Catch me if you can: How regulators will impact Africa's FinTech sector

Key findings

- Covid-19 has meant that Africa's FinTech sector is on course to expand and innovate faster than ever...
- Unfortunately, many other factors to enable this expansion have not moved as fast. While some countries have stormed ahead with regulatory ecosystems, there is still a way to go as the innovators are moving too fast for the legislators.
- FinTech companies must keep up with regulatory changes and work hand-in-hand with regulators in each country. It is critical to building the ecosystems necessary for the sector to thrive.

Executive summary

The African start-up ecosystem is booming, and it is the continent's FinTech sector that is the centre of attention, with M-Pesa in Kenya just one example of the continent's success. According to Disrupt Africa, the FinTech sector has been the most populated and best funded among tech start-ups on the continent, with players raising almost $900 million over the last six years. The amount raised has been growing exponentially and Flutterwave's raising of $170 million should be viewed as a further sign of things to come.

Now, regulation must keep up with innovation for the good of FinTech and the people who use it. In Africa, South Africa, Nigeria and Kenya have the three most developed FinTech ecosystems, comprising more than 450 companies combined[1]. Early regulation has been pinpointed as one of the reasons for the industry's success in these jurisdictions. With the sector having been pegged as critical to the continent's post-pandemic recovery – particularly the adoption of digital payment methods – expect this fast-moving sector to move even faster. Regulators and government will need to keep the pace up and FinTech businesses will need to buckle in as change is on the horizon.

1 https://fintechnews.africa/39379/kenya/south-africa-nigeria-and-kenya-africas-largest-fintech-hubs/

1. FinTech - the current state

The potential is huge...

There are a number of reasons as to why Africa has been earmarked as the next hub for FinTech[2]. A youthful population, increasing smartphone penetration, a pan-continental push for financial inclusion, the largest share of the world's unbanked and underbanked population[3], and a Covid-19-necessitated desire for cashless payments have created the perfect storm for FinTech innovation to flourish. Three out of four of the continent's unicorns – Flutterwave, Interswitch and Fawry – are FinTechs and emerging markets investment analysts are betting on this sector to provide even more unicorn status companies for the region in the near future[4]. With Covid-19 forcing more companies to go digital, continued growth is forecast across the board.

What's regs got to do with it?

Africa's financial services industry is rapidly evolving into a largely digitised space. Innovation creates buzz and can transform societies – yet, in many African countries, there is a need to address the perennial race between fast-moving innovation and the slower pace of regulation. With varying starting points and capabilities, African markets, whilst ready to take advantage of FinTech innovations, have a long way to go before its full potential can be realised.

The connection between regulations and a flourishing FinTech sector is an important one. It is no coincidence that investors and businesses in FinTech are drawn to markets with more robust financial regulatory ecosystems. It is one of the reasons that funding remains concentrated in a few markets: **South Africa, Nigeria, Kenya and Egypt are recognised as the four FinTech hubs in Africa, securing 80% of fundraising in 2020.**[5]

2 https://fintechmagazine.com/financial-services-finserv/africa-next-big-hub-fintech
3 https://thefintechtimes.com/here-are-four-cities-in-africa-emerging-as-fintech-hubs/
4 https://qz.com/africa/2032255/africas-4-1b-fintech-unicorns-could-pave-the-way-for-startups/
5 https://www.mazars.com/Home/Insights/Latest-insights/Regulating-Africa-s-fintech-boom

The hares of African FinTech...

South Africa was one of the earliest movers in FinTech regulation and development. The country welcomed digital innovation and supporting electronic money solutions as early as 2009[6]. In 2018, the South African Reserve Bank established the Financial Technology programme to strategically assess the emergence of FinTech in a structured and organised manner and to consider its regulatory implications[7].

