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A Multijurisdictional Assessment of the Banking System and Mobile Money Services in Coping with the Pandemic-Triggered Credit Crisis

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Abstract

Although, unlike the 2008 financial crisis that erupted as a result of a corrupt banking system, the Covid-19 pandemic, which is a health crisis, arguably satisfied the regular features of a credit crisis. In its wake, the global economy and its structures were weakened, and made more vulnerable and exploitable. As governments around the world reacted by redirecting more resources in catering for the pandemic and its impacts, the possibility of a lax in regulation of banking activities as a result is high, and might motivate crooks to exploit the gap in financially defrauding citizens. Banks and all entities providing financial services (shadow banks) therefore require a more stringent regulation. Similarly, many governments (including Nigeria and other developing countries) are currently ascertaining ways to tackle the increased level of poverty owing to the pandemic, and towards this aim, have welcomed the proposition that financial technology companies can help achieve financial inclusion and thus reduce poverty. Towards achieving this goal, an effective mobile money services regime has been identified by the Nigerian Central Bank as a critical tool in revitalizing Nigeria's battered economy. This article argues that the Nigerian regime of mobile money services is still ineffective and it ascertains this through a multijurisdictional assessment of mobile money services: the article makes suitable recommendations for a regulatory reform with lessons from Kenya and other countries.

Keywords

Covid-19 Pandemic, Mobile Payment Services, Mobile Network Operators, Shadow Banking, Credit Crisis, Banks

1. Introduction

In December 2019, the world was hit by a deadly viral disease (Covid-19)[1]. By March 2020, owing to its health and economic devastating impacts, the World Health Organization declared the disease a pandemic (Sohrabi, Alsafi, O'Neill, Khan, Kerwan, Al-Jabir, Losifidis, & Agha, 2020), and countries immediately took measures to contain the spread of the disease through lockdowns and social distancing. One year down the line, and before the discovery of effective vaccines against Covid-19, more than two million lives were lost and the world economy contracted by 3.2% in 2020 and is projected to lose over $8.5 trillion in output over the next two years (United Nations, 2020). In many respects, the pandemic satisfied the features of a credit crisis, because, even though it was a health crisis, the lockdown of economies (including restrictions on physical banking activities) and the attendant effects, impacted negatively on the production of goods and services and "pushed more than 34 million people into extreme poverty in 2020" (United Nations, 2020).

Industries whose goods and services required workers (or even customers) to be physically present, took the hardest hit due to a strict observance of social distancing and lockdown rules that prioritized production of essential goods and services (United Nations, 2020). Countries, especially developing countries (UNCTAD, 2020) that depend largely on tourism and hospitality for earning foreign exchange, also suffered economically (Olurounbi, 2020). In Nigeria, going by the statistics, although the number of lost lives owing to Covid-19 was minimal at least when compared to Brazil, India, Italy, and the United States; Nigeria's economy suffered a devastating blow owing to its major reliance on crude oil exports (Jones, 2020). Lockdowns around the globe resulted in fewer vehicular movements or industrial use of fossil energy in production and therefore occasioned fewer demands for crude oil (Petroleum Economist, 2020).

From a functional perspective, therefore, the Covid-19 met the regular features of a credit crisis: expectedly, the world economy is already experiencing similar effects of the 2008 financial crisis (Li, Farmanesh, Kirikkaleli, & Itani, 2021). As such, some of the financial regulatory efforts that followed the aftermath of the 2008 crisis are evidently required for the stability of the world economy. Even though, the Covid-19 (unlike the 2008 financial crisis) did not originate from the atrocious acts of the financial industry in Wall Street, the same level of regulatory alertness (at least for their preventive value) is currently required in place to eschew any wide-scale exploitation of the vulnerable state of economies by bad intentioned financial managers. A proposed reform which this paper advocates for, is one which focuses on the effective regulation of financial technology (fintech) companies that are in the business of providing financial

[1]See World Health Organisation "Coronavirus disease 2019 (Covid-19) Situation Report-94" (23-04-2020) *WHO* https://www.who.int/docs/default-source/coronaviruse/situation-reports/20200423-sitrep-94-Covid-19.pdf (last accessed June 10, 2021).

services[2]. Although presently (or even before the global pandemic), the number of fintech companies has skyrocketed owing to the accolades they received from the World Bank as helping to advance the goals of financial inclusion, which the World Bank has identified as one of the cures of global poverty: "over the last decade, 1.2 billion previously unbanked adults gained access to financial services, and the unbanked population fell by 35%, primarily boosted by the increase in mobile money accounts." (Appaya, 2021)

In relation to the advantages, as well as how fintech companies could help achieve financial inclusion, the central argument of the World Bank is that the traditional banking systems of countries (especially in developing countries) have somewhat been discriminatory by their inability to cater to poor and vulnerable demographics in the provision of their financial services (Appaya, 2021). This World Bank position actually mirrors the current reality in developing countries (including Nigeria) where more than 60% of its total population lives in rural areas, (Rural Population, 2018) and as a result of some debilitating factors such as high level of illiteracy, poverty, and lack of electricity and telecom networks, are not in good positions to patronize the financial services of traditional banks. Incidentally, fintech companies have been identified in many developing countries as gap-fillers of this gaping condition, providing financial services to the rural poor and helping to include them financially into the mainstream economy.

Similarly, in many developing countries, fintech companies are only restricted to providing payment platforms and are not allowed to hold financial deposits as traditional banks (Ehrentraud, Ocampo, & Vega, 2020). As a result of this, they enjoy a lower level of regulation when compared to their traditional banks counterparts. The challenge that also bothers the investigation of this paper is that some fintech companies hold their customers' deposits for many reasons ranging from savings to investments, and do make payment of returns on investments. This situation creates a moral hazardous situation to the effect that some fintech companies' activities functionally satisfy the activities of traditional banks, even though, they are not equally regulated as the traditional banks and might ipso facto exploit their customers without much legal consequence. This paper, argues functionally, that fintech companies that provide comparable financial services as those of traditional banks should be regulated as though they were traditional banks, even if this debilitates the speed at which they financially include those demographics that have regularly been excluded in traditional banking. This is owing to the moral hazard that will likely ensue from an insufficient regulation of fintech activities and its concomitant negative effects on economies including those of Nigeria and other developing countries.

Part two of this paper investigates the perspective regarding how a sufficient

[2]Fintechs in Nigeria are regulated by some pieces of legislation. Primarily, the CBN regulates them under the Banks and Other Financial Institutions Act 2020 and the guidelines made thereunder. See: ICLG, Fintech Laws and Regulations Nigeria 2022-2023. Available at https://iclg.com/practice-areas/fintech-laws-and-regulations/nigeria (Accessed 24 March 2023).

level of financial inclusion can be achieved through mobile payment services. Mobile payment services (at least in majority of developing countries that use them) do not require users to compulsorily own bank accounts. A mere possession of a mobile phone is sufficient to transact financially, including sending and receiving payments across a country. In large part, mobile network operators are efficient providers of this type of service, because, in comparison to banks, they enjoy a near ubiquitous presence in Nigeria (including Kenya and Uganda), and are thus in a better position to capture the demographics that are typically left out in traditional banking services. Nigeria has set to reduce the rate of financial exclusion by about 20% in 2021. And data from the World Bank, Central Bank of Nigeria and PwC show that some progress has been made at least in comparison to 2009 when CBN began its journey to reduce financial exclusion through mobile payment services (Stears Business, 2020).

In relation to Nigeria, a 46% exclusion rate in 2010 and a 37% in 2020 show that the gap is gradually closing even though not at a comparable speed to what Kenya and Uganda, for instance, have achieved. However, for Nigeria, the gradual gap closure is indicative that increasingly, people are using digital payment services, and thus, becoming more financially included, when compared to the experience a decade ago. No doubt, the resulting financial gap closure reduces the rate of poverty owing to the increased access to affordable credit not only for those Nigerians living in urban areas, but also those living in rural areas who could easily receive money remitted from cities or even from around the globe.

