidelines provided by the regulatory agencies.

Proposed implementing agencies: FSRF

8

Tax incentives

FinTech players thrive in tax systems where there is certainty, ease of compliance, and therefore ease of doing business. Changing the tax policy can be a lengthy and complicated process requiring significant legislative support by the National Treasury and KRA. However, the recent increase in constitutional petitions by sector advocacy groups and private citizens challenging the application of tax laws indicate greater awareness on the clarity and impact of tax laws. It may then be beneficial to foster a predictable and consistent set of tax legislation, to allow for the growth of FinTech entities, with the understanding that consistency is just as attractive to businesses as tax breaks. The KRA has shown willingness to engage with stakeholders to better understand their businesses with the view of taxing them more effectively (especially in the context of the digital economy). Similar conversations should happen in respect of tiering the tax bracket to support emerging FinTech entities.

Tax incentives have been stated to be one of the more attractive features of a FinTech hub. Jurisdictions such as Canada, Singapore, Dubai, and the UK offer lucrative tax incentives and in some instances government grants for players in the FinTech space. Such incentives have led to an increase in the establishment of FinTech entities in those regions. Kenya does not have specific tax incentives accorded to FinTech companies. In the East African block, Rwanda offers a seven-year tax holiday for investors in technology, micro-enterprise companies pay flat tax amounts, and small businesses pay a lump sum tax at the rate of 3% of turnover. Such incentives have encouraged a burgeoning venture capitalist culture in Rwanda, which, despite being in its infancy, is experiencing exponential growth, more so in the field of FinTech.

While the implementation of tax policy in Kenya has been affected by the onset of the Covid-19 pandemic, causing the government to roll back various exemptions to goods and services that were put in place to encourage investment, an insistence on maintaining these measures throughout the reduction of the pandemic could block further entrants into the FinTech space. It is understood that the increase in taxation of the digital economy is in response to the recognition of the potential the sector has. However, a balance must be struck between state revenue targets and the provision of incentivising mechanisms.

In terms of proposals, the removal of excise taxation on financial services would be a viable option. Given that excise is principally a 'sin-tax' that need not be levied on financial services as there is no behaviour modification that would be sought by imposing excise on financial services. If anything, financial services should simply remain exempt, as contemplated by the VAT Act, 2013.

Proposed implementing agency: National Treasury

9

Cross-border collaboration

Collaborative efforts between regulatory agencies in Kenya and peer regulators in other jurisdictions should continue to be promoted and actioned. We have seen various initiatives taken in this regard, with the CBK and MAS signing a Cooperation Agreement in 2019 to collaborate in FinTech matters. One of the agreed areas under the agreement is hosting the Afro-Asia FinTech Festival (AAFF). The inaugural edition of AAFF was held in 2019 and virtual editions held in 2020 and 2021. Further forums can be arranged for regulators in different jurisdictions and economic blocks (for example EAC) to share experiences, perspectives and learning opportunities aimed at a structured cross-border framework. This can be done through FinTech fostering agreements, memoranda of understanding and regional FinTech festivals.

Proposed implementing agencies: FSRF and NIFCA

Long-term recommendations

The recommendation we believe should be aspired to and implemented gradually over a longer period of time.

10 Well-coordinated regulatory framework

A well-coordinated regulatory framework, that creates certainty, avoids duplication of regulations and maintains the balance between innovation and risk to the public, is the gold standard in the regulation and supervision of FinTech entities. As FinTech grows and becomes even more integrated, so too should the legal framework. A well-coordinated regulatory framework for FinTech will ultimately support innovation, promote industry growth and financial inclusion, while protecting consumers from harm. Ultimately, a unitary licensing framework for FinTech products or business model that cuts across various sectors can be considered by stakeholders.

Proposed implementing agencies: FSRF, NIFCA and National Treasury

11 Capital policy interventions

Capital is a critical part of innovation growth. Therefore, the government should develop bold policy interventions to incentivise venture capital investment and unlock much-needed capital to sustain the budding FinTech sector. The aim of such policies would be to shift focus of private, public, and sovereign investors in Kenya away from the dominant real estate sector that is prevalent in Kenya, to venture capital and private equity. In Rwanda, the Kigali International Financial Centre (KIFC) recently announced the launch of Africa's first and only FinTech Fund, worth US$ 50 million. This is an example of how the government can create policies that accelerate sovereign funding towards venture capital leading to tremendous growth in FinTech enterprises.

Proposed implementing agency: National Treasury

12 Mutual recognition and passporting

Kenya and her regulatory agencies could consider entering into agreements with other countries, and their regulatory agencies, to facilitate FinTech development across borders and prevent regulatory duplicity in different jurisdictions. The agreements would be based on the understanding that the two regulatory and supervisory regimes are broadly consistent with one another in that they have consistent regulatory objectives and aim to deliver comparable outcomes, rather than strictly equivalent. The mutual recognition would allow cross-border innovation and lower barriers to entry faced by FinTech providers seeking to provide solutions in Kenya.