In East Africa, the clear leader in mobile money adoption and usage, countries favoured a telecom-led regulatory model. In this framework, the telecom provider worked with the financial regulator to establish the infrastructure for mobile payments. In Kenya, M-Pesa's success – which triggered the mobile money revolution in the region – has been partly attributed to Safaricom's good working relationship with the Central Bank of Kenya. The company was given regulatory space to design M-Pesa in a manner that fit its market, and this provided sufficient prudential comfort to the central bank[8].

However, even the countries heralded as FinTech success stories are having their challenges. This is due in part to the fact that FinTech, by its very nature, sits uneasily amid existing regulatory frameworks. It requires a more customised response[9]. Furthermore, even in countries with more robust regulatory ecosystems, regulators are continually playing catch up as the sector continues to evolve. The result is that **often, frameworks and regulations are overlapping, sometimes unclear and occasionally only cover certain aspects of FinTech-orientated business.** Even in Nigeria, many players in the FinTech industry do not know exactly which regulators and governing bodies they have to adhere to. This means that companies may find themselves unaware of the regulations they must comply with, thereby risking hefty fines.

... and the tortoises

In other countries where there is no FinTech regulatory ecosystem, things are more confusing and investors are likely to steer clear altogether as governments are seemingly making no effort at all to keep up with the rapid pace of change. The absence of robust regulations can expose both end-users and FinTech service providers to a multitude of risks.

Critically, there is no convergence of regulatory frameworks across Africa. With conflicting and fragmented regulatory regimes with regards to FinTech, cross-border operations for financial service providers remain a particular challenge. To address these challenges, legal responses must be both adequate and timely. However, many legal systems in Africa have been slow to reform. There are several reasons for this. First and foremost, the lack of regulations across the continent in multiple sectors, not just FinTech, underscores the need for resources – there is not enough funding allocated toward government training or entities to address regulations for new and constantly evolving sectors.

If the regulators don't strike the right chord and regulations are too stringent, it will discourage innovation. Due to the potential offered by the sector, early signs seem to suggest that regulators and governments know how important balance is. They are also increasingly aware of the need to act quickly to ensure the sector is regulated to protect consumers. And while they are at varying stages of thinking and implementation, there is no doubt that Covid-19 has acted as a catalyst for digitisation and also stimulated urgency.

6 https://fintechnews.ae/8412/nigeria/south-africa-nigeria-and-kenya-africas-largest-fintech-hubs/
7 https://www.theasianbanker.com/press-releases/south-african-reserve-bank-establishes-the-financial-technology-programme-to-strategically-assess-the-emergence-of-fintech-in-a-structured-and-organised-manner,-and-to-consider-its-regulatory-implications
8 https://www.pymnts.com/business-wire/2010/mobile-payments-go-viral-m-pesa-in-kenya/
9 https://mauritiusfintech.org/blog/africa-struggle-fintech-friendly-regulations/

Case study
Nigeria
In partnership with Goldsmiths Solicitors

Nigeria's youth population, increasing smartphone penetration and improved regulatory environment are creating the perfect storm for the FinTech sector to flourish. Nigeria is now the home to over 200 standalone FinTech companies, plus a number of FinTech solutions offered by banks and mobile network operators as part of their product portfolio. Between 2014 and 2019, Nigeria's bustling FinTech scene raised more than $600 million in funding, attracting 25 percent ($122 million) of the $491.6 million raised by African tech start-ups in 2019 alone—second only to Kenya, which attracted $149 million[14]. Notable FinTechs in Nigeria include Flutterwave, Remita, Paystack, Interswitch, PiggyVest, and Kuda Bank. In 2020, Stripe acquired Paystack, a startup that provides a quick way to integrate payments services into an online or offline transaction by way of an API. At $200 million, the deal was the biggest start-up acquisition to date to come out of Nigeria[15].

Despite the increased activity in the FinTech sector in Nigeria, there is significant potential for further growth. While FinTech investments in Nigeria are growing, it is still only a small fraction of the $36 billion invested in FinTech globally.[16] Further growth could be enabled by a more concerted effort to improve the framework regulating the sector. As more and more investors are coming into the sector and the Nigerian government ramps up interest in technology, experts think that despite headwinds, things are moving in the right direction.

