



Slingstone<sup>LP</sup>

# 2024 Regulatory Roundup

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# Introduction

In this Regulatory Roundup for 2024, we reflect on a year marked by regulatory and legal developments that signpost some of the most important trends to monitor actively in Nigeria's business environment, especially the financial services sector. Regulatory enforcement activities in Nigeria have intensified, underlining the need to integrate compliance objectives into the broader strategy for growth.

Recognising the implications of these key developments is critical for businesses undertaking a general enterprise-wide compliance review, improving standards, or planning for anticipated possible changes in the business environment.

In this review, we provide a high-level evaluation of key regulations and regulatory activities of 2024.

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# CBN's Revised Guidelines for Bureau de Change Operations

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In May 2024, the Central Bank of Nigeria (CBN) issued the Revised Regulatory and Supervisory Guidelines for Bureau de Change (BDC) Operations in Nigeria, with the stated objective of enhancing transparency, promoting operational efficiency, and strengthening the regulatory framework for BDC operations. The guidelines introduce comprehensive provisions that affect licensing requirements, scope, AML/CFT standards, reporting obligations, corporate governance, tiered systems, expanded digital capabilities of BDC operations, permissible activities, and eligibility for participation in BDC operations.

Notably, Payment Service Providers (PSPs), Payment Service Banks (PSBs), Mobile Money Operators (MMOs), and International Money Transfer Operators (IMTOs) are excluded from direct or indirect ownership of BDCs.

Furthermore, while BDCs are permitted to serve as cash-out points for IMTOs solely for inbound transfers, they are generally prohibited from outbound transfers of foreign currencies.

With the redefined scope of BDC operations and the explicit prohibition of direct fintech participation, a growing trend of collaboration among BDCs, fintechs, and commercial banks is anticipated, particularly in relation to international money remittances. Generally, the CBN regulation suggests a future of active monitoring of BDCs under a framework of governance, effective and operational efficiency and accountability as the monetary authority continues to grapple with the excessive volatility of the market and its broad impact on the economy.

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# Banking Sector Recapitalisation and Consolidation

On 28 March 2024, the Central Bank of Nigeria (CBN) announced a review of the minimum capital requirements for commercial, merchant, and non-interest banks in Nigeria. The new minimum capital base for commercial banks with international licences, national licences, and regional licences was set at ₦500 billion (US\$402.5 million), ₦200 billion, and ₦50 billion, respectively. For merchant banks with national licences and non-interest banks with national and regional licences, the minimum share capital was fixed at ₦50 billion, ₦20 billion, and ₦10 billion, respectively.

Banks are required to submit an implementation plan outlining their strategies to meet these requirements, with a compliance deadline of 31 March 2026.

CBN's recapitalisation drive is, admittedly, a response to macroeconomic pressures. A more resilient banking sector is expedient for ensuring stability and growth in uncertain economic times. While the programme and its resulting restructuring may bring short-term discomfort, it is expected that, with increased capital buffers, banks will be better positioned to expand their portfolios by acquiring diverse and higher-risk assets.


Predictably, a wave of consolidation is anticipated within the banking sector, comparable to the 2005 recapitalisation exercise. Given the trends already observed in 2024, there is likely to be a rise in capital market activity as more banks seek to raise fresh equity capital through rights issues, offers for subscription and private placement.

## The Rise and Rise of Fintechs and Increased Regulatory Oversight

The continuing expansion of Nigeria's unicorn fintech companies, such as Moniepoint and OPay, has drawn increased regulatory attention to the fintech space, with a particular focus on enhancing Know-Your-Customer (KYC) compliance processes.

On April 29, 2024, the Central Bank of Nigeria (CBN) imposed a two-month suspension on customer onboarding for several prominent companies, including Moniepoint, OPay, Kuda Bank, and Palmpay based on identified deficiencies in the KYC processes. In the same vein, the CBN is requiring fintechs to improve their due diligence processes and implement more stringent identity verification measures for their customers.