Indisputably, fintech companies in Nigeria are making important inroads towards financial inclusion, and many of them have grown significantly in their investments within a short space of time (Kola-Oyeneyin, Kuyoro, & Olanrewaju, 2020). As of 2020 for instance, PalmPay[3] and Opay,[4] raised $40 million and $120 million respectively. Similarly, Interswitch[5] raised a $200 million investment in November 2019, and this placed it as Africa's first unicorn. Piggyvest,[6] which began initially as a platform that helped their customers to save money later started investment schemes, which could mature and return profit to the investing customers. Self-evidently, some fintechs in Nigeria are already providing similar financial services as banks, and the dilemma regarding how to effectively regulate them has not been entirely resolved by the Central Bank of Nigeria (CBN) or even lawmakers. Mobile money services have been recognized as an effective means of achieving financial inclusion, yet an effective regulatory framework is needed to safely midwife the idea. "Paga"[7] for instance is Nigeria's leading mobile money operator with about 16 million customers who stands the likely chance of either benefiting or losing from their financial activities in the absence of a regulatory framework.

Yet, when compared to Kenya and Uganda in respect of mobile money ser-

[3]Available at: https://palmpay.co/.

[4]Available at: https://opayweb.com/.

[5]Available at: https://www.interswitchgroup.com/.

[6]Available at https://www.piggyvest.com/.

[7]Available at: https://www.mypaga.com/.

vices, Nigeria still lags behind since only about 6% of its adult population have a mobile money account when compared to Kenya where about 73% of its adult population have mobile money accounts (e.g., "m-pesa"), and operate same with their mobile phones (Di Castri, & Gidvani, 2013). In Nigeria, mobile money transactions equate to about 1.4% of the GDP, (The Economist, 2019) while in Kenya, it accounted for about 44%. (Telecom Paper, 2019) Given the successful tales in many developing countries especially Kenya and Uganda regarding mobile money services, there is no gainsaying that a safe mobile money operation regime could also help Nigeria achieve financial inclusion and thus reduce poverty. What this paper pinpoints as a grave limitation to financial inclusion in Nigeria via mobile payment services relates to the regulatory framework, which is overtly too restrictive due to the requirement of Bank Verification Number (BVN) for financial service delivery, and thus results in the exclusion of more than 60% of Nigerians.

Similarly, unlike in Kenya where the Central Bank of Kenya (CBK) participated in the development of m-pesa and only made governing regulations after its launch and after some lessons regarding its operation had been learned; in Nigeria, the CBN seems to favor the approach of making governing regulations before the launch of mobile money services, which boil down to clogging their effectiveness. In February 2023, accumulated frustrations from failed attempts at creating an effective mobile money regime in Nigeria (similarly to the Kenyan *m-pesa*), perhaps caused the CBN to adopt the extreme measure of restricting the circulation of cash in society, thus, resulting to a severe cash crunch that unarguably debilitated commerce, especially among the unbanked demographics in rural areas who majorly lack the infrastructure required to effectively navigate a cashless economy (Onwuka, 2023).

As earlier stated, fintech start-ups could help accelerate financial inclusion in Nigeria through mobile money services. There are, however, regulatory limitations on digital services such as requiring BVNs for service delivery, even for owing e-Naira account wallets as was introduced by the CBN in October 2021. Apart from the exempted "Tier 0" category under the e-Naira Guidelines, the CBN approach will largely exclude a large chunk (Tiers 1 - 3) of the financially excluded persons who may be unbanked. Since the past few years, the CBN has launched series of guidelines and strategies towards an effective synergy between the traditional banks and telecommunication networks, being that the latter enjoys a wider coverage area in Nigeria. As Iyinoluwa Aboyeji, co-founder of Flutterwave and Andela remarked on Twitter, "you need the telcos for a lot of things. If you want to reach the unbanked, you have to work with the telcos because they have better distribution networks."[8] Mr Aboyeji's perspective is arguably true and is corroborated by the Kenyan experience where as a result of the telecom-controlled mobile money system, financial access has significantly improved and increased financial inclusion rate by up to 82%.

Following this introductory part, the paper in part two, assesses the need for

[8]See https://twitter.com/StearsBusiness/status/1441475059177119746.

regulating fintechs and the shadow banking system in the wake of the pandemic which has metamorphosed into credit crisis. In part 3, it investigates how financial inclusion can be achieved through mobile money services, and how a suitable regulatory framework in that respect can help in the reduction of Nigeria's poverty rate as envisaged by the CBN. In part 4, the paper examines the regulatory framework for mobile money payment services in Nigeria, its underlying defects and lessons from a comparative analysis, before coming to a conclusion in part 5.

2. Credit Crisis and the Banking System—The Existence of Moral Hazards

The business of banking is deeply characterized with material risks that have negative systemic effects in society. On one hand, the monetary deposits of customers are not totally safe without a systemic safety net in the form of deposit insurance funds. Yet, on the other hand, the safety net provided by a government to offset the impact of a collapsed banking system on the customers/citizenry, could create a morally hazardous situation. This could cause unscrupulous bankers to act recklessly due to an upfront assurance that the consequences of their negligence or fraud leading to a credit crisis, will be borne by their customers, or by taxpayers through governmental monetary and fiscal interventions. Diamond and Dybvig point out that banks without any insurance safety nets will normally witness bank-runs in a true or perceived financial crisis (Diamond & Dybvig, 1983). As a result of poor confidence in the banking system in Nigeria prior to the 2005 bank reform which created deposit insurance funds, bank-runs were commonplace. Also, coupled with the aftermath of the 2008 financial crisis, it was realized that the ills of the Nigerian banking system, resulting to a wide-scale non-performing assets were threatening the overall financial system, prompting the Nigerian government to intervene through the enactment of the Asset Management Corporation of Nigeria (AMCON) Act 2010 (Orji, 2012).

Self-evidently (as also visible from the newly reformed BOFIA 2020 in Nigeria)[9], banks are a special type of corporation and duly receive preferential treatments that are not usually accorded to other types of corporations in Nigeria, as well as in other countries. These preferential treatments constitute access to CBN's liquidity and the deposit insurance funds in the event of a bank's insolvency. These are safety nets that tend to stabilize banking and ultimately prevent banks-runs, although they come with tighter regulatory supervisions on banks through prudential guidelines, capital market requirements in accordance with the central bank rules, Basel Accords, and deposit insurance guidelines. The essence of these obligations which are grounded on a higher regulatory supervision is to neutralize any ensuing impacts of moral hazards that come typically from the nature of banking: that is, collecting customers' deposits and using

[9]On failing banks and rescue tools, see sections 34-39 BOFIA 2020, available at: https://www.cbn.gov.ng/out/2021/ccd/bofia%202020.pdf.

them to invest in the ordinary course of business.

Historically, moral hazard in banking and the measures undertaken to counteract them were limitedly applied to only deposit money banks (depository banks) which were the mainstream form of credit intermediation in many financial systems including Nigeria's, until the dawn of the 21st century. However, as time progressed, and as banks increasingly became interconnected owing to globalization, financial innovations have become widespread and are being used by fintech companies to provide alternative but similar products to those of traditional banking, even though these institutions are not equally subjected to the same level of regulatory supervisions that are imposed on the traditional banks (Restoy, 2021). Before the 2008 financial crisis, it was already widely reported that banks in the USA and Europe were increasingly relaxing standard regulations that guarantee the safety of deposits (Swagel, 2009).