How many regulators does it take...?

According to Colin Egemonye, a Partner and head of Fintech at Goldsmiths Solicitors, there are currently a number of organisations or agencies regulating Nigeria's FinTech sector. The Central Bank of Nigeria (CBN) is the main regulator, but FinTech companies will also need to operate with the Corporate Affairs Commission (CAC), Securities and Exchange Commission (SEC), Nigerian Communications Commission (NCC), Nigeria Deposit Insurance Corporation (NDIC) and National Information Technology Development Agency (NITDA). Depending on a business's operations, it could be regulated by all these or just some. Processes are sequential and there is no up-to-date online guidance on the stages on who and how to register your FinTech business. With overlap on the remit of some authorities, companies have their work cut out. This proves not only confusing, but expensive as companies are required to secure licenses from different agencies. To obtain a licensing of payment services license from the CBN alone, a company would pay N1 million, the equivalent of approximately $1,800. Other license fees may be required, dependent on the nature of the FinTech

14 https://www.mckinsey.com/featured-insights/middle-east-and-africa/harnessing-nigerias-fintech-potential#:~:text=Fintech%20accounted%20for%20only%20around,retail%20banking%20revenues%20in%202019.&text=And%20while%20fintech%20investments%20in,billion%20invested%20in%20fintech%20globally.

15 https://techcrunch.com/2020/10/15/stripe-acquires-nigerias-paystack-for-200m-to-expand-into-the-african-continent/?guccounter=1&guce_referrer=aHR0cHM6Ly93d3cuZ29vZ2xlLmNvbS8&guce_referrer_sig=AQAAAMgNwsp1spK6AJfCYT3O_3mL2ktrJO8s0n02YyHMUB8h93g7VSp-_skv-YGZ3ncJ8Hcm-M9zUnEjNkwhi8ZAJg1DZot2JihZKppNXYDjnwBt-DMBWn2sEbBnzzGFBWbOYVfVcho-Yuw_NRvQYdrGaicg5lY2unpitgdzuMHeKF7zQ

16 https://www.mckinsey.com/featured-insights/middle-east-and-africa/harnessing-nigerias-fintech-potential

business and on top of this companies must pay for additional taxes and stamp duty – making it a costly venture. Coupled with the fact that licenses can often take significant time to be approved – sometimes up to 2 to 3 years – even in a more established FinTech system such as Nigeria, there are challenges.

Uncertainty is not helped by the fact that the agencies themselves are not clear yet as to whom they are regulating. In April, the SEC and CBN directly contradicted each other when they both announced that they would be responsible as the main regulators of cryptocurrencies. Discussions are still ongoing on this matter, and it remains unresolved[17]. Furthermore, confidence has been dealt a blow by the actions of regulators. In the last 18 months, major regulatory events that ended motorcycle hailing and suspended cryptocurrency transactions through banks have been widely viewed as setbacks to innovation. These scenarios and types of regulations have been criticised for their suddenness – issued without forewarning. They have raised the question: can start-ups really flourish in Nigeria?[18] Indeed, the stakes are high, and non-compliance could leave you in hot water. The Nigerian government's recent ban of Twitter should serve as a warning to all companies in the technology sector.

Issues that businesses need to be particularly aware of in the short term are ensuring KYC policies and AML policies are in place, as this is likely to be a priority for regulators enforcing the sector. Data protection will also be an important consideration for FinTech companies as NITDA is clamping down on data rules.

The advice?

Over to Colin Egemonye of Goldsmiths Solicitors, Lagos, Nigeria: "From the outset, if you adopt international best practice, you will not go far wrong. Establishing relationships with regulators is a no-brainer – nurture and maintain those relationships. Our regulators will be keen to reciprocate. Send your staff for secondment at the regulator's offices and invite them back for training. There are extensive knowledge gaps, and this sort of relationship can help you increase knowledge on both sides".