The CBN's posture in 2024 signals the end of an era of "light-touch" regulation for digital banks operating under the Microfinance Bank licence. Digital banks may soon face regulatory standards proportionate to those of conventional banks, as the apex bank increases its scrutiny of fintech processes, service scopes, and the evolving risk outlook driven by the growing scope, size, and complexity of fintech operations.



## **New Payment Terminal Service Aggregator and Updated Guidelines on Routing POS Transactions**

On September 11, 2024, the CBN issued a circular directing Payment Service Providers (PSPs) to comply with the updated guidelines on routing Point of Sale (POS) transactions.

Under the directive, PSPs are required to route all POS transactions at merchant and agent locations through a licensed Payment Terminal Service Aggregator (PTSA).

In the same year, the CBN granted a PTSA license to Unified Payment Services Limited, making it the second PTSA aside the licence currently held by Nigeria Inter-Bank Settlement System Plc (NIBSS).

This provides payment processors with more options for routing transactions and reducing the system-wide risks associated with dependence on NIBSS which was the only aggregator till the grant of the new licence.

Beyond reducing the risk of reliance on a single aggregator, an alternative aggregator also promotes competition among aggregators, and the payment system may be set for improved service delivery, innovation, and efficiency as the volume of transactions continues to grow.

Additionally, the presence of multiple aggregators encourages competitive pricing methodologies, which can lead to more cost-effective solutions for Payment Service Providers (PSPs) and ultimately lower transaction costs for consumers.

# The Securities and Exchange Commission's (SEC) Accelerated Regulatory Incubation Programme

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Through the Accelerated Regulatory Incubation Framework (ARIP), the SEC seeks to facilitate the onboarding of entities proposing to engage in virtual asset activities and those seeking registration with the Commission. ARIP's primary purpose is to expedite the approval process for qualified entities, enabling them to obtain provisional approval until the Digital Assets Rules become operational.

The framework also provides guidance to participants on regulatory requirements and helps the Commission better understand digital asset business models, which in turn improves regulations related to market integrity, investor protection, and money laundering.

ARIP applies to Virtual Asset Service Providers (VASPs) and other digital investment service providers, including those involved in the offering, trading, and exchange of virtual assets, token issuers, and participants in initial token offerings. It also includes entities providing services to Nigerian consumers, even if based outside Nigeria, and those using Distributed Ledger Technology (DLT) related to digital assets.

Participants must implement risk management frameworks, including measures for managing potential financial and other risks, and must comply with anti-money laundering (AML), counter-terrorism financing (CTF), and counter-proliferation financing (CPF) regulations.

Qualified applicants are prohibited from conducting other securities or investment businesses, carrying out promotional activities, providing misleading information, or growing their customer base by more than 10% during the ARIP period. Those who meet the Commission's requirements will transition to full registration.

In its press release on August 29, 2024, the SEC announced that it granted Approval in Principle to two crypto exchanges - Busha Digital Limited and Quidax Technologies Limited - to commence operations under ARIP. Additionally, five firms - Trevotech Limited, Wrapped CBDC Limited, Housing Exchange NG Limited, Dream City Capital, and Blockvault Custodian Limited - have been admitted for model and technology testing under the SEC's Regulatory Incubation.

# The Deduction of Tax at Source (Withholding) Regulations, 2024

The Minister of Finance has issued the Deduction of Tax at Source (Withholding) Regulations, 2024, which supersede previous provisions under the Capital Gains Tax, Companies Income Tax, Petroleum Tax, and Personal Income Tax of the Tax Deducted at Source (Withholding Tax) Regulations, 1997. While maintaining similarities with prior provisions, the new regulations simplify the deduction process by reducing rates for sectors with low margins, providing exemptions for small businesses and manufacturers, and eliminating complexities in tax deductions.

