



# Newsletter

NBA-SBL Quarterly Bulletin

3RD QUARTER (JULY - SEPTEMBER), 2022



# Chairman's Message

Dear Member,

It is my pleasure to present to you the third edition of our Newsletter for the year 2022 – the first since I was inaugurated as Chair of the Section. I wish to thank you, on behalf of all members of the Council (now referred to as the Executive Committee under the amended NBA Constitution), for your call to service. It is a commitment we do not take lightly. I would also like to express my thanks to the immediate past Council, led by Mr. Ayuli Jemide, for their outstanding contributions to the development of the SBL and the wider profession.

As it is my first address to our members, it is important that I outline the goals of this Executive Committee captured in the mathematical formula - **2 x I ÷ S (two times I divided by S)**. This was first enunciated at our Annual General Meeting and subsequently ratified by the Executive Committee at our strategic retreat. The first “I” focuses on Impact on the professional lives on our members. The second “I” speaks to Influencing the business environment within which we operate. Whilst “S” speaks to Sustainability. This is in line with SBL’s new mission statement:

**“To positively impact the professional lives of our members and influence the Nigerian business environment in a sustainable manner”**

During the month of September, we rolled out the Membership Survey. We thank you for your overwhelming participation, with almost 1000 members and friends responding to the survey. Whilst we are still processing its outcomes, some trends are clear. Our members want increased engagement, more committee activities and access to training.

Over the next quarter, this Executive Committee will initiate a number of programmes in response to your desires and in fulfillment of our promises to you. Expect to see more activities in other NBA Zones, an improved membership experience and more collaboration with training partners.

Since the publication of the last Newsletter, the NBA-SBL organized the 16th Annual International Business Law Conference (the “Conference”) at the Transcorp Hilton Abuja from 20<sup>th</sup> to 22<sup>nd</sup> July 2022 with the theme “**Recent Developments in the Business Law Environment**”. We thank the CPC, led by Mr. Chike Obianwu, for delivering an outstanding conference. We are committed that this conference will not be a talk shop and we will over the course of the next year focus on at least three issues arising from discussions at the Conference – transparency on the tax burdens of businesses, constructive dialogue between in-house counsel and private practitioners on their business objectives, and training on ESG matters. Our Newsletter, this quarter, features articles on changes in production sharing contracts with the advent of the Petroleum Industry Act, the



Nigerian Start Up Bill, challenges of Agribusiness in Nigeria, an exposition into the world of e-Sports in Nigeria, as well as other enlightening pieces.

As with the previous editions of this Newsletter, we have a section spotlighting our committees to help members become more familiar with what these committees do, the officials of the committee, their upcoming events and how interested members can be a part of the committees.

Let me end by thanking the team, who in spite of their busy schedules, volunteer to put this Newsletter together. We are grateful for their efforts and hard work.

Enjoy.

AA

Chairman  
Nigerian Bar Association Section  
on Business Law (NBA-SBL)

# NBA-SBL AGM 2022



# MEET YOUR NEW EXECUTIVE COMMITTEE



"I am hopeful that this Council will consistently give 10X or greater return on the investment of time, energy, and resources our members and stakeholders entrust to us" - Rotimi Ogunyemi, Member | Managing Partner, Bayo Ogunyemi & Co

"Working collaboratively with all members of Council, I hope to assist in deepening the SBL's value offering of positive impact on the Nigerian business environment whilst improving and indeed strengthening the professional ethos of its members" - Stella Duru, Member | Partner, Banwo and Ighodalo



"No matter how brilliant the strategy is, a solo player will always lose out to a team. I intend to be a team player and be part of the team that will take SBL to the next level - Olayinka Abiodun Esan, Zonal Officer - West | Senior Partner, Makanjuola Esan & Co.

"The NBA SBL has been at the forefront of capacity building and advocacy in business law and I am happy to be a part of the work of the NBA- SBL Council to develop fresh strategies to advance these objectives" - Funmi Otsemobor, Member | Partner, Aluko and Oyebode



Expanding SBL membership and horizon of business law practice among lawyers in Nigeria" - Jude Ezegwui, Zonal Officer - East | Head Partner, Integrity Chambers



"An SBL that will continue to foster and work for a legally conducive business environment" - Chinasa Unaegbunam, Member | co-Managing Partner, Streamsowers & kohn



**"We hope that over the next two years, we will continue the exemplary work done by our predecessors in council and grow the SBL into the foremost business law resource centre in Nigeria and across the continent" - Aisha Rimi, Vice Chairman | Partner, Africa Law Practice (ALP)**



**With this new era, the SBL will further drive growth and innovation for business lawyers in a changing world" - Perenami Momodu, Member | Partner, Aelex**



**"To continue to redefine legal practice by constantly engaging various stakeholders for the advancement of business law in Nigeria" - Efeomo Olotu, Member | Partner, George Etomi and Partners (GEP)**



**"The SBL's has over the years set a very high standard for sectional value add within the NBA. Its programmes and flagship events lead business law conversations and stay in tune with changing trends and developments. I am hopeful that this council will stay true to type, exceed expectations by setting new standards and democratising access so that many more lawyers especially, younger lawyers, may take advantage of the stellar initiatives that the SBL is championing" - Oyeyemi Aderibigbe, Financial Secretary | Senior Associate, Templars.**



**"I firmly believe that the current administration of the NBA-SBL would leverage the historical growth of the Association and technology to provide enhanced capacity development within its ecosystem" - Osahon Uhuangho, Member | Lead Counsel, BTO Partners**



**"To contribute in elevating the positive impacts of the SBL in the professional - Kehinde Daodu, Member | Partner, Babalakin & Co Legal practitioners**



**"An SBL that will continue to disrupt the status quo and drive impactful innovation for business law in Nigeria". This is my goal and focus for the SBL for the next 2 years" - Christine Sijuwade, Member | Group Head, Legal & Compliance at Tangerine Financial UK.**



**"I am honoured to be a member of such a diverse, energetic, astute and aspirational set of Business Lawyers as the current members of the SBL Council. The NBA-SBL is bound to witness innovative programs in the next 2 years and it would be bigger, better and the most sought after forum for Business Lawyers this century" - Ola Dosunmu, Member | CEO and Lead Consultant at SoDo & Jaythan Limited**



**"Looking forward to contributing to the innovation, energy and dynamism the SBL brings in advancing the business of law" - Ayoyinka Olajide-Awosedo, Treasurer | Partner, AARNDALE Solicitors**





The NBA-SBL has played a pivotal role in matters of business, national development and governance, and has been a pace setter in many ways. I look forward to working with the Chairman and other council members to take the NBA-SBL further over the next two years” -  
**Ozofu Ogiemudia, Immediate Past Secretary | Partner, Udo Udoma & Belo-Osagie**

"To work with the other members of the Council to deliver a worthy representation and ensure we fulfil our mandate and objectives to our members whilst creating value to the legal and business community at large" -  
**Adeleke Alex-Adedipe, Asst. Secretary | Managing Partner, Duale, Ovia & Alex-Adedipe.**



**DR. ADEOYE ADEFULU**  
 CHAIRMAN  
 PARTNER, ODUJINRIN & ADEFULU



**BABA ALOKOLARO**  
 SECRETARY  
 MANAGING PARTNER,  
 THE NEW PRACTICE (TNP)



**AYULI JEMIDE**  
 IMMEDIATE PAST CHAIRMAN  
 LEAD PARTNER, DETAIL  
 COMMERCIAL SOLICITORS



**FATIMA KERE-AHMED**  
 ZONAL OFFICER - NORTH  
 SECRETARY TO THE BOARD OF  
 CODE OF CONDUCT BUREAU.

# IPPG-SBL LEGAL & REGULATORY WORKSHOP 2022



# THE 16<sup>TH</sup> NBA-SBL ANNUAL BUSINESS LAW CONFERENCE AT A GLANCE: OVERVIEW, HIGHLIGHTS & NEXT STEPS

Charles Adekunle<sup>1</sup> & Emmanuel Nkamare<sup>1</sup>

Thousands of business lawyers, regulators, policymakers, and stakeholders from the public and private sectors, seeking solutions to the myriad of challenges limiting businesses in Nigeria gathered in Abuja, Nigeria's capital city from Wednesday, 20<sup>th</sup> July 2022 to Friday 22<sup>nd</sup> July 2022, to mark the 16<sup>th</sup> Annual Business Law Conference of the Nigerian Bar Association-Section on Business Law (NBA-SBL) themed "Recent Developments in the Business Law Environment".

The conference featured a keynote address by Kosi Antiwiiwaa Yankey-Ayeh, the Chief Executive Officer of Ghana Enterprises Agency (GEA), presentations by the Registrar General of the Corporate Affairs Commission (CAC), Alhaji Garba Abubakar (represented by Mr. Nidiya Justine Biraol, the Commission's Director of Compliance and Litigation), and the Executive Vice Chairman/Chief Executive of Federal Competition and Consumers Protection Commission (FCCPC), Mr. Babatunde Irukera respectively, and several plenary sessions on diverse emerging business issues from topical discourses on corporate governance, Ponzi schemes and insolvency, environmental, social, and governance (ESG), the AfCTFA, competitions and mergers, tax administration, regulation of Internet Service Platforms (ISPs) to spirited analysis of the Federal Competition and Consumers Protection Act (FCCPA 2018), the Companies and Allied Matters Act (CAMA 2020), the Petroleum Industry Act (PIA 2021) and the Nigerian Startup Bill.

Apart from exploring themes on business law, the conference also examined the business of law, providing a platform for examining new trends and expectations in the relationship between In-House & External Counsel, and discussing how to run a successful business law practice in Nigeria with specific focus on themes of succession and new frontiers of law practice.

## Innovations in CAMA 2020

Conferees lauded the new features in CAMA 2020, especially key developments such as the recognition of electronic filing and e-signature, virtual board meetings and Annual General Meeting (AGM), single shareholder and single director company structure, the elimination of the requirement for SMEs to file auditors report while filing their annual returns and the replacement of the requirement for companies to have an "authorized share capital" with a "minimum issued share capital". The establishment of a CAC Clinic that offered Conferees the opportunity to directly/virtually engage with CAC's representatives to address unresolved CAC-related matters was a key highlight of the conference.

## Doing Business the ESG Compliant Way

Panellists enjoined businesses to integrate ESG solutions such as corporate governance codes, ethics, diversity, inclusion, and climate change awareness into doing business, as a refusal to do so may lead to economic losses for businesses and a sabotage of the company's goodwill. Conferees recognized that ESG compliance strategies broadly offer businesses the opportunity to manage risks and drive positive social change.