"In Nigeria, there is renewed government interest in tech generally. We are all aware of what happened to Twitter in Nigeria. That is still ongoing – just two weeks ago, the vice-president of Nigeria announced they were looking at taxing companies in Nigeria based on income. One has to keep a very careful watch now from a regulatory and tax point of view and a political point of view – make sure you're on top of it all."

On the horizon

There are no FinTech-specific regulations being drafted in Nigeria currently. However, this could change in the coming months. For now, FinTech businesses should be aware of and continue to monitor the following:

Proposed Start-up Bill: A start-up bill for Nigeria is being discussed between founders, investors and government representatives. First announced in April 2021 by the Ministry of Industry, Trade and Investment, experts say the bill might come into effect as early as August 2021.

CBN's framework for regulatory sandbox operations: In January 2021, the CBN has now issued an approved Framework for Regulatory Sandbox Operations in Nigeria (the "Framework"). The Framework is expected to give eligible fintech innovators an opportunity to test their products, services, or solutions without the need to acquire a CBN license.

SEC's regulatory incubation programme: The regulatory incubation (RI) programme is designed to address the needs of new business models, and processes that require regulatory authorisation to continue carrying out full or ancillary technology-driven capital market activities. The RI programme has thus been conceived as an interim measure to aid the evolution of effective regulation which accommodates innovation by FinTechs without compromising market integrity and within limits that ensure investor protection. The RI programme is expected to launch in the third quarter of 2021.

17 https://www.thecable.ng/sec-discussion-with-cbn-ongoing-over-regulation-of-cryptocurrencies
18 https://techcabal.com/2021/05/14/nigeria-startup-bill-proposal/

What trends and challenges are facing the FinTech ecosystem?

Regulators, by nature, tend to respond rather than lead. With the nascent and changeable nature of the industry, and the fact that Covid-19 has further accelerated the FinTech revolution, businesses should expect new legislation to be implemented in the coming years. Many countries require a complete regulatory overhaul in order to keep pace with the changing face of payments, and a number of global shifts are making changes essential and imminent.

Anti-money laundering

FinTech raises significant concerns regarding the emergence of new risks related to money laundering. While recent technologies are spurring financial innovation, they are also creating new opportunities for criminals to launder their proceeds or finance illicit activities[10]. Some innovation may favour anonymity of users and promote a lack of transparency in the financial system. In addition, cross-border payments are more efficient, which can also help promote financial flows between international crime networks.

All these factors are a cause of concern relating to money laundering and financing of terrorism, cyber risks, and other associated risks. In Africa, there has been a lower risk of detection as compliance programmes are often not as robust as they should be. However, the tide is changing. If countries are to continue to attract foreign direct investment from the international community, they must show they are actively combatting financial crime.

In this context, it is expected that regulators will focus on AML requirements, including whether businesses have done comprehensive KYC checks, and the mitigation procedures in place to combat financial crime. Businesses will have to stay on top of AML legislation as some jurisdictions are expected to levy high fines for non-compliance in this area.

10 https://www.fatf-gafi.org/publications/fatfrecommendations/documents/regulation-virtual-assets.html

East Africa's FinTech future...

In partnership with Bowmans

What FinTech regulation is being rolled out in East Africa?

FinTech regulation in East Africa has been forward-thinking, however, there is no uniformity in regulation across the region and there are changes on the horizon as regulators get more active in the FinTech space.

In Kenya, the law may be starting to catch up with the sector. **Once the least regulated segment of Kenya's financial service sector, more concrete action is now on its way for FinTechs as the Central Bank of Kenya (CBK) proposes to widen its regulatory scope.** In recent times, regulators have started to show interest in specific areas - including payment services, digital lending and virtual currencies. According to Cynthia Amutete, associate at Bowmans in Kenya, as products continue to grow and develop "we are seeing efforts to regulate the same". With questionable practices occurring, particularly in the digital lending space, legislators have been forced to act. "Just to note, following recent parliamentary discussions, the earlier wider legislative proposals to expand the CBK's regulatory powers over financial products and financial services generally (beyond digital credit) have been eliminated and the focus now is on digital lending," says Amutete.