The regulations stipulate that withholding tax (WHT) deductions should be made at the time of payment or when the liability is recognised, whichever occurs earlier, in third-party transactions. For related-party transactions, the deduction should occur when the liability is recognised or when the payment is made. The regulations also introduce a duplicate WHT rate for recipients of non-passive income who do not have a Tax Identification Number (TIN).

Additionally, the regulations specify the remittance timelines for WHT. Payments to the Federal Inland Revenue Service (FIRS) must be remitted by the 21st day of the month following the payment.

For State Internal Revenue Services, remittance for Capital Gains Tax and Pay-As-You-Earn should be made by the 10th day of the following month, while other deductions must be remitted by the 30th day.

Penalties for non-compliance are outlined in the regulations, including the liability to pay the tax withheld or not remitted, along with a 10% penalty per annum and interest. Entities may also face imprisonment for up to three years. However, if a person pays the amount they were required to deduct to the recipient instead, they will only face an administrative penalty.

The regulations provide exemptions for certain transactions, including those involving companies with a turnover of N25,000,000 or less, interest and fees paid to Nigerian banks, and specific utility services. However, these exemptions do not necessarily extend to other taxes.

To comply with the new WHT regulations, effective January 1, 2025, both corporate and individual taxpayers must update their accounting systems with the new rates, verify vendors' TINs, issue WHT deduction receipts, and ensure timely remittance of WHT to the tax authorities. They must also monitor exempt transactions and ensure proper treatment of transactions occurring before July 1, 2024, under the previous regulations.



# **Increased Enforcement and Sanctions for Breach of Data Protection Regulations**

The Nigeria Data Protection Commission (NDPC) has sanctioned over seven firms, collecting a total of N400 million in remediation fees, which varied depending on the nature of the breach, its impact on the subject, and the companies' level of cooperation.

In August 2024, Fidelity Bank Plc was fined N555,800,000 (Five Hundred and Fifty-Five Million, Eight Hundred Thousand Naira) for violating the Nigeria Data Protection Act (NDPA). The bank was found to have processed a customer's personal data without informed consent, opened an account for another customer without consent, and used non-compliant third-party data processors. This indicates increased regulatory scrutiny and monitoring of compliance with the NDPA.

In July 2024, the Federal Competition and Consumer Protection Commission (FCCPC) fined Meta \$220 million for violating local consumer and data protection laws, including unauthorised data appropriation and exploitative privacy policies. This significant investigation and fine reflect FCCPC's regulatory efforts to protect consumer data privacy as an important part of its broader statutory mandate on competition and consumer protection. Meta's pending appeal before the Competition and Consumer Protection Tribunal will define the scope and effectiveness of FCCPC's regulatory influence at the intersection of privacy and consumer protection.

Based on trends observed in 2024, there may be an increase in the enforcement of data protection laws, with stronger inter-agency collaboration to address breaches, especially in areas of potential regulatory overlap.

## **Registration of Data Controllers/Processors of Major Importance**

On February 14, 2024, the Nigeria Data Protection Commission (NDPC) issued a Guidance Notice regarding the registration of data controllers and processors of major importance, as required by the Nigeria Data Protection Act (NDPA). The notice requires entities responsible for processing significant personal data to register with the NDPC by June 30 2024.

The Guidance Notice highlights the importance of ensuring that personal data is processed only by legitimate processors for valid, legally recognised reasons, in order to protect the privacy and security of data subjects. Generally, a data controller or processor is considered to be of major importance if it:

- Processes the personal data of more than 200 data subjects within six months,
- Provides commercial technology services on digital devices with storage capacity belonging to others,



- Processes personal data in key sectors of the economy; and
- Maintains a fiduciary relationship with data subjects, where it is expected to keep their data confidential, recognising the potential harm if the data is mishandled.

The NDPC has divided data controllers and processors into three levels based on the scope of their data processing activities: Major Data Processing-Ultra High Level (MDP-UHL), Major Data Processing-Extra High Level (MDP-EHL), and Major Data Processing-Ordinary High Level (MDP-OHL), each with different registration fees. The classification is based on specific criteria, such as the number of data subjects, the sensitivity of the data, and the capability to manage cross-border data flows.