## Collaborating for Progress: Relationship between In House and External Counsel

To continue to remain competitive and enhance collaboration with In House Counsel, External Counsel were advised to increase their capacity in Information Technology (IT). In addition, demonstration of expertise in subject matter issues, liaising with industry regulators, developing interest in client's business, and ensuring full disclosure of all material information were identified as factors in seamless In House and External Counsel relationship.





## **Curtailing Ponzi Schemes in Nigeria: The Insolvency**

### **Approach**

Nigeria's challenging economic state was identified as a factor in the rise of *Ponzi* schemes. The conference highlighted that the preventive approach – sensitizing the public on the red flags of *Ponzi* schemes and the recovery approach – utilizing the powers of an insolvency practitioner under CAMA 2020 to claw back on the assets of the fraudulent company and liquidate the company to enable “investors” to recover some part of their investment, as potential solutions be adopted in dealing with the prevalent socio-economic danger of *Ponzi* schemes.

### **Trade without Borders- Going the AfCFTA Route**

Conferees were enlightened on the broad cross-jurisdictional opportunities that the AfCFTA Agreement provides for Nigerian business lawyers especially the ability to participate in a single African Market.

### **The New Face of Competition & Merger Control in Nigeria**

The expansion of the FCCPC's remit beyond consumer protection to the regulation of competition, under the FCCPC Act, and the role of the FCCPC in mergers involving banks and other financial institutions, were key issues discussed at the conference. The panellists on one hand applauded the FCCPC's accessibility and responsiveness in fostering the effective implementation of the new framework and on the other, appraised the new regulatory regime as more complex and imposing multiple reporting obligations to undertake merger transactions. It was also highlighted that the new framework leaves some uncertainty as to the ultimate role of the Securities and Exchange Commission in merger transactions, with an urgent need for inter-agency collaboration.

### **Tax Administration Strides and the Nigerian Business Environment**

The panel focused its discourse on tax administration, tax certainty and policy among others. Most notable was the discourse on the recent requirements of the rules of the Federal High Court and the Tax Appeal Tribunal requiring a 50% percent deposit by an appellant prior to lodging an appeal against the decisions of a Tribunal and its effects on appellant's cashflow. Key issues that received critical attention included the need for the National Tax Policy's

amendment to send better signals to investors, the derogation of the Federal Inland Revenue Services' (“FIRS”) explanatory notes to the annual Finance Act as well as the legality of the FIRS' powers to access a company's Enterprise Resource Planning software tool, particularly with regard to privacy, and confidentiality concerns.

### **Regulation of Internet Services Platform in Nigeria:**

#### **Necessity or Overreaching?**

The balance between the right to free speech and national security/public interest was a focal point as Panellists discussed Nigeria's Twitter ban in comparison with the Former President Donald Trump's ban from Twitter, among other issues regarding internet regulation in Nigeria. It was recommended that the NBA-SBL deploy its expertise in supporting the National Information Technology Development Agency, to provide better regulation, advocacy, and stakeholder relations within the space.

#### **The Nigerian Start-up Bill: Economic Enabler?**

The session focused on the Nigerian Start-up Bill, and the roadmap towards its implementation when signed into law. The panellists discussed the relevance of the Start-up Bill to Nigeria, and some of its salient provisions such as the constitution of a start-up council, a start-up support and engagement portal and the start-up investment seed fund.

#### **Making the Petroleum Industry Act work**

The panel centred its discussions around the implementation of the PIA 2021. The session highlighted that for the first time the PIA provides for a governance framework that clearly sets out rules for visibility and accountability across the policy, regulatory and commercial ambits of the industry. The dual regulatory model adopted under the PIA which separates the regulation of upstream from midstream/downstream and the potential issues arising were roundly discussed. The panellists re-echoed that the PIA's implementation was still in its early days and acknowledged the consultation mechanisms being undertaken with industry stakeholders to enable effective implementation of the PIA.



## The Next Steps Forward

The NBA-SBL reiterated its stance towards tracking the activities of relevant regulatory bodies, providing support to them and pushing for legislative and regulatory reforms in the interest of the business community.

Hence, it was recommended that the NBA-SBL continues to engage the Corporate Affairs Commission (CAC) to:

- a. Ensure that the Administrative Proceedings Committee of the CAC is urgently constituted to resolve issues between the CAC and its customers;
- b. institute a standard customer management platform;
- c. revisit the Commission's recent policy to provide status reports/extracts rather than certified true copy of documents in its custody to customers;
- d. optimize seamless collaboration between the CAC and the Trademark Registry to avoid conflicts between registered names and trademarks;
- e. revisit the ban on the filing of share transfer instrument at the CAC as records of the CAC tend to be more reliable than company's internal records such as register of members and;
- f. collaborate with CAC on sensitizing the public of the existence of the one-man company and limited liability partnership business structure.

We further recommend that the NBA-SBL sets up a working/monitoring group to foster interagency collaboration between the SEC and the FCCPC, particularly to ensure that the terms and objectives of the Memorandum of Understanding (MOU) signed by both Parties are achieved.

To regulate the FIRS' access levels, the NBA-SBL is implored to recommend additional measures to the National Assembly on how to protect company's sensitive data as well as data subjects' rights under the 2022 Finance Bill and the Data Protection Bill respectively.

We recommend finally that the NBA-SBL deepens its engagement with the AfCFTA Secretariat on the Protocol on Trade in Services especially on issues on right of lawyers to practice at local bars, immigration, and applicable laws.

Conclusively, the conference aptly delivered on its goal of examining recent developments in the Nigerian business environment vis-a-vis how they have shaped and affected business operations in the country.

# PRODUCTION SHARING CONTRACTS IN NIGERIA – WHAT IS SET TO CHANGE UNDER THE PETROLEUM INDUSTRY ACT

BY: SANDRA OSINACHI-NWANDEM

## INTRODUCTION

A production sharing contract is a contractual relationship between an International Oil Company (IOC) and the state, wherein the state authorizes/hires the IOC as contractor to explore for and exploit oil and gas in a defined area and for a defined period.<sup>1</sup> The state who is the host country, is represented by its National Oil Company (NOC), and owns the oilfield, the hydrocarbons, and equipment and installations. After the IOC recovers its cost of production, the balance of revenues from the hydrocarbons produced is shared on a pre-determined percentage split between the host country and the IOC. The IOC's income is liable to taxation.<sup>2</sup>

## PRODUCTION SHARING CONTRACTS IN NIGERIA

In the early 1990s, the Federal Government of Nigeria (FGN) adopted the PSC arrangement as the appropriate upstream petroleum contract that would be suitable for the award of acreages in its offshore and inland basins. The rationale behind the adoption of PSC were; the funding constraints being experienced in the Joint Venture arrangements (where the Nigerian National Petroleum Corporation (NNPC) was failing to meet its cash call obligation), the high geological risk associated with deep water and inland basins exploration, the desire of the Government to retain title to the oil concession and the aspiration to increase the nation's reserve base.

The terms of current PSC's in Nigeria provide for the allocation of crude oil proceeds to the contracting parties, i.e. the NNPC or the OPL holder on the one hand, and the Contractor (an oil exploration and production company, usually an IOC) on the other hand. The crude oil proceeds are allocated in the priority order of **royalty oil, cost oil, tax oil, and profit oil.** (Emphasis, mine).

The OPL is granted in the name of NNPC. The contractor executes a PSC with the NNPC for the exploration and production of the acreage covered by the OPL. Eventually, an Oil Mining Lease (OML) will be granted to the parties if oil is found in commercial quantity.

The *Deep Offshore and Inland Basin Production Sharing Contract Act (DOIBPSCA) 1999 (as amended)*<sup>3</sup> was enacted by the FGN, to create uniformity in the contractual terms of PSCs in the different PSC models which emerged between 1993 and 2007.

## FISCAL REGIME OF PSCS UNDER DOIBPSCA

The DOIBPSCA only provides for fiscal incentives to oil companies operating the Deep Offshore and Inland Basin areas. Under the Act, the duration of OPLs are between 5 and 10 years.<sup>4</sup> It amended the Petroleum Profit Tax Act (PPTA) and stipulates 50% flat rate of chargeable profits as the petroleum profits tax payable under a PSC. Contractors are however, not exempted from the payment of other taxes, duties or levies imposed by the Federal, State, Local Government or Area Council Authority.<sup>5</sup>

<sup>1</sup> S.C Dike, *Energy Security, The Case of Nigeria and Lessons from Brazil, Norway and the U.K* (Pearl Publishers, 2015) 70

<sup>2</sup> Kristen Bindemann, *Production Sharing Agreements an Economic Analysis* (Oxford Institute for Energy Studies, 1999) 12

<sup>3</sup> Deep Offshore And Inland Basin Production Sharing Contract Act, Cap D3, Laws of the Federation of Nigeria, 2004.

<sup>4</sup> *Ibid*, s. 2.

<sup>5</sup> *Ibid*, s. 3.

It grants an investment tax credit of 50% to NNPC or the holder and the contractor who have incurred capital expenditure entirely and exclusively on petroleum operation in the PSC executed before 1st July 1998.<sup>6</sup> Similarly, parties to any PSC are granted Investment Tax Allowance of 50% on their expenditure.

Pursuant to the 2019 amendment of the DOIBPSCA, the new royalty regime specifies a baseline royalty of 10% for crude oil condensates produced in deep offshore greater than 200 meter water depth, and 7.5% for the frontier and inland basins (royalty on field basis). In addition to the baseline royalty, a royalty based on the applicable price of crude oil condensate & natural gas will apply, but only when the price exceeds \$20 per barrel.

### FISCAL REGIME OF PSCS UNDER THE PETROLEUM INDUSTRY ACT (PIA) 2021

The DOIBPSCA 2019 (as amended) will be repealed pursuant to S. 310(1) (h) of the PIA after the conversion of all OPLs and OMLs to Petroleum Prospecting Licenses (PPLs) and Petroleum Mining Leases (PMLs) respectively. The new fiscal regime for PSCs on the commencement of the PIA are as follows;

1. Hydrocarbon tax (HT) shall now be applicable to deep offshore operations, but not to associated and non-associated natural gas.<sup>7</sup> The HT shall be levied on profits from deep offshore operations which shall be charged and assessed, and payable during each accounting period in accordance with the Act.<sup>8</sup>
2. A PSC executed before the commencement of the Act, shall be charged 5% of HT for deep offshore operations on its profit from crude oil for the period aggregated, and a PSC converted to a PPL or PML after the commencement of the Act shall be charged 10% HT from profits from crude oil produced for Deep offshore areas. Contractors under a PSC will still be subjected to Companies Income Tax (CIT), meaning, companies under a PSC will now be double taxed.