Thus, the relaxation of financial regulations arguably created "shadow banks" (Kodres, 2011), whose financial activities largely escaped the mainstream regulation set by central banks. In some instances, shadow practices were wrapped disguisedly in structured investment vehicles, hedge funds, mutual funds, etc.[10], which normally absorb short credit term credits and transform them into actual demand obligations. In other words, shadow banks thrive by obtaining short term financing through the money markets and invest same in long term financial assets, thus satisfying the primary essence of banking. Yet unlike the traditional banks, the shadow banks do not normally insure their short term liabilities, and this wide escape route makes entry into the shadow banking industry easy and commonplace, aggregately outnumbering the traditional banks in the last analysis (Dosdall & Rom-Jensen, 2017).

2.1. The Similarity of Banking Activities: Shadow Banks and the Traditional Depositary Banks

The consequence of the similarity of function between the traditional depository banks and shadow banks as pointed out by economic and legal scholars is that inasmuch as shadow banks borrow short term funds to finance long term assets, albeit without insurance, the risk and instability involved in maturity transformation will ultimately result to bank-runs and panics, even though they do not have the safety nets of central banks liquidity and deposit insurance (Diamond & Dybvig, 1983). As earlier stated, the instability of shadow banks became much more apparent in the 2008 financial crisis which saw their inability to repay matured short term obligations and the lack of qualification to access any systemic safety net like the traditional banks (Sorkin, 2008). Yet, toward stabilizing the general economy, the US government sought to present the insolvent collapse of [major] banks by resorting to bailouts in order to prevent a complete collapse of these shadow banks as a way to ultimately save their customers' deposits (U.S. Department of the Treasury, 2008). While the urgent infusion of funds unargua-

[10]See US hedge funds losses balloon, available at
http://www.hedgeworld.com:80/news/read_newsletter_aa.cgi?section=indx&story=indx1307.html.

bly prevented a catastrophic collapse of the US economy, and by extension many other economies that would have suffered the negative impact of the domino effects (Gullapalli, Anand, & Maxey, 2008), it must be noted that the ad hoc interventions were not a direct product of the preexisting legal or policy frameworks.

While the causes of the 2008 financial crisis have been sufficiently discussed by scholars, one of the aims of this paper is to raise an issue that has received an insufficient attention in literature owing to the resuscitated relevance of the 2008 financial crisis and its nexus with the Covid-19 pandemic crisis. The issue is drawn from the uncontested view that in many financial systems, including Nigeria's, the products offered by shadow banks are functionally similar to those offered by the traditional banks. Yet shadow banks are not subjected to the same level of regulation and supervision as depository banks: this oversight has grave repercussions which were exceptionally visible in the 2008 financial crisis (U.S. Department of the Treasury, 2009). Thus, the overriding logic of this paper queries as follows: if both the traditional and shadow banks offer similar short term financial products, are afflicted by the same level of moral hazard, and are often extended similar safety nets, then logically, should shadow banks not also be subjected to similar regulatory supervisions as traditional banks? In short, their subjection to an equivalent measure of regulation as traditional banks, should be a precondition for their ability to access the systemic safety nets. Although, prima facie, this view may seem to be a viable solution, the challenge with it relates to the extensive governmental commitments to the financial system and the concomitant reduction in the overall regulatory effectiveness.

Another related challenge is the moral hazard that is generally occasioned by safety nets: that is, the upfront assurance it gives to financial managers that the consequences of engaging in highly risky investments with their depositors' funds will be borne (exclusively) by the government through use of tax payers' money in stabilizing the economy, or by using the deposit insurance funds (Ramirez & Shively, 2005). In the last analysis, the solution of extending safety nets to shadow banks may prove too costly and practically ineffective: this may therefore mean that in place of extending them a safety net, reinforcing market discipline through strict regulations on supervision, risk control and capital requirements as stipulated in the Basel Accords should be fully adopted (Basel Committee on Banking Supervision, 2011). In sum, there seem to be two options based on the lessons garnered from the 2008 financial crisis. The first option is to extend safety nets to shadow banks; although this approach might adversely impact on government's efficiency in extending their regulation and oversight to shadow banks. The likely outcome is that government will overspread itself, become inefficient and this will ultimately jeopardize the overall financial system.

The second option is to reduce the instability of the shadow banking system by applying strict regulation and control. Similarly, this will be too costly and will likely overwhelm government enforcement agents, thus, becoming eventually ineffective in the last analysis. This paper considers the latter approach as the lesser evil and therefore takes the view that in Nigeria, shadow banks should

be subjected to the same obligations as traditional banks (including a government-led sensitization of their customers about any underlying risks), but ultimately denied the benefits of safety nets. Part of that denial which reduces moral hazard should be achieved through penal statutes that threaten to punish financial managers of shadow banks who depart from the provisions of an applicable law and their related central bank guidelines.

2.2. Towards an Effective Regulation: The Effects of Shadow Banking in the Absence of Safety Nets

Depository banks thrive on maturity transformation, basically taking short term sources of credit from depositors and money markets and converting them into long term borrowings such as mortgage and project finance (Coppola, 2017). They thrive by the financial difference between the size of interest repaid to depositors as return on investments and the profit made from their long term investments which generate them higher profits. In peacetime, this practice sustains banks: the rationale behind a banking service is hinged on the expectation that new customer deposits and withdrawals will even out in the ordinary course of business, thus giving the banks enough capital reserve to thrive on maturity transformation. In a financial crisis however, financial panic and bank-runs will likely become widespread, causing a large number of depositors to seek withdrawal of their money at once. The rate of bank panic and runs may be relatively milder for depositors of the traditional banks due to long term reputation as well as the availability of safety nets culminating into the privileged access of central bank liquidity and deposit insurance funds in the event of insolvency (Chrétien & Lyonnet, 2017).

Compared to the depositors of shadow banks, the rate of panic and runs is excessive due to the absence of any reasonable safety nets or long term/tested reputation. For instance, in October 2021, the Piggyvest financial company in Nigeria witnessed a run in which depositors sought to make panic withdrawals owing to a rumor that circulated on social media regarding an alleged loss of $2billion by the company over fraud (BBC, 2021). Although the managers of Piggyvest immediately put out a disclaimer denying the veracity of the information, many depositors could not be persuaded from withdrawing their deposits. In comparison, such news may not be reacted the same way by depositors of traditional banks owing to the far more reasonable assurance that traditional banks enjoy, more financial stability due to ownership of large assets, and safety nets that may be able to sufficiently address their financial liabilities.

From a consumer perspective, especially with a scarred memory of Ponzi Schemes in Nigeria and other countries, shadow banks do not inspire the same confidence as their traditional bank counterparts. This is understandable, because, as Pozsar and others pointed out, shadow banking pools of long term financial assets are financed with short term funds such as consumer and business loans, some of which originate from unregulated sources of finance and pack-

aged through special purpose vehicles with maturity not usually exceeding 90 days (Pozsar, Adrian, Ashcraft, & Boesky, 2010). These securities are further securitized through many other avenues including high leveraged credit hedge funds and structured investment vehicles that are funded through the short term markets, eventually making their way to the money market mutual funds where their maturity transformation occurs and serves as a basis for demand money for retail and even institutional investors.

The challenge therefore is that money market fund shares are fixed and can be redeemed at any time on the customer's volition and can also be used as a medium of exchange, becoming functionally equivalents of the more traditional interest-earning demand deposits. In fact, due to the relative ease of commencing an operation of a shadow bank, and being that they offer products as traditional banks do, but are not subjected to the same level of regulation, their growth eventually surpassed the traditional banks in some jurisdictions. In the USA for instance, it was reported that before the 2008 financial crisis, shadow banking was estimated to worth more than $11 trillion US dollars compared to the $5 trillion of the traditional depository banks[11].