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## Introduction of Expatriate Employment Levy (EEL)

On February 27, 2024, the Federal Government launched the Expatriate Employment Levy (EEL) Handbook, introducing a mandatory contribution for employers of expatriates in Nigeria. The EEL requires every eligible expatriate to present an EEL card upon entry and exit from Nigeria, much like a passport. The levy is set at \$15,000 for expatriates in director-level positions and \$10,000 for those in other roles, payable annually. It is also eligible for tax deduction as a valid business expense.

The EEL has become the subject of controversy, with a pending litigation before the Federal High Court (FHC/ABJ/CD/1780/2024) arguing that the imposition of taxes, duties, or levies requires legislative approval under the Constitution.

There are also persistent concerns regarding EEL's potential negative impact on businesses, particularly foreign direct investment. The levy was temporarily suspended in March 2024 for further consultations. The outcome of the litigation in 2025, along with ongoing consultations, will determine the future of the EEL.

# FCCPC's Investigations into Misleading Branding, Unfair Tactics, Consumer Privacy Breach and Anti-Competitive Practices

In 2024, the Federal Competition and Consumer Protection Commission (FCCPC) announced its findings, decisions, and final orders related to key multi-sectoral investigations that were initiated prior to 2024. On July 19, 2024, the FCCPC imposed a \$220 million penalty on WhatsApp LLC and Meta Platforms Incorporated for violating provisions of the Nigeria Data Protection Act (NDPA) and the Federal Competition and Consumer Protection Act (FCCPA). The fine was based on discriminatory practices against Nigerian data subjects and consumers.

On August 26, 2024, through a Supplementary Order and Notice, the FCCPC also fined Coca-Cola Nigeria Limited and Nigeria Bottling Company for alleged misleading branding, deceptive labelling, and unfair marketing tactics related to the Coke Less Sugar variant.

Coca-Cola and NBC are challenging the FCCPC's final orders, procedure, and authority to impose regulatory fines in appeals currently pending before the Competition and Consumer Protection Tribunal (CCPT). The various appeals arising from the FCCPC's recent investigations and regulatory sanctions will serve as test cases to clarify its multi-sectoral regulatory jurisdiction, the validity of its adjudicatory processes, and its decisions under the FCCPA—key developments to monitor in the competition and consumer protection landscape.

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# Concluding Remarks and General Outlook for 2025

In 2024, Nigeria's regulatory environment experienced key developments particularly in financial services, data protection, competition and consumer protection which have been areas of considerably stimulating regulatory activities for some years. 2025 is expected to witness heightened regulatory activity, with many of the initiatives discussed in 2024 likely to be fully operationalised.

The evolving trend of applying proportionate banking regulation to digital banks by the CBN may become more evident in 2025, with increased scrutiny of fintech operations.

The competition and consumer protection landscape is also set for defining judicial decisions that will clarify the FCCPC's regulatory jurisdiction and provide guidance for businesses in navigating broad competition and consumer protection regulations and their specific industry regulation.

Further, the NDPC's sanctions and FCCPC's investigations demonstrate increased attention to data privacy as a consumer protection objective. For businesses, staying informed and adapting to these changes is essential for compliance planning.





# Contributors



**Abimbola Ojenike**

Partner

E: [abimbola@slingstonelaw.com](mailto:abimbola@slingstonelaw.com)



**Damilola Omotosho**

Senior Associate

E: [damilola@slingstonelaw.com](mailto:damilola@slingstonelaw.com)



**Adefolarin Ojelowo**

Graduate Trainee

E: [folarin@slingstonelaw.com](mailto:folarin@slingstonelaw.com)



 [info@slingstonelaw.com](mailto:info@slingstonelaw.com)

 +2348027752339

 22, Dr. Omon Ebhomenye St.  
Lekki I, Lagos, Nigeria.

 [www.slingstonelaw.com](http://www.slingstonelaw.com)