3. Fiscal stabilization clauses contained in any PSC contract entered into after the commencement of the Act shall not be applicable to certain fiscal provisions, like tertiary education tax, VAT, withholding taxes, CIT, levies, taxes or payments which comply with modern principles with respect to environment, labour, health and safety, or levies and duties to implement Nigeria's commitments to climate change under the United Nations framework Convention on Climate Change and other related agreements.<sup>9</sup>
4. Renegotiated PSC's after the commencement of the PIA, shall not feature any investment tax credits which was a major feature in the DOIBPSCA. PSCs under the PIA shall feature cost oil not more than 60% of the total production, while profit oil is to be determined based on cumulative production of all production areas at renewal or conversion of the OPL or OML to a PPL or PML.<sup>10</sup>
5. There shall be a model contract developed by the Nigerian Upstream Petroleum Regulatory Commission (The new upstream regulator under the Act) which shall be attached to a PPL or PML setting out the contractual terms in a PSC, and by such terms, the contractor in a PSC can only recover the cost for his operations in accordance with the Act and the profit allocated to the government shall be in cash and not profit oil like in the DOIBPSCA.<sup>11</sup>
6. Concessions in a PSC signed by the NNPC are to be assigned to NNPC Ltd and a notice thereof shall be written by the NNPC to the contractors.<sup>12</sup>
7. The development period under a PSC for deep offshore or frontier acreage shall be 7years if not specified in the field development plan.<sup>13</sup>
8. Under a PSC, the area provided for in a PPL shall not exceed 1000 square kilometers for deep offshore acreages, and 1,500 square kilometers for frontier acreages.<sup>14</sup>
9. All contractors in a PSC are to conform to abandonment, decommissioning and disposal of offshore pet wells, installations, plants, utilities etc

<sup>6</sup> *Ibid*, s.5.

<sup>7</sup> *PIA, 2021, s. 260.*

<sup>8</sup> *Ibid*, s. 261.

<sup>9</sup> *Ibid*, s.305.

<sup>10</sup> *Ibid*, s.311(2)(a)(iii).

<sup>11</sup> *Ibid*, s. 85.

<sup>12</sup> *Ibid*, s. 311(2)(a)(ii).

<sup>13</sup> *Ibid*, s. 86(4)(b).

<sup>14</sup> *Ibid*, s. 77(3).

in accordance with good international petroleum industry practice and guidelines issued by the Commission, which shall meet the standards prescribed by the international maritime organization on offshore petroleum installations and structures.<sup>15</sup>

10. Companies under a PSC arrangement shall be allowed to consolidate costs and taxes for operations across terrains for the purpose of CIT and HT.<sup>16</sup>
11. The penalty for non filing of estimated HT returns, CIT returns and any offence or default with no specific penalty have been increased from N10,000 to N10,000,000 for the first day of default, and from N2,000 to N2,000,000 for subsequent days default.

Section 311(9) of the PIA however saves the DOIBPSCA until the termination of all OPLs and OMLs.

## CONCLUSION

There is no doubt that PSC has assumed a place of prominence in the contractual arrangement in the Nigerian upstream petroleum sector. However, government take is still very low, even with the 2019 DOIBPSCA amendment. The PIA provides the much needed clarity on certain aspects of the PSC arrangement, like the introduction of a model PSC for renegotiated or new PSCs, the domestic supply obligation for parties to the PSC and a host of other improvements.

However, the significant changes introduced to the fiscal framework, like the expunging of the 50% investment tax credit formerly enjoyed by contractors under the DOIBPSCA regime, and the introduction of Hydrocarbon Tax to PSCs, even though aimed at increasing the Federal Government revenue may deter investors, especially in an era when other countries are doing the much they can to incentivize investors in the sector, and where the International Energy Agency and the World Bank are discouraging investments in fossil fuels. I recommend that these provisions in the PIA be reviewed in a way to create a win-win situation for both the FGN and the foreign investors.

***Sandra E. Osinachi-Nwadem***

*Lead Consultant at the law firm of Doyen & Bloom LP.  
on.hstripeslaw@gmail.com*

---

<sup>15</sup> *Ibid*, s. 232(4).

<sup>16</sup> *Ibid*, s. 272.



# NIGERIA STARTUP BILL: THE FULCRUM FOR A TECHNOLOGY RELIANT ECONOMY

BY: OMORUYI EDOIGAWERIE

## INTRODUCTION

Nigerian startups are attracting more and more investment. In 2020, startups raised about \$120.6 million, with \$85.8 million of that coming from foreign investors<sup>1</sup>. Statistics also indicate that in the first quarter of 2021 alone, Nigerian tech startups raised \$219 million, which tripled the combined amount raised in the corresponding quarters for 2018, 2019, and 2020 respectively<sup>2</sup>. However, despite the encouraging statistics of startup investment in Nigeria, many challenges still threaten the growth of startups in the country, making it difficult for them to scale.

The Nigeria Startup Bill 2021 (“the Bill”) transmitted to the National Assembly in October 2021, is a joint initiative by Nigeria’s tech startup ecosystem and the Federal Government to unlock the potential of the Nigerian digital economy. The National Assembly passed the Bill on July 27, 2022<sup>3</sup>. The Bill is now headed to the desk of the President, and it is expected to be assented to given that the bill is a joint initiative of the Federal Government.

This article will discuss the notable provisions of the Bill and juxtapose them with the position in other jurisdictions.

## NOTABLE PROVISIONS IN THE BILL FOR STARTUPS

The notable provisions of the Bill are the following:

### 1. Establishment of the National Council for Digital Innovation and Entrepreneurship (The Council)

The Council is established as a corporate body with the right to sue and be sued<sup>4</sup>. It is headed by the President but also has a strong coalition of the Ministers of Communication, Finance, Industry and Trade and Science and Technology, the Governor of the Central Bank of Nigeria (CBN), representatives from the Startup Consultative Forum and the Nigeria Computer society and finally the Director-General of the National Information Technology Development Agency (NITDA) (Secretariat of the Council)<sup>5</sup>. The functions of the Council are, among others, the formulation and provision of general policy guidelines for achieving the development of startups and the provision of overall guidance on the harmonisation of Laws and Regulations that affect startups<sup>6</sup>.

### 2. Establishment of the Startup Support and Engagement Portal

The Portal is to be setup by the Secretariat with the approval of the Council to provide startups with a one-stop window to apply for the relevant permits with the relevant Ministries, Departments and Agencies (“MDAs”)<sup>7</sup>. The Portal primarily serves as intermediaries between startups and the Federal Government, private institutions, angel investors, venture capitalists, incubators, accelerators and other relevant institutions. The Portal also facilitates the issuance of a permit or licence to labelled startups and

<sup>1</sup> Businessday, “Nigeria records 61% startups’ failure rate in 9 years”. Available at <https://businessday.ng/amp/uncategorized/article/nigeria-records-61-startups-failure-rate-in-9-years/> (Accessed July 28, 2022)

<sup>2</sup> Techpoint, “Report: Nigerian startups raised \$219 m in Q1 2021, higher than the figures of the last three Q1s combined” <<https://techpoint.africa/2021/05/04/nigerian-startups-funding-report-q1-2021> (Accessed July 28, 2022)

<sup>3</sup> Techcabal, “Nigeria’s House of Reps passes the Nigeria Startup Bill”.

<<https://techcabal.com/2022/07/28/nigerias-house-of-reps-pass-the-nigeria-startup-bill/> (Accessed July 28, 2022)

<sup>4</sup> Nigeria Startup Bill 2021, Section 3(2)

<sup>5</sup> Ibid, Section 4

<sup>6</sup> Section 7

<sup>7</sup> Section 10(1)



provides startups with opportunities, information and access to the global market<sup>8</sup>.

### 3. Startup Labelling

In order to access the incentives under the Bill and the Portal, a startup can apply to obtain the startup label ("the Label"), a certificate issued by the Secretariat to a startup<sup>9</sup>. To obtain this certificate, a startup registered as a company (within 10 years of incorporation), sole proprietorship or partnership, must fulfil the following conditions<sup>10</sup>:

- the objects of the entity should be innovation, development, production, improvement, and commercialisation of a digital technology innovative product or process.
- it is a holder or repository of a product or process of digital technology, or the owner or author of a registered software.
- it has at least 51% of its shares held by one or more Nigerians

The label will not be granted to an organisation that is a holding company or subsidiary of an existing company that is not registered as a startup<sup>11</sup>. An application for the label shall be made on the startup portal and approved by the Secretariat<sup>12</sup>.

### 4. Establishment of the Startup Investment Seed Fund

The Bill sets up the Startup Investment Seed Fund ("the Fund") to be managed by the Nigeria Sovereign Investment Authority ("the Fund Manager") which will be funded by sums from sources to be approved by the Council<sup>13</sup>. The fund will be utilized to<sup>14</sup>:

- provide a labelled startup with finance.
- provide early-stage finance for a labelled startup on the recommendation of the Fund Manager subject to the approval of the Council; and
- provide relief to technology laboratories, accelerators, incubators and hubs.

---

<sup>8</sup> Section 10(2)

<sup>9</sup> Section 13(1)

<sup>10</sup> Section 13(2)

<sup>11</sup> Section 13(3)

<sup>12</sup> Section 14

<sup>13</sup> Section 19(1) and (2)

### 5. Tax and Fiscal Incentives for development of Startups

The Bill provides for the various incentives to aid the growth and development of startups in Nigeria including:

#### ▪ Pioneer Status Incentive Scheme<sup>15</sup>

This incentive was created by the Industrial Development (Income Tax Relief) Act for critical industries. Startups may apply under the extant Pioneer Status Incentives (PSI) Scheme to the Nigerian Investment Promotion Commission (NIPC) for the grant of the tax reliefs and incentives.

#### ▪ Percentage-based tax relief for a labelled startup<sup>16</sup>

A labelled startup (with a minimum of ten employees, 60% of which are without any form of work experience and graduated within three years from school or any vocation) is entitled to relief from income tax of 5% of its assessable profits for a maximum period of five years.