The fact that the shadow banking system held about $11 trillion, more than twice of the traditional depository banks, but remained largely unregulated showed the fragility of the US economy which ultimately burst in the 2008 crisis. And unsurprisingly, in the wake of the financial crisis, hedge funds, special investment vehicles, uninsured bank deposits, commercial paper markets, etc., witnessed bank-runs simply because they were functionally carrying out the activities of traditional depository banking without being under effective regulations, supervision and safety nets (Diamond & Dybvig, 1983: pp. 401-419). The ad hoc governmental response to extend safety nets to shadow banks was a quick fix that later inspired the proposal to regulate shadow banking.

Being that the Covid-19 pandemic has in many respects satisfied the features of a credit crisis, the importance of the idea to extend traditional bank-type regulations to shadow banks has become urgent. Also, in a credit crisis (similar to a wartime), governments are usually overstretched and resources mapped for regulations in peacetime may occasionally be deployed to tackle more pressing needs, thereby leaving a temporary vulnerable period in which crooks could exploit the lax in enforcement to perpetuate financial frauds. Such frauds come by floating many shadow banks (e.g., fintech companies) sometimes enjoying far distant jurisdiction and foreign citizenship but "physically" doing business in Nigeria through a kiosk office. Following many World Bank projects that aim at tackling poverty, many central banks, including the CBN, have keyed into the vision that financial inclusion is integral in the reduction of poverty and the one way of achieving such level of inclusion is to create a fertile ground for the operation of fintech companies that may be in a better position to accommodate de-

[11]See FDIC website; ICI Fact Book (available online); Adam Ashcraft (FRBNY), Discussion Paper, available at http://imf.org/external/np/res/seminars/2009/arc/pdf/ashcraft1.pdf (estimates as of July 2007).

mographics that are poorly represented in the traditional banking system.

This paper agrees with the view (looking at Kenya, Uganda and India for instance) that a mobile payment system is a key driver in the reduction of poverty because of the linked benefits that come with it such as an expanded access to affordable credit and other types of financial inclusion benefits that help individuals to gain financial freedom. Therefore, in part three below, this paper examines the existing regulatory frameworks that support the operation of mobile payment services in Nigeria and ascertain whether the framework is sufficient and whether there are lessons to be learned from the more experienced jurisdictions such as Kenya, Uganda, and India (part 4).

3. Financial Inclusion and the Poverty Reduction Argument: The Role of Mobile Money Services

As an assured means of eradicating or reducing poverty rates, the World Bank and other reputable organizations hold the view that financial inclusion is a key sustainable factor[12]. Accordingly, being financially included means that individuals have a reasonable access to a bank account, affordable payment services, including access to credit, insurance and an institutional protection against any exploitation that might lead to over-indebtedness (Domont-Naert, 2000). In Nigeria and other developing countries in Africa (and irrespective of the important inroads achieved by Kenya in mobile payment services), financial inclusion is yet to become mainstream— access to financial services are not usually accessible to people living in rural areas who make up to more than 50% of the population (World Bank, 2018).

The reasons for the exclusion of more than half of the population are varied, ranging from poor education of prospective bank customers living in rural areas to lack of supportive banking infrastructures, like access to the Internet, smart phones, telecom network, insufficient physical presence of banks due to poor security, etc. (Gibson, Lupo-Pasini, & Buckley, 2015). It will be unfair to begrudge or blame banks for not establishing a sufficient presence in most rural areas in order to achieve financial inclusion: banks as corporate entities exist primarily to make profits for their shareholders and are therefore guided by the central aim of maximizing profit. In that case, the cost of establishing physical branches, erecting automated teller machines (ATMs) in rural areas and providing electricity as well as security to protect these infrastructures may simply outweigh the expected benefits and thus unattractive to establish from the perspective of cost and profit maximization (Alexandre, Mas, & Radcliffe, 2011: p 117).

Since it has been established that financial inclusion reduces poverty, it becomes needless to say that financially excluded individuals on account of their

[12]See Word Bank UFA 2020 Overview: Universal Financial Access by 2020 (October 1, 2018), available at:
https://www.worldbank.org/en/topic/financialinclusion/brief/achieving-universal-financial-access-by-2020.

rural dwelling will be unable to enjoy the benefits of financial inclusion such as accessing credit at affordable rates, saving money and reducing the chances of its theft, and being unable to send or receive cash payments from third parties (Buckley, Greenacre, & Malady, 2015: p. 440). The resulting condition is that financially excluded persons remain highly vulnerable to many underlying risks that impact on their financial and health wellbeing (Cartwright, 2011: p. 39). Now recognized as a bedrock for the cure or reduction of poverty by the World Bank, many countries including Nigeria have made financial inclusion a development priority (Lee, 2017; Buckley, Arner, & Panton, 2014). It has also become commonplace to see "financial inclusion, equity or accessibility of regimes" (Bollen, 2010: p. 432) as forming part of the core policy framework of many financial services regimes in addition to their usual central bank mandated responsibility of providing financial stability and protection to customers (Tomilova & Valenzuela, 2018).

Even though financial inclusion of the typically disadvantaged demographics would benefit financial institutions as well as the countries they operate in, it would be difficult for financial institutions that are mainly driven by the motive to maximize profit to be able to initiate on their own, effective policies favoring financial inclusion without any form of government intervention by means of adequate regulations and incentives (de Koker, 2011: p. 363). In this 21st century, a lot of financial products that underscore financial inclusion are powered by technological innovations that make use of the Internet and modern electronic gadgets as vehicles for accessing payment services, processing of electronic payments, managing financial assets, etc. (Loo, 2018: p. 238). In Nigeria, Kenya, Uganda, India, and many other developing economies, mobile payment—one of the recent financial innovations of the 21st century (Ivatury & Mas, 2008), requires the use of mobile phones in initiating, authorizing and confirming financial transactions (Au & Kauffman, 2007: p. 141).

This paper focuses primarily on the issues underscoring mobile payments (m-payments) and financial inclusion. The reason for this focus refers to the ubiquitous availability of mobile phones in both urban and rural areas of Nigeria and other developing countries. In fact, mobile phones remain one of the commonly owned movable property that could be used to also conduct market related functions such as buying or selling products and services to consumers (Dahlberg, Mallat, Ondrus, & Zmijewska, 2008: p. 165), including unbanked persons in many rural areas, who may not have access to physical branch banking opportunity due to the lack of banking infrastructures in the places they live (Winn & de Koker, 2013: p. 162).

Within the African context, m-payment services have already recorded a breakthrough that promotes the agendas of financial inclusion. In Kenya for instance, "m-pesa" stands out as a successful example. Interestingly, "m-pesa" satisfies all the agenda of financial inclusion given that it is a low-cost SMS-based individual-to-individual financial transfer which could be used for depositing, transferring and withdrawing money through the use of mobile phones (Buku &

Meredith, 2013: p. 378). Since its celebrated debut in 2007, m-pesa has assisted in the gradual realization of financial inclusion in Kenya especially to the unbanked demographic. According to data, there was a significant growth in the ownership of accounts from 42% in 2011 to more than 81% in 2018[13], with more adults owning m-pesa accounts (73%) compared to the 56% that own traditional bank accounts. Indeed, the 17% difference is a probative proof that m-payment services have far more penetrating impact as well as the potentials of realizing the goals of financial inclusion than are the traditional banking services. In India, an equivalent of Kenya's m-pesa exists: the "Paytm" was founded in 2010[14]. Paytm (pay through mobile) was as of 2020 valued at $US 16 billion and its digital payment services are used by more than 20 million businesses ranging from roadside merchants to big businesses across India to accept digital payments of utility bills, grocery, parking, tolls, restaurants, etc., directly into their bank accounts (Choudhury, 2021).