"We are also seeing regulations in the market trying to enhance innovation in the sector through enhancing the regulatory capacity of FinTech. One example is the Capital Markets Authority Regulatory Sandbox that launched in 2019," adds Amutete. As of May 2021, it had received 24 applications from various innovations – such as crowd funding platforms and digital analytics. Some have already been approved for commercialisation in the Kenyan market.

Collaboration is key...

Importantly, collaboration is at the heart of the country's drive to improve the FinTech regulatory ecosystem as regulators cooperate internally and externally. In 2019, the CBK and the Monetary Authority of Singapore (MAS) inked a FinTech Cooperation Agreement to support digital infrastructure development in Kenya. The two banks are collaborating to develop basic digital infrastructure services for the country – including Know-Your-Customer (KYC) utility.[1]

According to Bowmans lawyers in Kenya, those in the FinTech space will need to be on top of the enactment of the Data Protection Act that was passed in 2019, as many products rely on processing of personal data to offer services. FinTechs should be aware that they may also be subject to the Anti-Money Laundering Framework that is currently in enactment in the Kenyan market.

1 https://www.mas.gov.sg/news/media-releases/2019/singapore-and-kenya-establish-fintech-cooperation-at-inaugural-afro-asia-fintech-festival

Winds of change in Uganda.... The era of unregulated FinTech has ended

According to Brian Kalule, partner at Bowmans in Uganda, "until the National Payments Act 2020, FinTechs were not regulated at all – there were mobile money guidelines which were mere guidelines and therefore, not legally binding". On 5th March 2021, the Bank of Uganda issued the country's first ever FinTech licenses to MTN Mobile Money Uganda Limited and Airtel Mobile Commerce Uganda Limited. **Today, Uganda's National Payments Systems Act of 2020 has meant the Central Bank has commenced licensing of Payment System Operators, Payment Service Providers and Issuers of Payment Instruments.**

"The law exempts financial institutions which are licensed by the central bank, except for those who wish to issue services related to electronic money," says Kalule. "This law has a regulatory sandbox and is pro-innovation. The regulation has been in effect for just six months and is therefore yet to be fully tested... the proof is in the pudding" he adds.

Bowmans lawyers in Uganda tell us that there is **more work to be done** in order to achieve the necessary robust regulations required to allow for FinTech to thrive. Later this year, regulations on consumer protection are expected as well as regulations on competition.

A changing of the guard in Tanzania

The Bank of Tanzania banned cryptocurrencies in November 2019, saying they were not recognised by local law. Restrictions applied to virtual currency providers who were based in the country and offshore. However, Tanzanian President Samia Suluhu Hassan has urged her country to be ready for emerging FinTech by paving the way for cryptocurrencies. She also urged the country's central bank to begin the necessary preparations for a step-change in global attitudes towards banking. According to President Samia, "many countries in the world have not accepted or started using these currencies. However, I would like to advise the central bank to start working on those issues. Just be prepared".

In this context, it is expected that the 2019 cryptocurrency ban could be lifted. While there have been no further announcements yet, it demonstrates the new president's appetite to develop the country's FinTech ecosystem.

Tanzania has no FinTech-specific law. "Under the National Payment Systems Act 2015, there are currently three licenses, namely Payment System Provider, Payment Instrument License and Electronic Money License." However, for FinTechs, when it comes to regulatory compliance and what activities are regulated – the law remains unclear. According to Aisha Sinda, senior associate at Bowmans in Tanzania, "those wishing to enter FinTech in Tanzania, particularly in the payment space, should first meet with the Bank of Tanzania and discuss the relevant compliance programme to ensure clarity and compliance".