#### ▪ Incentives and reliefs for investors investing in a labelled startup<sup>17</sup>

Investors in startups are entitled to a 30% investment tax credit and relief from capital gains tax in respect of the disposal of an asset related to a startup. The Federal Ministry for Finance and other MDAs are empowered to develop and implement a national policy for incentives for investors in a labelled startup or in the startup ecosystem.

#### ▪ Tax incentives for employees of a labelled startup<sup>18</sup>

An eligible employee of a labelled startup (to be determined by NITDA and the Joint Tax Board) is entitled to a 35% personal income tax exemption on income for two years from the date of engagement by a labelled startup.

<sup>14</sup> Section 19(3)

<sup>15</sup> Section 24

<sup>16</sup> Section 26

<sup>17</sup> Section 30

<sup>18</sup> Section 31

## THE NIGERIAN STARTUP BILL VIS-À-VIS OTHER

### JURISDICTIONS

The enactment of Startups Laws is not novel or exclusive to Nigeria as Italy was the first country to enact a Startup Act in 2012<sup>19</sup>. The success of Startups laws in the economy of countries is also widely acknowledged. For example, following the enactment of the Startup Act in Tunisia in 2018, startups were given startup labels. As of August 2020, 327 startups had received the startup label making them eligible for the benefits given to startups<sup>20</sup>. Statistics also show that \$18.5 million has been raised by the startups combined<sup>21</sup>.

The Nigerian Startup Bill complies with best standards compared to that of Senegal, Tunisia, Ethiopia and Kenya, and addresses many of the issues faced by Startups in one legislation<sup>22</sup>. Also, compared to other laws, the Bill contains comprehensive provisions regarding tax reliefs, loans and credit facilities, investment funding from both the public and private sectors, and grants issuance<sup>23</sup>.

The various Startup laws in these countries also establish a regulatory and supervisory body to aid startups<sup>24</sup>. In Nigeria, the National Information Technology Development Agency (NITDA) and the Council oversee the implementation of the Bill. The Bill however goes ahead of the other jurisdictions to create the Startup Consultative Forum.

As a general observation, the enactment of Startups laws helps to ease the creation and development of startups<sup>25</sup>. In 2018, Nigeria ranked as 101 out of 137 countries on the Global Entrepreneurship Index (GEI) with a 19.7 GEI score, making the country 12th in Africa<sup>26</sup>. Whereas, following the passage of the Startup Act in Tunisia, Tunisia ranked first in 2018 and second in 2019 in Africa on the GEI<sup>27</sup>

### CONCLUSION

Although, various legislations already exist that support the growth of startups in the country such as the Venture Capital Incentives Act (provides tax exemptions for equity investments made by venture capital companies in a startup in Nigeria), the Nigerian Startup Bill is crucial due to the potential for startups to contribute to the economy.

The Bill resolves the regulatory, financial and structural constraints that have plagued the Nigerian tech startup ecosystems over the years. It is hoped that the bill will create an enabling environment that allows startups thrive for the betterment of the Nigerian economy.

#### *Omoruyi Osagie Edoigiawerie*

*Author, Legal Practitioner and Founder of Edoigiawerie & Company LP.*

*omoruyi@uyilaw.com*

---

<sup>19</sup> Jordan Wolken, 'Startup Acts are the Next Policy Innovation in Africa' [2020], Atlantic Council. <<https://www.atlanticcouncil.org/blogs/africasource/startup-acts-are-the-next-form-of-policy-innovation-in-africa/>> accessed July 28, 2022.

<sup>20</sup> GSMA, "Exploring the Rising Tunisian Startup Ecosystem". <<https://www.gsma.com/mobilefordevelopment/blog/exploring-the-rising-tunisian-startup-ecosystem/>> (accessed July 28, 2022)

<sup>21</sup> Ibid

<sup>22</sup>The Cable, 'It's unprecedented- FG says ICT contributed 17.9% to Nigeria's GDP in Q2 2021' (2021) <<https://www.thecable.ng/its-unprecedented-fg-says-ict-contributed-17-9-to-nigerias-gdp-in-q2-2021>> (accessed July 28, 2022)

<sup>23</sup> Ibid

<sup>24</sup> See Omaplex, "The Nigerian Startup Bill 2021: A Comparative Analysis". <<https://omaplex.com.ng/nigeria-startup-bill-a-comparative-analysis/>> (accessed July 28, 2022)

<sup>25</sup> See Borg, "On the Journey to Nigeria's Startup Act" <<https://www.borg.re/articles/ideasmemo/on-the-journey-to-nigerias-startup-act>> (accessed July 28, 2022)

<sup>26</sup> Financial Nigeria, "2018 Global Entrepreneurship Index: Nigeria ranks 12th in Africa".

<<https://www.financialnigeria.com/2018-global-entrepreneurship-index-nigeria-ranks-12th-in-africa-news-1476.html>> (accessed July 28, 2022)

<sup>27</sup> Ibid n. 6



# REVISITING THE CHALLENGES AND OPPORTUNITIES OF AGRIBUSINESS IN NIGERIA

BY: ADEWALE K. KUPOLUYI, PHD

## INTRODUCTION

Agriculture remains a veritable source of avenue for food supply, industrial raw materials, employment, means of combating climate change, and revenue for the nation. Unfortunately, what we have today in Nigeria are hunger, shortage of industrial raw materials and its attendant low capacity utilisation, youth unemployment, environmental problems, and dwindling earnings. The diversion of attention from agriculture, which was once the mainstay of the economy, was because of the favourable oil shocks of 1970s. This ushered in the era of 'oil boom', which made agricultural products less competitive and emphasis placed on importation of cheap agricultural food and capital items. The over-dependence on oil has not only promoted economic wastage and mismanagement of scarce resources, but it has also made the Nigerian economy susceptible to external shocks<sup>1</sup>.

From 1960 to 1969, the agriculture sector accounted for an average of 57.0% of Gross Domestic Product (GDP) and generated 64.5% of export earnings. From 1970 to late 2000s, the sector's contribution to GDP and export earnings steadily declined, due to over-dependence on petroleum exploration while over the years, the sector has contributed an average of 23.5% to GDP and generated 5.1% of export earnings<sup>2</sup>.

<sup>1</sup> Sennuga, M. A., Adedayo, T. G. & Sennuga, S. O. (2020). Nigeria beyond oil: Problem and prospects. *International Journal of Business Management*, 3(9), 1-13.

<sup>2</sup> PwC (2017). Transforming Nigeria's agricultural value chain. Retrieved, September 10, 2022, from <https://www.pwc.com/ng/en/publications/transforming-nigeria-s-agricultural-value-chain.html>

<sup>3</sup> Business Compiler (2021). Problems facing agriculture in Nigeria and possible solutions. Retrieved, September 8, 2022, from

The situation today is that many arable lands are uncultivated making farming to be limited to the subsistence level, use of technology is restricted while the teeming youthful and agile population seem not interested in going into farming to earn a living. Generally, most of the farming population do not have formal education. Statistics show that only about 17%, 13% and 8% of Nigerian farmers have primary, secondary and tertiary educations, respectively, out of which a whopping 62% do not have any form of formal education. This trend is contrary to what is obtainable in developed countries where most farmers have quality formal education and special training on agriculture<sup>3</sup>. Other African nations like Sierra Leone is registered as the agricultural sector's highest contribution to the GDP in Africa, at almost 60%. Chad and Ethiopia followed, with agriculture, forestry, and fishing accounting for approximately 54% and 38% of the GDP, respectively<sup>4</sup>.

Agribusiness is a concept that became popular in the early 1960s and it arose along with recognition of the agro-processing sector as new an emerging sector<sup>5</sup>. Agribusiness is that line of business, which focuses on the processing, warehousing, distribution, marketing, and retailing of products used in farming.

<https://www.businesscompilerng.com/2021/11/problems-facing-agriculture-in-nigeria.html>

<sup>4</sup> Saleh, M. (2022). Contribution of agriculture, forestry, and fishing sector to the Gross Domestic Product (GDP) in Africa as of 2021, by country. *Statista*. Retrieved, September 7, 2022, from <https://www.statista.com/statistics/1265139/agriculture-as-a-share-of-gdp-in-africa-by-country/>

<sup>5</sup> Tersoo, P. (2014). Agribusiness as a veritable tool for rural development in Nigeria. *International Letters of Social and Humanistic Sciences* (14), 26-36

The agribusiness-enabling environment takes centre stage by focusing on identifying specific policy reforms to effectively regulate seed development and quality control, fertilizer quality control, warehouse receipts, agricultural trade, and land reforms for responsible and inclusive agricultural investments<sup>6</sup>. A number of factors continue to inhibit agricultural stakeholders from playing active roles and making functional towards the development of agribusiness in Nigeria. To begin with, access to funding remains a big problem. Many of the farmers are Small Scale Entrepreneurs (SMEs) with limited capital to run their businesses. Most financial institutions in Nigeria offer loans with high interest rates, demand for collateral that are difficult to meet, and often times, loans are given to people with good connections and leaving out real farmers.

Furthermore, inconsistency in government policies is another setback affecting agribusiness in Nigeria. Policy uncertainty has affected the agriculture sector like every other sectors of the Nigerian economy for every government comes up with its own programmes and policies and cancels the ones by previous governments<sup>7</sup>. Poor and epileptic electricity supply makes agricultural entrepreneurs incur huge resources on power, which often increases cost of production. Poor road networks hinder timely and smooth delivery of goods while high level of insecurity restricts free movement of goods and commodities across the country. Scarcity of foreign exchange is a critical challenge facing agribusiness because most of the equipment used for the cultivation, harvesting and storage of farm produce are not made locally, but imported.

Agribusiness can be promoted when the problems identified above are addressed in part or holistically. What is required is the necessary strong-will, technical knowledge, and favourable legislation to rejig the agribusiness architecture for optimal performance in Nigeria.

This requires bold decisions, policy reforms and the creation of enabling environment for investments and active participation by the private sector in a manner that the government will reduce its involvement and allow a system to thrive and balance itself<sup>8</sup>. Strong-will entails strengthening the existing institutions to be insulated from graft and ineptitude, domestication of agricultural technology (AgricTech) for local content such that Nigerians can operate and maintain sophisticated machinery needed to boost farming and putting in place the right laws and legislation that seek to tackle the problems pertaining to ownership and acquisition of land, title perfection, indiscriminate payment of land charges and taxes, as well as duplicity of laws for these usually create confusion when it comes to implementation of extant laws.