The Kenyan m-pesa is unarguably a success story and is a concrete proof that mobile money services could actually be a key driver in the realization of financial inclusion goals because in less than two decades since its introduction, it has been sufficiently linked to Kenya's impressive economic growth. Inspired, perhaps, by the m-pesa story, the Central Bank of Nigeria (CBN) launched a similar effort in 2009, in which it designed a framework for mobile money payments[15]. More than a decade afterwards, the CBN has not been able to achieve a similar success as Kenya's m-pesa. Although the failure to record the type of m-pesa success could be attributable to many non-regulatory factors, this paper assesses to what extent the Nigerian regulatory framework is responsible for the stunted growth of mobile payment services in the country by a comparative examination of Kenya and to some extent the Indian regulatory frameworks.

3.1. Assessing the Regulatory Framework for Mobile Payment Services in Nigeria

Reliable data revealed that in 2010, nearly 50 % of adult Nigerians were financially excluded[16]. This was five years after the Nigerian bank reform in 2005 that revolutionized the industry through the introduction of electronic banking. By 2011, two years after CBN's resolution in 2009 to address financial inclusion through mobile payment services, the Maya Declaration was initiated by the Alliance for Financial Inclusion during the Global Policy Forum in Mexico. The importance of this declaration relates to the fact that it was approximately "the

[13]The Little Data Book on Financial Inclusion (World Bank, 2018) at 84, available at: https://globalfindex.worldbank.org/sites/globalfindex/files/chapters/2017%20Findex%20full%20report_chapter1.pdf (Accessed 2 July 2021).

[14]Patym, available at: https://paytm.com/about-us/ (Accessed 2 July 2021).

[15]CBN "Regulatory framework for mobile payment services in Nigeria" (2009), available at: https://www.cbn.gov.ng/OUT/CIRCULARS/BOD/2009/REGULATORY%20FRAMEWORK%20%20FOR%20MOBILE%20PAYMENTS%20SERVICES%20IN%20NIGERIA.PDF (last accessed 2 July 2021).

[16]CBN "National financial inclusion strategy" (2012), available at: https://www.cbn.gov.ng/Out/2013/CCD/NFIS.pdf (Accessed 2 July 2021).

first global commitment by policymakers from developing and emerging countries to unlock the economic and social potential of the poor through greater financial inclusion"[17]. In 2012, towards realizing the goals of the Maya Declaration, the CBN launched the National Financial Inclusion Strategy (NFIS)[18].

The NFIS was entrusted with a decade-long plan of ultimately ensuring a rise in the use of payment services from its low score of 21.6% in 2010 to 70% in 2020[19]. In Nigeria, owing to the ubiquity of mobile phones starting from early 2000s, the CBN was more particularly interested in using mobile payment services to increase the chances of realizing the goals of the Maya Declaration[20]. One of the aims of this paper is to assess the regulatory responses of the CBN towards achieving financial inclusion through mobile payment services. In that case, it analyzes the first attempt of the CBN at regulating mobile payment services between 2009 and 2014, and later, from 2015 to 2021. The rationale for the analysis is to ascertain whether the size of CBN's efforts is sufficient in tackling the issues that debilitate mobile payment services and by extension the realization of adequate financial inclusion in Nigeria. The paper develops and discusses two epochs, namely the nascent stage where the CBN introduced the first set of regulations, and the second epoch, which is more or less an implementation of the lessons garnered from the first epoch.

3.2. The First Epoch: CBN's Experimentation with Regulatory Frameworks

In the period between 2009 and 2014, regulation of mobile payment services in Nigeria was mainly through a licensing regime in which the CBN introduced a few guidelines regulating mobile payment services, *ex ante*. The CBN's first attempt at a comprehensive regulation of m-payments was the creation of the 2009 regulatory document entitled "The Regulatory Framework for Mobile Payments in Nigeria"[21]. One of this framework's main objectives was to create a "provision of an enabling environment for mobile payments services in reducing cash dominance in the Nigerian economy"[22]. The CBN's second attempt at a comprehensive regulation was its introduction of the 2014 "Guidelines on Mobile Money Services in Nigeria"[23]. In effect, the Guidelines, was an improvement of the 2009 regulatory framework and the objectives are "(a) to ensure a structured and orderly development of mobile money services in Nigeria, with clear definition of various participants and their expected roles and responsibilities; (b) Specification of the minimum technical and business requirements for the vari-

[17]Ibid at 23.

[18]Ibid.

[19]Ibid at vi, 1 and 29.

[20]Ibid at ix, 24, 34 and 45.

[21]Available at:
https://www.cbn.gov.ng/out/circulars/bod/2009/regulatory%20framework%20%20for%20mobile%20payments%20services%20in%20nigeria.pdF.

[22]Ibid at para 1.1.

[23]Guidelines on Mobile Money Services in Nigeria, available at:
https://www.cbn.gov.ng/out/2015/bpsd/guidelines%20on%20mobile%20money%20services%20in%20nigeria.pdf (Accessed 14 October 2021).

ous participants recognized for the mobile money services industry in Nigeria; (c) to promote safety and effectiveness of mobile money services and thereby enhance user confidence in the services."[24]

Under the Guidelines, two models of mobile money services were authorized to be offered by mobile money operators[25]: the first is the bank-led model involving deposit money banks "where a bank either alone or a consortium of banks, whether or not partnering with other approved organizations, seek to deliver banking services, leveraging on the mobile payments system. This model typically applies to scenarios where a bank operates on a stand-alone basis or in collaboration with other bank(s) and any other approved organization. In that case, the Lead Initiator shall be a bank or a consortium of banks".[26] The second type of mobile operator sanctioned under the Guidelines was the non-bank led model. This model "[a]llowed a corporate organization that has been duly licensed by the CBN to deliver mobile money services to customers and the Lead Initiator shall be a corporate organization (other than a deposit money bank or a telecommunication company) specifically licensed by the CBN to provide mobile money services in Nigeria."[27]

It is important to note that under the Guidelines, the CBN excluded mobile network operators from being part of the two mobile money service providers[28]: it limited the functions of mobile network operators to that of providing a functioning network system that improved the quality of mobile payment services. The rationale behind this limitation was that mobile network operators are not in the regular business of providing financial services and are hardly in the position to correctly implement the CBN Guidelines (including KYC rules) or any regulatory framework for that matter in a way that improves the safety and experience of mobile payment users. Thus by limiting mobile network operators to the role of providing telecommunication network infrastructures for an effective use by mobile network users[29], the CBN prioritized division of labor rooted in the specialization and efficiency policy that will enable mobile network operators remain focused towards providing safe communication systems that are compliant with the level of technology required by the Guidelines[30].

Although the rationale behind the exclusion of mobile network operators from being mobile money operators was to make them financially disinterested in the provision of mobile money services: the CBN under the Guidelines was concerned of the possibility of racketeering and collusion between a mobile network operator and a mobile money operator: the latter may possibly promise financial rewards to the latter in the expectation of enjoying some preference caused by the mobile network operator[31]. Such preference may unfairly goad

[24]Ibid at 3-4.
[25]Ibid, para 7.1.
[26]Ibid, at para 5.0.
[27]Ibid.
[28]Ibid, para 5.0(b).
[29]Ibid, at para 8.4.
[30]Ibid, at para 8.4(b).
[31]Ibid, para 8.4(c) and (h).

mobile money users towards preferring to patronize the services of that particular mobile money operator, thereby defeating the ideals of a free market and a healthy economic competition among businesses that provide like products. Although the corruption level in Nigeria has attained an alarming level going by a 2020 data from Transparency International[32], allowing the possibility of a racketeering practice under the regulatory framework may further lower the confidence of investors in the Nigerian market—this will partially defeat the CBN's financial inclusion goal. In that case, the mobile network operators are disabled from receiving financial deposits other than airtime funds from their subscribers[33]. They are also disabled under the Guidelines from allowing subscribers to use their airtime money as a means of payment to third parties.