To address multiple compliance requirements brought about by cross-border products or business models, regulators should consider allowing FinTech entities already established in other jurisdictions to set up and continue their business operations in Kenya without the need for further authorisations. This would prevent regulatory inefficiencies in approving a product that has already undergone rigorous regulatory vetting in another market and successfully demonstrated that it provides appropriate solutions for financial needs of consumers. Passports are contingent on specific regulations across jurisdictions, but notable efforts are being made by intergovernmental organisations such as the EAC to harmonise regional regulatory frameworks.

Proposed implementing agency: National Treasury

6. Conclusion

The National Treasury, progress made in digital innovation worldwide calls for countries to recognise the evolution of financial services offerings. Policy and regulation must match this evolution. Kenya's efforts in the growth of FinTech can be seen through its forward-thinking financial inclusion strategies and incentivising schemes such as regulatory sandboxes. However, gaps and the challenges still exist that impact the gains made so far. Therefore, a proactive approach towards FinTech policy and regulation is needed.

Regulators and FinTech providers should work closely in developing policy and regulation that positively shapes the sector and lowers market barriers. The FinTech sector needs to play its part in the development of policy, by actively participating and providing input into its development. In doing so, the opportunities for FinTech growth and greater financial inclusion are limitless. This will allow Kenya to continue to be at the forefront of technology innovation and developments and provide an enabling environment for such innovations to scale in Africa.

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Acronyms

AAFF	Afro-Asia FinTech Festival
ADGM	Abu Dhabi Global Market
AML	Anti-Money Laundering
API	Application Programme Interface
ASIC	Australian Securities and Investments Commission
ASP	Application Service Provider
CA	Communications Authority of Kenya
CAK	Competition Authority of Kenya
CARWG	Crypto Assets Regulatory Working Group (South Africa)
CBK	Central Bank of Kenya
CDR	Consumer Data Right Framework (Australia)
CMA	Capital Markets Authority of Kenya
CMCA	Computer Misuse and Cybercrimes Act, 2018 (Kenya)
CNSP	Community Network and Services Provider
CoC	Commissioner of Cybersecurity (Singapore)
CSA	Cybersecurity Agency (Singapore)
CSF	Crowd-Sourced Funding
CSP	Content Service Provider
CTR	Cash Transaction Report
DFSA	Dubai Financial Services Authority
DIFC	Dubai International Financial Centre
DLT	Distributed Ledger Technologies
DPA	Data Protection Act of 2018 (UK)
EAC	East African Community
EDG	Enterprise Development Grants
EMR's	Electronic Money Regulations 2011
ES	Enterprise Singapore
ESI	Enterprise Investment Scheme
FATF	Financial Action Task Force
FCA	Financial Conduct Authority
FinCEN	Financial Crimes Enforcement Network (US)
FinTech	Financial Services Technology
FSI	Financial Services Innovators Nigeria
FSRA	Financial Services Regulatory Authority (Dubai)
FSRF	Joint Domestic Financial Sector Regulators Forum (Kenya)
FTIG	FinTech & Innovation Group (Singapore)
FTSI	Financial Sector Technology and Innovation (Singapore)
GDPR	General Data Protection Regulation
ICO	Initial Coin Offering
ICO	Information Commissioner's Office (UK)
ICT	Information Communications and Technology
IFWG	Intergovernmental FinTech Working Group
IRA	Insurance Regulatory Authority of Kenya
ISRS	Insurance Sector Regulatory Sandbox
ITLP	Innovation Testing Licence Programme
KICTANET	Kenya ICT Action Network
KIFC	Kigali International Financial Centre
KYC	Know Your Customer
MAS	Monetary Authority of Singapore
MENA	Middle East and North Africa
MLR	Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (UK)
MNO	Mobile Network Operators
MSME	Micro, Small and Medium Enterprises
MVNO	Mobile Virtual Network Operators
NFP	Network Facilities Provider
NIFC	Nairobi International Financial Centre
NIFCA	Nairobi International Financial Centre Authority
NPS	National Payment Strategy (CBK, Kenya) 2022 - 2025
NPSA	National Payment Systems Act
NRF	National Research Foundation (Singapore)
PDPC	Personal Data Protection Commission (Singapore)
PECR	Privacy and Electronic Communications (EC Directive) Regulations, 2003
PLC	Publicly Listed Company
POCAMLA	Proceeds of Crime and Anti-Money Laundering Act, 2009
PRA	Prudential Regulation Authority (UK)
PSD	Payment Service Directive
PSR's	Payment Services Regulations 2017 (UK)
RAO	Financial Services and Markets Act (Regulated Activities) Order 2001 (SI 2001/54444) (UK)
RBA	Retirement Benefits Authority (Kenya)
REIT	Real Estate Investment Trust
RPSS	Rwanda Payment System Strategy, 2018-2024
SACCO	Savings and Credit Co-operative
SASRA	Sacco Societies Regulatory Authority (Kenya)
SCA	Securities and Commodities Authority (Dubai)
SupTech	Supervisory Technology
UAE	United Arab Emirates
UK	United Kingdom
ULF	Unified Licencing Framework
USA	United States of America
VAH	Virtual Africa Hackathon

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