Commercial farming requires a vast land mass even though land acquisition process is still cumbersome, especially in the southern Nigeria. The reason for this is that land administration is mostly held by families in accordance with customary laws that allow landed property to be passed from one generation to another. Commercial farming requires acquiring landed belonging to families and getting them to agree to sell such heritage is often an uphill task. Aside this, the Land Use Act Cap L5, Laws of the Federation 2004 appears to make the process of land acquiring land more cumbersome<sup>9</sup>. To promote virile agribusiness in Nigeria, the follow points are worth of consideration. Firstly, farmers should be encouraged and assisted to have access to working capital with low interest rates. The government, through its interventionist agencies like the Central Bank of Nigeria (CBN) and Bank of Agriculture (BoA) and should have empowerment programmes targeted at providing single digit credit facilities specific for farmers. Deposit money banks and other financial institutions should increase lending to the agricultural sector. The farmers should improve on their farming management practices to reduce risks and make their businesses bankable.

---

<sup>6</sup> World Bank (2022). Transforming agribusiness in Nigeria for inclusive recovery, jobs creation, and poverty reduction: Policy reforms and investment priorities. Retrieved, September 9, 2022, from <https://openknowledge.worldbank.org/handle/10986/37132>

<sup>7</sup> Business Compiler (2021)

<sup>8</sup> AfDB (2016). Feed Africa: Strategy for agricultural transformation in Africa (2016-2025). Retrieved, September 10, 2022, from [https://www.afdb.org/fileadmin/uploads/afdb/Documents/Generic-Documents/Feed\\_Africa-\\_Strategy\\_for\\_Agricultural\\_Transformation\\_in\\_Africa\\_2016-2025.pdf](https://www.afdb.org/fileadmin/uploads/afdb/Documents/Generic-Documents/Feed_Africa-_Strategy_for_Agricultural_Transformation_in_Africa_2016-2025.pdf)

<sup>9</sup> Business Compiler (2021)

Adequate infrastructural facilities such roads and power supply should be improved while rising insecurity should be addressed to ensure unhindered movement of agricultural commodities from the farms to other production stages<sup>10</sup>. Archaic laws and legislation should be repealed to give way to those that are legally-friendly to the business environment. State governments should make the process of getting Certificate of Occupancy less cumbersome, easy and timely<sup>11</sup>.

A legal framework for sustainable agricultural practice, which is carefully designed, should be implemented with the necessary political will and involvement of relevant stakeholders, if improvement in economic activities, social equity and increased environmental health, are to be achieved<sup>12</sup>. The government and other stakeholders should increase awareness among farmers on where there are opportunities for them to aid production, which many farmers and beneficiaries are not aware of<sup>13</sup>. Government at all levels, through the various ministries, departments and agencies with mandates to promote agriculture, should engage more extension officers, who will educate the farmers on the best and modern farming practices using technologies (AgricTech) to mitigate low quality farm produce and improve various input and output processes<sup>14</sup>. The right agricultural policies should be put in place to encourage local production of food and industrial raw materials. More importantly, bodies like the Nigerian Bar Association Section on Business Law (NBA-SBL) should facilitate the delivery of legal services in the agriculture sector by empowering lawyers with requisite skills to function in that capacity<sup>15</sup>.

***Dr. Adewale Kenneth Kupoluyi***

*Head, Editorial/Legal at Farming Farmers Farms,  
farmingfarmersfarms@gmail.com*

---

<sup>10</sup> Ibid.

<sup>11</sup> Ibid.

<sup>12</sup> Erhun, M. O. (2019). A legal framework for sustainable agricultural practice in Nigeria. *Canadian Social Science*, 15(10), 19-32. DOI:10.3968/11307

<sup>13</sup> Kupoluyi, A. K. (2022). NBA-SBL tonic for boosting nation's economy. *The Star*, August 16, 2022. Retrieved, September 14, 2020, from <https://www.thestar.ng/nba-sbl-tonic-for-boosting-nations-economy/>

<sup>14</sup> Leiva, M. (2020). What is agritech? Driving the future of food. *Investment Monitor*. Retrieved, September 15, from <https://www.investmentmonitor.ai/sectors/agribusiness/what-is-agritech-driving-the-future-of-food-from-farm-to-plate>

<sup>15</sup> NBA-SBL (2019). Report of the NBA Section on Business Law submitted to the NBA National Executive Committee (NBA-NEC) meeting held on June 20, 2019 in Abuja.



---

# YOUNG LAWYERS SECTION

---



# BLOCK CHAIN AND THE LAW: A PARADIGM SHIFT FOR NIGERIA

BY: TAMUNONEMI FORTUNE TEKENAH & SONIA AYAKPO EBIKI

## ABSTRACT

The present study borders not only on Blockchain as a dual-use technology (digital crypto currencies and decentralized privacy), but its use in the legal industry. Blockchains are a class of technology, meaning that it is not one version of this technology. The researchers in conducting this research, adopted the doctrinal research methodology wherein they relied on statutes, books, and internet source. This paper discusses the relationship between blockchain technology and the applicable laws, even though same is determined on a case-by-case basis. This research paper further discusses principles that have fostered the prevalent growth in the use of blockchain thus far and possible uses in the Nigerian.

Whilst identifying a few challenges to the use of blockchain in Nigeria, the researchers concludes that the adoption of Blockchain technology in the legal industry in Nigeria has brought about positive impacts in the capital/business market.

Keywords: Blockchain, Technology, Distributed Ledger Technology, Internet

## INTRODUCTION

### What is the concept of BLOCKCHAIN?

A Blockchain, also known as distributed ledger, is a shared and synchronized digital database, that is maintained by an algorithm and stored on multiple 'nodes' i.e computers connected to the network that store a local version of the ledger. Unlike traditional databases, distributed ledgers have no central data store or entity controlling the network. They function on a peer-to-peer basis without the need for intermediaries who traditionally authenticate transactions.<sup>1</sup>

Importantly, blockchain is also a regulatory technology, as it guides the behavior of individuals operating in the blockchain networks. This behavior-steering result is achieved using what has been called "crypto-economics". Blockchain is much more than a mechanism that assumes individuals are rational and allows for the automation of transactions; it can be understood as a technological infrastructure.<sup>2</sup>

The internet had already raised a fundamental tension between the rule of law, based on geographical boundaries and the rule of code, based on topological constructs. The regulation of cyberspace lies at the intersection between these two normative systems – which can either cooperate or compete with one another, depending on the circumstances at hand.

---

\* Associate, Serenity Legal Union & Partners, Port-Harcourt, Nigeria. LL. B Hons. (Benson Idahosa University), B.L(Yola) PGD, Petroleum and Environmental Law (Rivers State University),Email: [Officialnemitekenah@gmail.com](mailto:Officialnemitekenah@gmail.com) 09057488651

\*\* Associate, Serenity Legal Union & Partners, Port-Harcourt, Nigeria. LL. B Hons. (Afe Babalola University), B.L (Bayelsa), Email: [Soniaeibiki@gmail.com](mailto:Soniaeibiki@gmail.com) 09023648420

<sup>1</sup> Ganne, E., (2021) "6- Blockchain's Practical and Legal Implications for Global Trade and Global Trade Law". From

Part II- From E-Commerce to Big Data and AI. Published online by Cambridge University Press.

<sup>2</sup> Walch, A., (2015), "The Bitcoin Blockchain as Financial Market Infrastructure: A Consideration of Operational Risk" 18 N.Y.U.J LEGIS & PUB POL'Y. See also DE FILIPPI & WRIGHT, supra note 13; FINCK, supra note 1, at 66 (noting that blockchains have an extraordinary potential to form a regulatory infrastructure governing humans and machines)

With code, people could implement their own systems of rules, enforced by a technological construct that operates outside of any legal jurisdiction.<sup>3</sup> However, the rule of law still needs to be observed.

One of China's dedicated internet courts, based in Hangzhou which solely hears internet-related disputes, now permits the use of blockchain technology as a means of providing evidence. However, just like every other sector evolving, blockchain has also had some drawbacks and some of these drawbacks have been experienced by legal practitioners who utilizes the database in their legal business.<sup>4</sup>

David Fisher, founder, and CEO of Integra Ledger, a blockchain based tech company for legal services, is not that astounded, as he said in 2020 that:

- "Blockchain has not had a significant impact – yet; At the moment, we are seeing an increase in understanding and a reduction in hype. Blockchain may not be transformational, but it will be ubiquitous"<sup>5</sup>

The implication of blockchain for lawyers include, as with any new technology, new business as well as expansion. The legal tech sector is adopting blockchain technology in similar ways to law firm. NetDocuments has integrated blockchain features into its document management systems.<sup>6</sup>

Furthermore, in 2017, two Harvard Business School Professors, *Marco Iansiti* and *Karim R. Lakhani*, published a paper in the Harvard Business Review, in which they argued between "disruptive" and "foundational" technologies. According to them, blockchain is a foundational technology, just as the internet itself was also a foundational technology.<sup>7</sup> In that regard, despite the slow start, the second generation of the internet, as blockchain has been labelled, is still a likely outcome to be progressive and to function efficiently in the legal tech sector.

<sup>3</sup> Harvard University Press (2018) *"The Rule of Code Vs The Rule of Law"*.

[https://harvardpress.typepad.com/hup\\_publicity/2018/04/blcokchain-and-the-law/html](https://harvardpress.typepad.com/hup_publicity/2018/04/blcokchain-and-the-law/html) accessed 11/09/2022/

<sup>4</sup> Polly, B., "Blockchain: technology making in-roads but yet to transform legal sector". International Bar Association. <https://www.ibanet.org/article/DWB4FOF6-E962-4694-8675-ID6C7F87FF18> accessed 11/09/2022

<sup>5</sup> Ibid

<sup>6</sup> Ibid

<sup>7</sup> Ibid

## THE THREE (3) KEY PRINCIPLES OF BLOCKCHAIN

There are three main principles that guides blockchain technology and they will be briefly elucidated below.

1. **Cryptography:** cryptography means the developing techniques or methods used to prevent an outsider from accessing or understanding data from a private message. There are some terms related to cryptography which are:
  - a. **Encryption:** this is the process of converting plaintext to a ciphertext (random sequence)
  - b. **Decryption:** this is the process of converting ciphertext to plain text.
  - c. **Cipher:** this is the cryptographic algorithm that was used in encryption.