In sum, the first epoch marked the CBN's initial attempts at providing effective regulatory frameworks for mobile payment services between 2009 and 2014. By 2010, CBN began to receive expression of interests for mobile network operations. Four years after, it had already issued more than 20 licenses to mobile network operators, most of whom were banks incorporating mobile payment services in their customer services[34]. It is interesting to note that banks (compare to non-bank entities) especially in the first epoch dominated in the provision of the mobile payment services perhaps due to the existing infrastructures that supported mobile payments and the fact that many users already had bank accounts as well as the long-standing confidence that banks inspire. Owing to insufficient infrastructure, prevalent corruption and rampant financial fraud experiences in the Nigerian system (e.g., Ponzi and Pyramid Schemes), the few non-bank mobile operators[35], could not thrive as their bank counterparts or as their counterparts in Kenya (m-pesa), Uganda (Airtel Money), and India (Paytm).

3.3. The Second (Contemporary) Epoch: Implementation of Lessons from the First Epoch

During the first epoch, more than 20 licenses were issued to mobile network operators. Yet, according to survey data, mobile payment did not gain much traction among many Nigerians. In fact, in 2016, it was discovered through a survey that about 76% of Nigerians were unaware of mobile money services and close to 98% had never registered let alone use mobile money services[36]. It seemed as though that the CBN guidelines for mobile money services, for a decade period, existed only in papers and were not impacting in the real life experience of Nige-

[32]Transparency International "Corruption Perception Index 2020" (2021) *Transparency International* https://www.transparency.org/en/countries/nigeria.

[33]Guidelines on Mobile Money Services in Nigeria" at para 8.4(e).

[34]See CBN "Financial service providers", available at: https://www.cbn.gov.ng/FinInc/finservproviders.asp (Accessed 2 July 2021).

[35]For example, Pagatech and Etranzact.

[36]Enhancing Financial Innovation and Access "EFInA access to financial services in Nigeria (A2F) 2016 survey" at 32 and 35, available at: https://www.efina.org.ng/wp-content/uploads/2019/03/Key-Findings-A2F-2016.pdf (Accessed 2 July 2021).

rians. The high failure rate caused the CBN to rethink its existing policies and embrace more practicable policies that could create a fertile ground for mobile payment services. One of the outcomes of the rethought was the recognition of the importance of "agent networks" as critical stakeholders in supporting mobile money operators[37].

According to CBN, "agent networks present an opportunity to service people in areas that lack bank branches or other physical financial access points like ATMs. Consequently, a functional agent network is imperative for extending financial services to the unbanked. However, deficit of fixed location agents has been a challenge"[38]. The CBN realized that the core essence of establishing mobile payment services is to ensure the extension of financial services to the traditionally excluded demographics in the banking system, and their inclusion through mobile payment services will help achieve the goals of financial inclusion. The CBN thus recognized that mobile network operators have achieved a sufficient penetration in Nigeria and allowing their participation as mobile money operators counterbalanced the initial concerns under the initial set of regulatory frameworks.

In fact, data of 2015 obtained from the survey of the access points of mobile network operators showed that as far back as 2015, about 9000 operational outlets existed in the 36 states and federal capital territory of Nigeria[39], and could therefore be used in deepening access to mobile payment services. Armed with this information, the CBN in 2015, released the Regulatory Framework for Licensing Super Agents in Nigeria[40]. The main function of Super-agents is to act on behalf of financial institutions, and by this framework the CBN hoped to broker a collaborative relationship between mobile network operators and mobile money operators in which the former share their agent networks[41]. Thus, to achieve a "super-agent" status, mobile network operators need to be licensed under the 2015 framework which thereafter enables them to sub-contract to

[37]See the "Guidelines for the Regulation of Agent Banking and Agent Banking Relationships in Nigeria", available at:
https://www.cbn.gov.ng/out/2013/ccd/guidelines%20for%20the%20regulation%20of%20agent%20banking%20and%20agent%20banking%20relationships%20in%20nigeria.pdf (last accessed July 12, 2021).

[38]CBN "Exposure draft of the national financial inclusion strategy refresh" (6 July 2018) at 27, available at:
https://www.cbn.gov.ng/Out/2018/CCD/Exposure%20Draft%20of%20the%20National%20Financial%20Inclusion%20Strategy%20Refresh_July%206%202018.pdf (Accessed 2 July 2021).

[39]The CBN 2016 Annual Report: National Financial Inclusion Strategy Implementation at 64, available at:
https://www.cbn.gov.ng/out/2017/ccd/2016%20annual%20report%20on%20nfis%20implementation.pdf (Accessed 15 July 2021).

[40]The document is available at:
https://www.cbn.gov.ng/out/2015/bpsd/regulatory%20framework%20for%20licensing%20super-agents%20in%20nigeria.pdf (Accessed 2 July 2021) (Super Agents Licensing Framework).

[41]See the Alliance for Financial Inclusion "Central Bank of Nigeria approves first super-agent banking licenses" (1 August 2016), available at:
https://www.afi-global.org/news/2016/08/central-bank-nigeria-approves-first-licenses-super-agent-banking (Accessed 2 July 2021).

other agents[42]. In any case, the scope of banking-related activities that super-agents (and by extension their sub-contractors) could undertake is more particularly provided for under the CBN Guidelines for the Regulation of Agent Banking and Agent Banking Relationships in Nigeria[43]. For instance, super-agents' platforms must be utilized in processing their agent's activities[44], and not to hold electronic money, and their agents can only be involved in accepting cash deposits and withdrawals, local funds transfer, etc[45]. In sum, the Guidelines reserved the provision and operation of mobile money platforms and electronic money to licensed financial institutions[46].

An important related framework that was also introduced by the CBN was the Shared Agent Network Expansion Facility program aimed precisely at encouraging the development and sharing of agent networks in rolling out financial services[47]. Under this program and the Super Agents licensing regime, mobile network operators are seen as "distribution actors"[48], whose agent networks could be used, although they were not allowed to take lead in providing mobile payment services. Yet, irrespective of these series of efforts, mobile money in Nigeria could not flourish and its poor traction was generally blamed on the restrictive policies of the CBN[49]. This prompted further revision of existing regulatory frameworks. For instance, in 2018, the NFIS was revised to incorporate overarching policy principles to drive an effective implementation of the existing framework. One of the core principles hinges on regulatory fairness for all potential providers of mobile payment services irrespective of their unique individual circumstances[50].

Also there is the principle emphasizing expertise: all potential mobile service operators are encouraged to focus on their areas of expertise and strength in order to achieve high efficiency. These guiding policies similarly appeared in the more elaborate framework titled the Guidelines for the Licensing and Regulation of Payment Service Banks in Nigeria (PSB Guidelines)[51], with the main objective

[42]See the Super Agents Licensing Framework, para 4.0.

[43]Available at:
https://www.cbn.gov.ng/out/2013/ccd/guidelines%20for%20the%20regulation%20of%20agent%20banking%20and%20agent%20banking%20relationships%20in%20nigeria.pdf (Accessed 2 July 2021).

[44]Super Agents Licensing Framework, para 6(a) (ii).

[45]Ibid, para 6.2.

[46]Ibid.

[47]See: https://www.sanefng.com/ (Accessed 2 July 2021).

[48]CBN "Exposure draft", above at p. 5.

[49]Available at:
https://www.cbn.gov.ng/out/2015/bpsd/guidelines%20on%20mobile%20money%20services%20in%20nigeria.pdf (Accessed 2 July 2021).

[50]Ibid at vii.