So basically, cryptography is sending encrypted messages across a secure channel for it to be decrypted into plaintext.<sup>8</sup>

2. **Open-Source Software:** this is a software where the source code is publicly available to anyone who wants it, and programmers can read or change that if they desire. It should be noted that there is no need to read or modify any code to use an open-source product.<sup>9</sup>
3. **Network Decentralization:** this is where a combination of protocols spread across numerous computer devices, known as **nodes**. The capacity of nodes to communicate without the need for a monitoring body enables the element of decentralization.<sup>10</sup>

<sup>8</sup> TechVidvan (2022) *"Cryptography in Blockchain"*. <https://techvidvan.com/tutorials/cryptography-in-blockchain/?amp=1> accessed 11/09/2022

<sup>9</sup> GCFGlobal *"Basic Computer Skills: Open Source vs. Closed Source Software"* <https://edu.gcfglobal.org/en/basic-computer-skills/open-source-vs-closed-source-software/1/> accessed 11/09/2022

<sup>10</sup> Alexandria *"Decentralized Network"*. <https://coinmarketcap.com/alexandria/glossary/decentralized-network> accessed 11/09/2022



## BLOCKCHAIN IN THE NIGERIAN LEGAL INDUSTRY

The Nigerian Blockchain technology ecosystem is an arena unknown to a lot of Nigerians and it is often confused with the more-well known subset, cryptocurrency. In October 2020, National Information Technology Development Agency (NITDA) announced that it had started developing a blueprint and strategy document for the “National Adoption” of Distributed Ledger Technology (DLT) Blockchain in Nigeria. It would be interesting to note that the first dedicated Nigerian blockchain hub, Convexity Blockchain Hub (CBHUB) was inaugurated in Abuja, Nigeria’s capital city on Saturday, May 8, 2021.<sup>11</sup>

The Nigerian Communications Commission (NCC) says blockchain technology can be a bedrock of economic innovation and growth in the country through effective implementation of policies.

Various platforms like the treasury single account (TSA), the integrated payroll and personnel information system (IPPIS) and the bank verification number (BVN) are examples of utilization of this technology in the public sector.<sup>12</sup>

This technology has the potential to transform every sector and innovators in various fields that are looking for ways to integrate blockchain into their infrastructure. This emerging technology holds pivotal potentials and offers transformational solutions to numerous problems facing Nigeria.<sup>13</sup>

When there is an enabling environment, the creativity of enterprising individuals and business organizations inevitably leads to newfound possibilities with the ease of doing business.

In view of this revelation, as it relates to the legal profession, the researchers have discussed some of the ways legal practitioners can benefit from blockchain technology:

1. **Intellectual Property:** Right to protection of ideas, concepts, literary works, musical works, and many more have been revolutionized by blockchain through what is known as NFTs (Non-Fungible Token). This means that the digital content is the one original digital entity that was created. Even amidst other digital copies, blockchain makes it possible that the original owner of the work can distinguish his/her work, with a unique identification code and metadata which will be generated, showing the time stamp and record of entry.
2. **The Lands and Deeds Registry:** The Lands Registry is one area that can benefit from the adoption of blockchain technology. First, the information of the current owner of a title deed would be recorded and remain forever on the blockchain. Secondly, when it comes to transfer of ownership, the transaction history of the title deed would be recorded and there is an undisputed ledger of reference of ownership that can be used in multiple ways.
3. **Smart Contract:** This is the blockchain’s version of what traditional contracts should be. They are self-executing codes written on the blockchain with terms of agreement.<sup>14</sup> The code is written in such a way that parties can only proceed to the next level when they fulfill their obligations.<sup>15</sup> The legal industry can deploy smart contracts on deals like property management; lawyers are still needed to write the terms of agreement.<sup>16</sup>

---

<sup>11</sup> Ogheneruemu, O., (2021) “First Dedicated Nigerian Blockchain Hub launches in Abuja” (Published by Techpoint.africa).

<https://techpoint.africa/2021/05/14/nigerian-blockchain-hub-abuja> accessed 11/09/2022

<sup>12</sup> Desmond, O., (2022) “NCC: How Blockchain Technology can Improve Public Service Delivery in Nigeria” (Published by The Cable News). <https://www.thecable.ng/ncc-how-blockchain-technology-can-improve-public-service-delivery-in-nigeria/amp> accessed 11/09/2022

<sup>13</sup> Ayotunde, A., (2021) “Blockchain Technology and its Possibilities in Nigeria” (Unilag Law Review).

<https://unilaglawreview.org/2021/12/08/blockchain-technology-and-its-possibilities-in-nigeria/> accessed 11/09/2022

<sup>14</sup> Artikel, (2022) “5 use cases for blockchain in the legal industry” (Crypto Coin Society). <https://lrz.legal/de/lrz/5-use-cases-for-blockchain-in-the-legal-industry> accessed 11/9/2022

<sup>15</sup> <https://www.abcllegal.com/blog/legal-tech-blockchain> accessed 11/9/2022.

<sup>16</sup> Note 14

4. **Document Notarizations:** Blockchain can aid through document authentication and signature verification with timestamps and hashes.<sup>17</sup>
5. **Traceability of Goods and Services:** There can be a precise assertion of goods and services on an immutable ledger that remains accessible to parties involved guarantees that evidence is certain.<sup>18</sup>

#### **WHAT JOBS CAN LAWYERS TAKE UP IN THE DLT BLOCKCHAIN?**

Legal Consulting, Policy Formation, Legislative Tracking, Legal Researcher, and smart contract programmer or auditors.

#### **CONCLUSION**

Integrating blockchain in the Nigerian Legal System, not only save time but would get jobs done faster.. The blockchain technology is an adaptive and transformative technology and its benefits are enormous. The time is now for local businesses, small and big organizations to take advantage of it as its still in its foundational stage, to enable them to thrive better.

#### ***TEKENAH, TAMUNONEMI FORTUNE***

*Associate at Serenity Legal Union & Partners,*

*Email: [officialnemitekenah@gmail.com](mailto:officialnemitekenah@gmail.com)*

#### ***EBIKI, SONIA AYAKPO***

*Associate at Serenity Legal Union & Partners*

*Email: [soniaebiki@gmail.com](mailto:soniaebiki@gmail.com)*

---

<sup>17</sup> Ibid

<sup>18</sup> Note 15



# COMPLIANCE REQUIREMENTS FOR ENERGY COMPANIES UNDER THE CLIMATE CHANGE ACT

BY: MARKANTHONY EZEOKA

## Introduction

Year 2021 was remarkable for Nigeria's energy sector in terms of law reforms. First, the landmark Petroleum Industry Act 2021 was finally assented. Second, and quite significant, Nigeria took a bold step in legislating overdue climate change policy. Prior to 2021, the country had ratified the Kyoto Protocol and was a signatory to the Paris Agreement.<sup>1</sup> These treaties showed Nigeria's commitment to global climate change action and energy transition — emphasized in its mandate to achieve net-zero greenhouse gas (GHG) emissions by 2060.<sup>2</sup>

Upon enacting the Climate Change Act 2021 (the Act), the government, in effect, has formally legislated its international efforts towards climate change adaptation and carbon mitigation. With optimistic certainty, the Act is truly reformatory.

The Act provides a legal framework for achieving low GHG emissions as well as promoting sustainable economic growth<sup>3</sup> which include mainstreaming climate change actions in line with national development priorities, facilitating the mobilisation of finance and other resources necessary to ensure effective action on climate change.

The Act applies to Ministries, Departments and Agencies of the Federal Government of Nigeria (MDAs), private entities, and public entities in Nigeria. It also establishes the National Council on Climate Change (Council) to administer the Act.

The Act creates obligations for both public and private entities ensuring that they meet Nigeria's climate change strategies, targets, and the National Action Plan. For companies in the energy market, they would need to pay close attention to the new legal regime created under the Act.

The Act provides compliance requirements for private entities which section 35 defines to mean "a person or body with functions of a private nature and includes bodies registered under the Companies and Allied Matters Act, No.3, 2020." Some of the obligations<sup>4</sup> are therefore applicable to bodies registered under the Companies and Allied Matters Act, private and public limited and unlimited companies, business names, partnerships, companies limited by guarantee, and incorporated trustees.

## Notable Fiscal and Financial Provisions

Section 4(i) of the Act provides that the Council shall collaborate with the Federal Inland Revenue Service (FIRS) to develop a mechanism for carbon tax in Nigeria, and section 4(j) provides that the Council shall collaborate with the federal ministry of environment and the federal ministry of trade to develop and implement a mechanism for carbon trading. We should expect regulatory instruments from these bodies to expound on Nigeria's carbon tax and carbon trading rules in the near future.

The establishment of the Climate Change Fund under section 15 is another area of focus. Among other sources, money from carbon tax and emission trading, fines, and charges from private and public entities for flouting climate change mitigation and adaptation obligations, etc. shall be paid into the Fund.

<sup>1</sup> Templars: "Climate Change and Energy Transition: Is Nigeria on course with its new Climate Change Act?" 8 December 2021. <https://www.templars-law.com/wp-content/uploads/2021/12/Climate-change-and-energy-transition-is-Nigeria-on-course-with-its-new-Climate-Change-Act-2021.pdf>

<sup>2</sup> PwC Nigeria: Nigeria's Climate Change Act – Things to know and prepare for. January 2021.

<https://www.pwc.com/ng/en/assets/pdf/nigeria-climate-change-act.pdf>

<sup>3</sup> Templars (Supra).

<sup>4</sup> Supra.

This also includes such money as may be prescribed by the Council.

### Section 24: Climate Change Obligations

The Act sets a qualification threshold for private entities with respect to the mandated climate change obligations. A private entity with employees numbering 50 and above shall put in place measures to achieve the annual carbon emission reduction targets in line with the Action Plan; and designate a Climate Change Officer (CCO) or an Environmental Sustainability Officer (ESO) who shall submit to the Secretariat (of the Council), through the State Director, annual reports on the entity's efforts at meeting its carbon emission reduction and climate adaptation plan.

A defaulting entity that fails to meet the above target shall be liable to a fine as determined by the Council. The Council in determining the fine shall rely on a system of Environmental Economic Accounting with attention to the health impacts, impact on climate variation, and total damage to ecosystem services by the defaulting entity.

Section 24(3) further states that the Council may by notice in the Federal Government Gazette require a private entity to prepare a report on the status of its performance of its climate change obligations and prescribe the period for reporting; or requiring the entity to prepare a report within a specified time on its past and current actions, as well as future actions to be taken to secure future performance of those obligations.

The roles of ESOs and CCOs would play a vital part of energy companies' success in meeting the Act's provisions as well as future directives/regulations from the Council. For companies without these positions in place, it would be advisable to create the positions given the express requirement under section 24. Consulting with tax law experts and tax advisors is equally necessary in formulating the companies' strategy on complying with a future carbon taxation regulation.

### Powers to make Regulations

The novelty of the Act is very apparent. The Act, most certainly, anticipated that Nigeria has not developed robust, enforceable climate change laws. Premised on this, section 32 empowers the Council to make regulations on the following:

- for private and public entities to report annually on GHG reductions and reduction measures and have corporate climate change responsibilities;
- sectoral and cross-sectoral greenhouse gas emission reductions;
- supervising market-based mechanisms and instruments relating to climate change;
- providing fiscal incentives for promotion of greenhouse gas emission reduction and encourage private sector participation in climate actions; and
- creating further offences from non-compliance with regulations made pursuant to the Act.

### Thinking Ahead.

Energy companies should be proactive and implement internal measures to adapt to the unfolding regime. The Climate Change Act could be viewed as an incentive — although prescriptive — to complement efforts towards adapting clean energy technologies. Another notable action point is preparing section 32 Annual Reports as part of a company's checklist reports in anticipation of the Council's directives.

The Act is by no means restricted to energy companies. It applies to every private entity in Nigeria. However, energy operators are front-and-center in this conversation given their strategic importance to environmental issues. Playing a role in carbon emission benefits the energy industry, for instance, energy transmission infrastructure<sup>5</sup> such as pipelines and power lines, are vulnerable to higher temperatures and extreme weather events. The Climate Change Act therefore reminds us of the ultimate goal — protecting environmental integrity.

**Markanthony Ezeoha**

*markanthony.ezeoha@uubo.org*

---

<sup>5</sup> University of Cambridge Institute for Sustainability Leadership: "Climate Change: Implications for the Energy Sector".

<https://www.worldenergy.org/assets/images/imported/2014/06/Climate-Change-Implications-for-the-Energy-Sector-Summary-from-IPCC-AR5-2014-Full-report.pdf>



# REGULATORY UPDATE: INSIGHTS AND PROSPECTS ON CENTRAL BANK OF NIGERIA'S (CBN'S) 'DIGITAL FINANCIAL SERVICES AWARENESS GUIDELINES (DFSAG) 2022'

BY: DENNIS OGUNBOWALE

## ABSTRACT

The adoption of financial technology (*FinTech*) is rapidly growing locally and globally in part due to the Covid-19 Lockdown which forced most people to carry out transactions on their phone. Being an innovative area, Central Banks and governments all over the world have been compelled to create a robust regulatory framework for the *FinTech* Space. The adoption of Fintech has also been very instrumental in improving the Financial Inclusion rate across Africa as the conventionally 'unbanked' population can easily have access to financial services through their mobile phone. Despite that, there seems to be a relatively low financial literacy level in Africa, especially amongst the underbanked about Digital Financial Services. This has fostered a lot of distrust in leveraging Fintechs for failure of the unknown. In light of this situation, the Central Bank of Nigeria (CBN) has taken steps to bridge the knowledge deficit via its policies. Its latest attempt at doing so is the publication of its *Digital Financial Services Awareness Guidelines (DFSAG) 2022* which seeks to create a framework where customers are informed about Digital Financial Services Products and their data protection rights by Digital Financial Services (DFS) providers. This article seeks to highlight the objectives, effects and future prospects of the DFSAG in the digital financial services industry.

## INTRODUCTION

In recent times, considerable efforts have been made by the government and stakeholders in the financial services industry to improve financial inclusion in Nigeria and basically "bank the unbanked" in Nigeria. The rationale behind this is to ensure that there is more money in the financial services industry which will be available as loans to potential investors, and more government revenue. It would also ensure that the unbanked are effectively brought into the tax bracket. Industry statistics show that as at 2020, only 44.8% of the Nigerian population are banked in the conventional banking sectors and 35.9% of Nigerians are out rightly financially excluded.<sup>1</sup> This is worrisome because the statistics show that less than half of the population are properly banked. It is also anticipated that it will take more than 40 years to get to a 10% financial exclusion rate.

Given the importance of improving financial inclusion in Nigeria especially within rural areas in Nigeria, the Federal Government via stakeholder institutions/agencies in the financial services industry such as CBN and Securities and Exchange Commission (SEC)<sup>2</sup> have developed various initiatives to achieve this goal. They include the establishment of the Financial Inclusion Secretariat, the launch of the Financial Inclusion Strategy, the establishment of the Financial Inclusion Steering Committee amongst others.

<sup>1</sup> J. Okuduwa and N. Odiboh, '*Nigeria's Financial Inclusion: The Way Forward*', *KPMG Insights*, 23.08.2021: <https://assets.kpmg/content/dam/kpmg/ng/pdf/nigerias-financial-inclusion-the-way-forward.pdf> (accessed 11.05.2021).

<sup>2</sup> These stakeholder institutions also include National Association of Microfinance Banks, Fund Managers Association of Nigeria, Nigerian Insurers Association, Bank of Industry, Nigerian Investment Deposit Commission, Federal Ministry of Finance, Pension Operators Association of Nigeria amongst others.

One of the major steps taken by the CBN to improve the financial inclusion rate was the launching of the Financial Inclusion Strategy (FIS)<sup>3</sup> on 23<sup>rd</sup> October 2012 which amongst other things was aimed at reducing the financial exclusion rates to 20% by 2020. The FIS recommended four (4) Major Strategies for achieving its financial inclusion targets which include:

- (i) Agent Banking;
- (ii) **Mobile Banking and payment;**
- (iii) Linkage systems between Traditional Banks and Microfinance Institutions for providing wholesale funding for on lending transactions; and
- (iv) Coordinated national financial literacy initiatives complemented by consumer protection programmes and policies.

It is no longer news that financial technology (Fintech) has in recent time been increasingly adopted globally. This is in part due to the break-out of the Covid-19 Pandemic where people had to maintain social distancing to prevent contracting the deadly virus.<sup>4</sup> Post Covid-19, people have adopted financial technology to make conducting financial transactions more efficient. Since most financial transactions can be conducted through mobile phones and the internet, more people have been able to conduct all financial transactions including making purchases online. This has effectively made Fintechs one of the biggest drivers of financial inclusions not just globally<sup>5</sup> but also within Nigeria.<sup>6</sup>

The above analysis indicates that technology has an important role to play in consolidating financial inclusion efforts within Nigeria. It has become imperative for regulators within the financial services industry to regulate the Financial Technology (FinTechs) especially with its proliferation in recent times within the Nigerian market. The CBN for example has published many Circulars and Guidelines to this effect which include: Consumer Protection Framework, Risk-based Cyber security Framework and Guidelines for Other Financial Institutions (OFIs) amongst others

One of the recent steps that have been taken by the CBN to foster financial inclusion and improve Digital Financial Services<sup>7</sup> (DFS) is the publication of the *Digital Financial Services Awareness Guidelines (DFSAG) 2022*. This article highlights its objectives, effects and future prospects in the financial services industry.

<sup>3</sup> See Central Bank of Nigeria, *'Financial Inclusion Strategy'*, Cbn.gov.ng, 2012: <https://www.cbn.gov.ng/Out/2013/CCD/NFIS.pdf> (accessed 10.09.2022)

<sup>4</sup> World Bank, *'Fintech Market Reports Rapid Growth During COVID-19 Pandemic'*, Press Release No: 2021/068/FCI, Worldbank.org, 3.12.2020: <https://www.worldbank.org/en/news/press-release/2020/12/03/fintech-market-reports-rapid-growth-during-covid-19-pandemic> (accessed 09.09.2022).

<sup>5</sup> Sharmista Appaya, *'On Fintech and Financial Inclusion'*, blogs.worldbank.org, 26.10.2021: <https://blogs.worldbank.org/psd/fintech-and-financial-inclusion> (accessed 09.09.2022).

<sup>6</sup> Osayaba Giwa-Osagie SAN and Ivy Osiobe, *'How Fintech Can Stimulate Financial Inclusion: Challenges And Opportunities'*, giwa-osagie.com, n.d.: <https://www.giwa-osagie.com/how-fintech-can-stimulate-financial-inclusion-challenges-and-opportunities/> (accessed 09.09.2022).

<sup>7</sup> According to *Guideline No. 3 DFSAG*, Digital financial services are "Financial services delivered through digital channels, including electronic money, mobile financial services, mobile financial services, online financial services, i-teller and branchless banking, whether through bank or non-bank institutions."

## OBJECTIVES OF THE DIGITAL FINANCIAL SERVICES

### AWARENESS GUIDELINES

In line with the National Financial Inclusion Strategy, the CBN pursuant to its powers under the CBN Act published its *Digital Financial Services Awareness Guidelines (DFSAG)* on 5<sup>th</sup> July 2022. This was in response to the fast-growing adoption of technology within the financial services space in Nigeria post Covid-19. The primary aim of the DFSAG is to “address gaps in consumer knowledge and protection with Digital Financial Services”<sup>8</sup> and create a set of rules by which FIs will be guided by in providing digital financial services (DFS).

The achievement of the Guideline’s objectives are to be measured by how well, the following are achieved:

- i. Setting digital financial literacy<sup>9</sup> (DFL) standards for Digital Financial Services Providers (DFSP);
- ii. Aligning product development, promotion, and consumer awareness to DFS amongst DFSP;
- iii. Enhancing proper disclosure and transparency to DFS;
- iv. Development of Financial Literacy and Consumer Education<sup>10</sup> Material on DFS;
- v. Creating and ensuring a pragmatic approach to improve DFL;
- vi. Integrate DFL in existing financial education programs;
- vii. Improvement of DFL within the unbanked/under banked population; and
- viii. Creation of standards for the promotion of DFL.<sup>11</sup>

### SCOPE

The *DFSAG 2022* are applicable to all institutions that provide DFS in Nigeria. This includes:

- i. Merchant Banks;
- ii. Deposit Money Banks;
- iii. Payment Service Banks;
- iv. Other Financial Institutions;<sup>12</sup> and
- v. Other Payment Service Institutions as licensed by the CBN.<sup>13</sup>

<sup>8</sup> *Guideline 1.0 DFSAG 2022.*

<sup>9</sup> *Guideline No. 3 DFSAG* defines Digital Financial Literacy as activities “involves acquiring the knowledge, skills, confidence and competences to safely use digitally delivered financial products and services, to make informed financial decisions and act in one’s best financial interest per individual’s economic and social circumstance.”