[51]Available at:
https://www.cbn.gov.ng/out/2018/fprd/october%202018%20exposure%20payment%20bank.pdf (Accessed 2 July 2021). These were revised in August 2020; see CBN "Guidelines for licensing and regulation of payment service banks in Nigeria" (August 2020), available at:
https://www.cbn.gov.ng/out/2020/ccd/approved%20reviewed%20guidelines%20for%20licensing%20and%20regulation%20of%20payment%20service%20banks%20in%20nigeria-27aug2020.pdf (Accessed June 12, 2021).

to "enhance financial inclusion in rural areas by increasing access to deposit products and payment/remittance services…through high-volume low value transactions in a secured technology-driven environment"[52]. In fact, apart from granting loans and guarantees[53], PSBs under the Guidelines, are allowed to maintain savings accounts, provide payment and remittance services as well as operate an electronic purse[54]. The most innovative policy of the PSB Guidelines was its permission of mobile network operators (although through their subsidiaries) to register as PSBs, with the aim of providing payment services if they have been granted an approval-in-principle status under the Guidelines[55]. The PSB Guidelines opened avenues for mobile network operators to become meaningfully involved in mobile payment services considering that in September 2019, the CBN granted approvals-in-principle to three entities, of which two out of the three were controlled by mobile network operators (Eleanya, 2019).

In October 2021, the CBN launched the electronic Naira (e-Naira)[56], to complement the Fiat currency (Naira). Its use is governed by the Regulatory Guidelines on the e-Naira (e-Naira Guidelines)[57]. The e-Naira is an electronic form of the physical Naira and is also its equivalent in the ration of 1:1[58]. The CBN issued the e-Naira pursuant to its section 19 power under the CBN Act 2007, and as such the e-Naira is a direct liability to the CBN. In other words, it is a legal tender and forms part of the money in circulation in the Nigerian economy[59]. Reports show that CBN spends too much money in printing the Naira every year, and apart from financial inclusion objectives, one of the primary aims of establishing it is to "complement the traditional Naira as a less costly, more efficient, generally acceptable, safe and trusted means of payment. In addition, it will improve monetary policy effectiveness, enhance government's capacity to deploy targeted social interventions and boost remittances through formal channels".[60]

Towards meeting up with financial inclusion goals, the CBN authorized two types of users under the e-Naira Guidelines. Users without a bank account (Tier 0 users) are able to use their mobile phones only (without a bank account) to make mobile payments if they have the following documents: a passport photograph; b) personal information (name, place and date of birth, gender and address); and c) telephone number (National Identity Number issued but not linked to phone number)[61]. This category of users (who are not compulsorily required to own a Bank Verification Number or link their National Identity

[52]Ibid, para 2.
[53]Ibid, para 4.2
[54]Ibid, para 4.1.
[55]Ibid, para 6.1.
[56]Available at: https://enaira.com/about (Accessed November 1, 2021).
[57]Available at:
https://www.cbn.gov.ng/Out/2021/FPRD/eNairaCircularAndGuidelines%20FINAL.pdf.
[58]Ibid, para 1.0.
[59]Ibid.
[60]Ibid.
[61]Ibid, para 10.2.

Number to their phone numbers will suit the demographics that have traditionally been left out in the banking system due to their inability to provide certain required documents under CBN's KYC Guidelines: this group usually lives in rural areas and as a result of some factors that are sometimes beyond their control, do not have a sufficient access to the banking system. Yet, amidst these disabilities of not owning bank accounts, they could however be in positions to use their mobile phones to send and receive payments (Kaminska, 2021).

Under the e-Naira Guidelines, for Tier 0 users, a daily limit of N20,000 in transactions and a balance limit of N120,000 are allowed[62]. A fully verified account wallet, however, has the ability to transact up to N1 million in daily transactions. There are also other tiers: Tiers 1 - 3, and the guidelines governing their relations with their financial and non-financial institutions are documented under the CBN Circular on Tiered Know Your Customer (T-KYC)[63]. The second type of users under the e-Naira Guidelines is "Merchants". This category of users (merchants) are expected to have pre-existing bank accounts, taxpayer identification number, and BVN as preconditions for transacting in e-Naira but enjoys an unlimited amount in transaction and unlimited balances, unlike Tiers 0 - 4 that are limited in amounts[64].

4. What Lessons Can Nigeria Learn from Other Jurisdictions?

Starting from 2009, observable evidence shows that the CBN was initially unclear on how to effectively regulate mobile payment services. It started by excluding mobile network operators even though they had a deeper penetration in Nigeria with nearly 9000 outlets according to a 2015 datum. This initial exclusion of mobile network operators no doubt debilitated the overall speed in the growth of mobile payment services in Nigeria, and this view is supported by the study carried out by Evans and Pircho (2015), which documented the reasons and failures of mobile payments based on facts collected from some countries. The Evans and Pircho study documented about 8 countries out of the 22 studied, where mobile payments were successful and the reasons underlying the successes[65]. The common factor for success in these countries was the lack of restriction in terms of regulation regarding an exact type of entity that must provide mobile payment services. According to the study, "the regulatory framework adopted by the government, in particular, the extent to which regulations restrict potential players, in particular mobile network operators from operating mobile money schemes…could facilitate or restrain success (Evans & Pircho, 2015: para 10).

The study recorded that it was only Bangladesh (out of the 22 studied) in

[62]e-Naira Guidelines, para 10.4. Available at: https://www.cbn.gov.ng/Out/2021/FPRD/eNairaCircularAndGuidelines%20FINAL.pdf para 10.4.

[63]Available at: https://www.cbn.gov.ng/OUT/2012/CIRCULARS/FPR/EXPOSURE%20DRAFT-THREE-TIERED%20KNOW%20YOUR%20CUSTOMER(KYC)%20REQUIREMENT%20PROGRAM.PDF.

[64]See the e-Naira Guidelines at para 10.4.

[65]Bangladesh, Côte d'Ivoire, Kenya, Rwanda, Somaliland, Tanzania, Uganda and Zimbabwe: id at 6.

which the success of its mobile payment services was not largely based on a loose regulatory framework that accommodated the free operation of mobile network providers. An example of this is the "bKash" service provided by the BRAC Bank in Bangladesh. Its success was reportedly due to its effective alliance with the mobile network operators that manage most of the subscribers in the country, although it is yet to be successful for individual-to-individual mobile transfers (Evans & Pircho, 2015: para 10). In Pakistan (just like the 2009 phase in Nigeria that limited mobile payment services to banks) mobile network operators are restricted from rendering mobile payment services. To circumvent this impasse, Telenor Pakistan, being the country's largest mobile network operator, acquired a 51% shares in Tameer Bank which enabled it to consequently launch its "Easypaisa" which enjoys popularity and patronage in the country (Senthe, 2012: p. 19).

Apart from the Evans and Pircho (2015) study, more recent studies on the same subject-matter endorse the view that the best type of regulation of mobile payment services is one which allows for some flexibility that might result to an alliance between a financial institution and a mobile network operator, combining their brands to further inspire confidence from the consumer public (Riley & Kulathunga, 2017). This is because most times, the mobile network operators make up for where their bank counterparts' identity fails especially in rural areas where a mobile network operator is likely to enjoy familiarity and network because of airtime services compared to their financial institution counterparts whose banking services maybe largely unknown due to lack of presence.

An important development in the annals of mobile money services Uganda deserves a brief mention: in June 2021, Airtel Uganda announced its intention to separate from "Airtel Money", its mobile payment service (Fakiya, 2021). Incidentally, the mobile payment services of Airtel Money were transferred to Airtel Mobile Commerce Uganda Limited (AMC Uganda). This separation came about owing to Uganda's National Payment Systems (NPS) Act 2020, that was passed in September 2020. Empowered under section 9 of the NPS Act, the Bank of Uganda issued two licenses to AMC Uganda in May 2021, namely, a Payment Service Provider–Class A License, Number PSP 01/21, authorizing the company to offer electronic Airtel Money services (Fakiya, 2021).