<sup>10</sup> *Guideline No. 3 DFSAG* defines Consumer Education as “the preparation of consumer through the provision of materials and engagement to enable them make informed decisions when it comes to purchasing products and services.”

<sup>11</sup> See *Guideline 1.2 DFSAG 2022.*

<sup>12</sup> According to *Section 130 Banking and Other Financial Institutions Act (BOFIA) 2020*, OFIs are defined as “any individual, body, Association or a group of persons; whether corporate or unincorporated other than the banks licensed under the Act, which carry on the business of a discount, bureau de change, finance company, mon-ey brokerage, authorized buying of foreign exchange, international money transfer services, mortgage refinance company, mortgage guarantee company, financial holding company or payment services providers regardless of whether businesses are conducted digitally, virtually or electronically only and companies whose objects include factoring, project financing, equipment leasing, debt administration, fund management. Private ledger services, investment managing, local purchases order financing, and such other business as the Bank may from time to time, designate regardless of whether such businesses are conducted are digitally, virtually or electronically only.”

<sup>13</sup> *Guideline 1.1 DFSAG 2022.*

## NOTABLE PROVISIONS

The *DFSAG 2022* provides DFS Awareness Principles that are broadly divided into: (i) Promotion of Digital Awareness and Education; (ii) Data Privacy and Disclosure Obligations upon Customer adoption; (iii) Product Usability and Market Testing; (iv) Fraud Prevention and Risk Management; (v) Dispute Resolution and Complaint Handling; and (vi) Monitoring and Evaluation.

### **i. Promotion of Digital Awareness and Education**

DFS providers are expected to: (i) provide information to customers that will enable customers differentiate DFS from conventional financial services; (ii) ensure ease of access to all information on all product offerings in English and local languages to aid customers in making informed; (iii) Organize DFS outreach programs for the under banked population, prospective customers and existing ones; and (iv) provide information on each DFS product offered and complaint resolution platforms. It should be noted that developed educational materials are expected to be submitted to the *Director of Consumer Protection* for review.<sup>14</sup>

### **ii. Data Privacy and Disclosure Obligations upon Customer adoption**

DFS Providers are obligated to disclose terms, conditions, fees and costs on product offerings prior to customer enrolment.<sup>15</sup> They are also to ensure data privacy and protection standards are incorporated into their internal policies.<sup>16</sup> This includes ensuring that the Customer can easily revoke his consent to data sharing and ensuring that data protection standards are upheld throughout the entirety of the transaction.

### **iii. Product Usability and Market Testing**

DFS products are to be suitable for target customer's usage and modify when necessary to prevent transaction errors. This can be accomplished by getting valuable feedback from customers to find out what needs to be improved and making such improvements.

### **iv. Fraud Prevention and Risk Management**

DFS providers are expected to be proactive in ensuring that their customers are not defrauded. They are to achieve this by studying emerging fraud issues and educating their customers on how they can prevent being defrauded by providing tips to them in their local languages through audio and virtual communication modes.

<sup>14</sup> *Guideline 2.1 (vii) DFSAG 2022*

<sup>15</sup> This is usually done by incorporating terms and conditions which pops up on the customer's device's screen when the product is used for the first time. The Customer is usually expected to read these terms and click accept before he can use the service.

<sup>16</sup> This is usually done by Risk Management and Compliance teams of the DFS Providers.



#### v. Dispute Resolution and Complaint Handling

Since technology is not susceptible to flaws, it is important for DFS Providers to create a robust complaint resolution structure that can be utilized by customers to relay their complaints and have them resolved. DFS providers are expected to disclose complaint resolution channels, resolutions and service level agreements in customer on-boarding materials. They are also mandated to train their customer service and complaint resolution officers.

#### vi. Monitoring and Evaluation

DFS providers are mandated to assess how much they are achieving the aims of the DFSAG 2022.

To accomplish this, they must:

- a) Put in place strategies to assess their policies on raising consumer awareness and product usage;
- b) Develop indicators and performance measures to assess changes in awareness and usage;
- c) Forward their strategies and performance issues to the Director of Consumer Protection, CBN Bi-annually for review;
- d) Forward monthly returns on consumer awareness programs/initiatives conducted to the Director, Consumer Protection, CBN.<sup>17</sup>

However, conflict in the CBN and SEC's policies on crypto currencies being an important Fintech innovation that is widely recognized locally and globally, needs to be resolved. The policies of CBN and SEC on crypto currencies also need to be harmonized for effective regulation. The DFSAG 2022 is a step in the right direction and shows great promise for things to come as opportunities in the DFS Space beckons.

*Denis Ogunbowale*

*Associate, LeLaw Barristers & Solicitors*

*d.ogunbowale@lelawlegal.com*

<sup>17</sup> *Guideline 2.6 DFSAG 2022*

### CONCLUSION AND RECOMMENDATIONS

The DFSAG 2022 definitely portrays a willingness on the part of the CBN and the government to improve DFS, Financial Literacy and Financial Inclusion in Nigeria. It would definitely increase the trust levels of consumers in leveraging Fintechs for their uses and aid their understanding of DFS products and data protection. This would hopefully improve adoption of FinTechs and consequently the Financial Inclusion within Nigeria.

# MEMBERS SURVEY



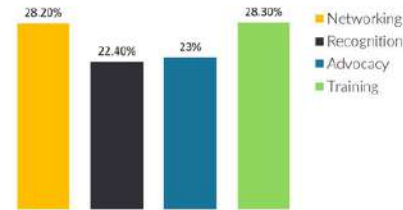
*We Asked, You Answered*

Thank you to all our survey respondents

Highlights from the survey

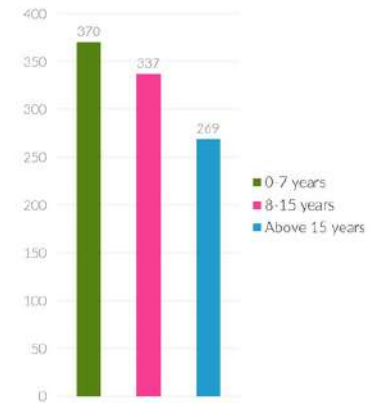


## SBL BENEFITS



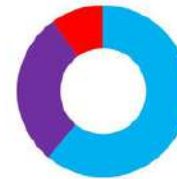
## YEAR OF CALL

Young lawyers < 40%  
Senior lawyers > 60%



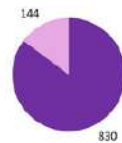
## JOB CATEGORIZATION

61% External Counsel  
2.1% In-house Counsel  
10% other Legal Professionals

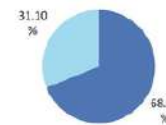


## SUGGESTED IMPROVEMENTS

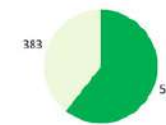
- Revive dormant SBL committees
- Sponsor committees on sector-focused research to improve Legal education.
- More engagement with sponsors outside of SBL events/activities
- Create opportunities for members to be more active in SBL.
- Create instant Messaging Platforms for members
- More affordable trainings & programs for young lawyers.



Over 800 SBL members responded to the survey



68.9% find the SBL accessible for information & correspondence



Over 500 respondents wish to be contacted by SBL

UP COMING ACTIVITES



# A WORKSHOP ON THE NATIONAL HEALTH INSURANCE AUTHORITY (NHIA) ACT, 2022



Sponsor



## MORE DETAILS ON THIS EVENT BELOW



**TUESDAY**  
**OCT. 4, 2022**



**MORNING**  
**9.AM (WAT)**



**WESTWOOD HOTEL**  
**IKOYI, LAGOS STATE**



**REGISTER HERE**  
[www.bit.ly/sbl-health](http://www.bit.ly/sbl-health)

FOR SPONSORSHIP OF THIS  
**EVENT**

Call Endurance on:  
**+234-(0)805 488 1300**



The NBA-SBL Employment, Labour and Industrial Relations Committee in collaboration with the National Industrial Court (NIC) present

# THE FIRST EVER SECTORAL BAR BENCH FORUM

**This  
will be a  
Hybrid Event**



Friday  
October 7, 2022



Morning  
9.00AM (WAT)



NIC Hall  
NIC HQ, ABUJA



Virtual Access  
[bit.ly/sblelir](https://bit.ly/sblelir)  
PASSCODE: 311874

## In Attendance

- President of NIC
- NIC Judges
- Min. of Labour
- NECA
- President of NIC, Trinidad & Tobago
- Organised Labour & Legal Practitioners

## About the Event

This event is an opportunity to mention the challenges, positives and experiences at the court.



Contact us for info  
[info@nbasbl.org](mailto:info@nbasbl.org)

# EDITORIAL TEAM



AYOYINKA  
OLAJIDE-AWOSEDO



TOLU  
OLATUNJI



JOSHUA  
DARANIJO



NINETTE  
NINYIO



VICAR  
OGUAFOR

TO ALL OUR VOLUNTEERS

# THANK YOU

1. FAISAL LAWAL HASSAN
2. MOHAMMED HAMZA
3. ONYEDIKACHI OKOCHA
4. OLUWADAMILOLA ONIYIRE
5. EMMANUELLA ADEOTI
6. OLUWATOSIN CHRISTIANA OSADARE

# SBI | NBA

Section on  
Business Law



## Article Submission Guidelines

To promote our professional and intellectual development, the Nigerian Bar Association Section on Business Law invites our members with a passion for writing to submit Articles for publication in our newsletters. The articles must focus on topical areas of commercial law practice and meet the following rubric:

- The article must be in MS word.
- Maximum number of words is 1,500. Minimum is 1000.
- Footnotes referencing is required. Endnotes are welcome.
- Articles must be original works of the author and use of any sources or material must be properly cited and acknowledged.
- It must not contain any political opinions, racial and religious incitements, plagiarism, slander, libel, or infringement of any existing literary works whatsoever.
- Kindly submit your Articles to: [newsletter@nbasbl.org](mailto:newsletter@nbasbl.org)

## CONNECT WITH SBL

### Address

27 Ribadu Street,  
Off Norman Williams Road,  
South West Ikoyi.  
Lagos, Lagos State.  
Nigeria.

### Phone

+234 805 488 1300

### Email

newsletter@nbasbl.org  
info@nbasbl.org

## We are Social

*Follow us!*



@nbasbloffici



@nba-



NBASectionOnBusinessL