The second license is a Payment System Operator License (Electronic Money Systems), Number PSO 01/21, authorizing AMC Uganda to takeover Airtel Money. With this separation from Airtel Uganda, AMC will conduct all Airtel Money services in Uganda in partnership with and through the licensed telecommunications network of Airtel Uganda (Fakiya, 2021). The aim of the separation is allegedly to enable Airtel Uganda focus strongly on the operation of telecommunication and fathom ways of developing its infrastructures in order to provide a more enabling environment in which the businesses dependent on its services can thrive. This development grew out of the petition filed by Abdu Kantunu, a Bugweri County MP to have mobile money regulated under the Financial Institution Act of Uganda, in 2015, a Commercial High Court in Uganda

ruled that telecommunications companies were not allowed to provide mobile money services, and five telecoms namely MTN, Warid, Uganda Telecom, Airtel and Africell were impacted by the decision. The reason for this legalistic interpretation of court was that these telecoms were not registered as financial institutions and therefore were not legally providing mobile money services (Fakiya, 2021).

The solution for the mobile network operators in Uganda at the moment following the government's separation of telecoms from financial institutions seems to be that telecoms create affiliate companies that are ceded the services of providing mobile money services. For instance, AMC Uganda (affiliate of Airtel Uganda) will now provide the same mobile money services under the same terms and conditions as Airtel Money. Similarly, MTN also handed over its mobile payment service (MTN MoMo) to an affiliate called MTN Uganda Limited whereby existing customers will continue to enjoy services under the same terms and conditions (Fakiya, 2021). In 2015 also, Ghana provided a further and better clarity between telecom and financial services, requiring that all institutions (including telecoms) providing financial services were to be regulated by its central bank and by the Banking Act, 2004[66].

However, earlier in 2008, the Central Bank of Ghana had released Guidelines for Branchless Banking, which favored banks by requiring that at least three banks be involved in providing payment services[67]. Just like Nigeria in 2009, Ghana's 2008 framework disallowed mobile network operators from solely providing mobile money payment services unless they partnered with banks. Yet according to data by Consultative Group to Assist the Poor (CGAP), banks were unlikely to be motivated to participate under this arrangement, which resulted in the lack of sufficient progress in mobile payment services (Mckay & Zetterli, 2013). The experience garnered from the 2008 approach resulted to an adoption of an improved regulatory framework in 2015 which allowed mobile network operators to apply to the Central Bank of Ghana for operating licenses, thus confirming the view and practice that mobile network operators are critically important in the realization of the goal of mobile payment services. The Ghanaian current approach is also similar to the approach in India where mobile network operators are integral in the provision of mobile payment services through the collaboration of financial institutions[68].

In Kenya, the mobile payment services regime has been celebrated as success-

[66]Bank of Ghana "Guidelines for e-money issuers in Ghana", para 7, available at: https://dfsobservatory.com/sites/default/files/Bank%20of%20Ghana%20-%20Guidelines%20for%20E-Money%20Issuers%20in%20Ghana.pdf (Accessed 2 July 2021).

[67]Available at: https://dfsobservatory.com/sites/default/files/Bank%20of%20Ghana%20-%20Notice%20No.%20BG-GOV-SEC-2008-21%20-%20Regulatory%20Framework%20for%20Branchless%20Banking.pdf (Accessed 2 July 2021).

[68]See "Mobile Money: the Opportunity for India", MMAI/GSMA Position Paper (2013), available at: https://www.gsma.com/mobilefordevelopment/wp-content/uploads/2013/12/MMAI-GSMA-on-Mobile-Money-in-India-for-RBI-Financial-Inclusion-Committee_Dec13.pdf (Accessed June 10, 2021).

ful and the Kenyan model has unarguably become a leading benchmark for developing countries. Kenya's leading mobile network operator, Safaricom, provides the m-pesa service, which was launched in 2007. As at 2007, during the launching, the Central Bank of Kenya (CBK) did not have regulations yet for mobile payments except its firm resolve to achieve financial inclusion. This positive outlook enabled it to support the growth and success of m-pesa without paying a strict attention to formalities (Lashitew, Tulder, & Liasse, 2019). An important fact to note was the robust collaboration between the CBK and Safaricom prior and after the launch of the m-pesa product wherein the latter was allowed to make a maximum input in developing an effective regulatory framework on the subject-matter (Alliance for Financial Inclusion, 2010: p. 4)[69]. It seemed that CBK's main concern at that time (which CBK later resolved from a legal consultation) was whether m-pesa would pose any material risks to the banking system including issues of money laundering and any underlying operational risks associated with use of m-pesa[70].

The legal advice enabled the CBK conclude that m-pesa was not a banking service as defined under the Kenyan Banking Act 2015 and no material risk existed against m-pesa customers since the me-pesa agents were required to lodge money into m-pesa accounts being maintained by the local banks[71]. Similarly, there was no risk of intermediation[72], that is, there was no possibility that Safricom could use the customers' deposit to pursue its other narrow [business] interests[73]. Also the CBK found that there was no money laundering risk owing to the technology involved in the development of m-pesa including the a provision for capping individual daily transactions and international remittances[74].

Additionally, technical assessment regarding the operational risks of m-pesa platform was undertaken by Safaricom at the request of the CBK and this was performed by Consult Hyperion[75], The CBK also collaborated with the Communications Authority of Kenya, Safaricom's primary regulator, and the outcome after ascertaining that m-pesa was a good value add to the Kenyan economy was CBK's letter of no objection (Riley & Kulathunga, 2017: pp. 65-69). The successful launch of m-pesa in 2007 (towards the 2008 financial crisis) helped Kenya to weather the aftermath of the credit crisis. As the Covid-19 has transformed to a credit crisis, causing Nigeria's economy to shrink, a well-functioning mobile services regime developed with lessons from Kenya, Uganda and India, could help jumpstart its dwindling economy.

[69]Alliance for Financial Inclusion (AFI) "Enabling mobile money transfer: The Central Bank of Kenya's treatment of m-pesa" (2010) at 4, available at: http://www.gsma.com/mobilefordevelopment/wp-content/uploads/2013/09/enablingmobilemoneytransfer92.pdf (Accessed 2 July 2021).

[70]Ibid.

[71]Ibid.

[72]See Corporate Finance Institute "How do banks make money?", available at: https://corporatefinanceinstitute.com/resources/knowledge/finance/how-do-banks-make-money/ (Accessed 15 July 2021).

[73]AFI "Enabling mobile money", above at p. 4.

[74]Ibid.

[75]See Consult Hyperion's website, at: http://www.chyp.com/ (Accessed 2 July 2021).

5. Conclusion

This paper has argued that the Covid-19 pandemic has in effect satisfied the regular features of a credit crisis such as the 2008 financial crisis. Governments around the globe (especially in developing countries) are increasingly becoming more interested in the idea that financial technology (fintech) companies can help drive the process in achieving financial inclusion and curing poverty, which the traditional banking system has not been able to achieve due to their large exclusion of the unbanked demographics from the mainstream banking system. A likely outcome of this perspective which is also championed by the World Bank is that more shadow banks might consequently be created to render the traditional banking services even though they are not usually regulated as traditional banks.

Inadequate regulation of shadow banks in the United States was a proximate cause of the 2008 financial crisis, and this is bound to repeat in destroying developing countries with weak regulatory structures if fintechs are allowed freehand in providing financial services without strict regulations, just for the mere pursuit of financial inclusion goals. Mobile money services have also been identified as capable of playing a major role in achieving financial inclusion in Nigeria: although this paper agrees with this view, it argues that the Central Bank of Nigeria has either not been able to launch a thoroughly effective regulatory framework or alternatively has been unable to implement its existing legal framework to drive the mobile payment regime to a fruition unlike its Kenyan counterpart. This paper proposes that the Kenyan mobile money services regime should be understudied by CBN towards developing more responsive regulatory frameworks.

Conflicts of Interest

The author declares no conflicts of interest regarding the publication of this paper.

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