How FinTechs are revolutionising tax collection

Digitalisation through FinTech has initiated an unprecedented increase in efficiency for the tax bill in Kenya, Uganda and Tanzania. The ease by which taxpayers can fulfil their obligations has been significantly improved. New tools and analytics are enabling authorities to track down those who are not paying tax. Nikhil Hira, director at Bowmans in Kenya, explains "we are seeing in the East African Community, as a result of digitalisation, there is discussion among the various commissioners and authorities to try and bring people under the net, which I think is a positive thing".

Examples include a new law in Kenya that has come in to allow for voluntary tax disclosure – the whole process is online. Authorities review submissions, decide whether to grant amnesty or not and revert - the payer can make payment online. All physical touch points are being removed with taxpayers in Kenya being able to file exemptions and registrations digitally. A value-added automated system which matches returns from the buyer and seller has also been introduced. It flags discrepancies where the buyer is claiming input tax on VAT and the seller hasn't declared it, enabling more targeted audits.

From August 2022, Kenya will also introduce electronic tax registers that are linked to the Kenya Revenue Authority (KRA)'s system. Whenever there is a transaction, the ledger will automatically be updated.

In Uganda, they have started using online returns. "As a result of digitalisation, Kampala City's revenue collection went up 167% in the last couple of years, clearly there is some merit to what they are doing there," says Hira.

Meanwhile, in Tanzania, the country is projected to increase its revenue by USD 477 million within 12 months as a result of digitalisation.

How are digital taxes affecting e-commerce and FinTech services?

Kenya has seen developments in taxation of FinTech services in recent years. In January, the Kenyan government implemented a new Digital Services Tax (DST) on income from services provided through the digital marketplace in Kenya at the rate of 1.5% on the gross transaction value. The DST applies to the income of a resident or non-resident person that is derived or accrued in Kenya from the provision of services through a digital marketplace. Some have raised concerns about the DST as they believe it could stifle the country's tech sector.

Whilst in Uganda, Ronald Kalema, partner at Bowmans in Uganda, says "when Kenya introduced the Digital Services Tax last year, Ugandans anticipated the introduction of a similar tax here, but when the tax laws came out, there was nothing significant". According to Kalema, this means that tax laws are now in danger of lagging behind in the sector. While the Ugandan government has reportedly recognised the potential revenue that could be collected, there is no consensus on how to tax the digital economy yet.

"The effect is that most of the players, especially international players, remain out of the hunting range of regulators. This gives them a competitive advantage when compared to people who are locally based, because those players generally fall into the tax regime and end up paying taxes anyway. There has been a very public campaign in Uganda to get non-residents who offer digital services to residents

in Uganda to pay VAT," explains Kalema. It is believed that, despite a slow start, Uganda will follow Kenya in its digital services tax soon.

Uganda repealed its social media tax this year when it became clear it was not meeting the expectations of the government. One year after the introduction of the tax, the revenue body reported that it had experienced an annual shortfall of 83%, having collected only UGX 49.5 billion. In July, they enacted a 12% excise duty rate on data which is not specific to digital services but to everyone who uses data in Uganda.

And finally... Any tax incentives?

There are generalised tax holidays for investors and VAT exemptions if you qualify in Uganda. Sector-specific incentives apply currently only to the manufacturing and agriculture sectors in Uganda and there are no plans for FinTech-specific incentives just yet. The same applies in Tanzania and Kenya.

However, the announcement of the development of the Nairobi International Financial Centre is likely to prompt positive and significant changes in the FinTech investment space in Kenya.

"The country is keen on moving forward in the technology world, M-Pesa changed behaviour patterns in Kenya significantly. We have a project known as the Konza Technopolis, previously called Konza Technology City. It is a large technology hub planned by the government of Kenya. Whilst it hasn't developed much yet, I think it is a clear sign of where things are headed," says Hira.

Read ICLG's publication on FinTech in East Africa
Watch Afriwise & Bowmans recent FinTech webinar

African governments get tougher on data protection

Data protection laws are relatively new in Africa. In 2020, 24 African countries, out of 54, adopted laws and regulations to protect personal data, and the number is rising... and quickly![11] Back in 2017, the global scandal surrounding the British company Cambridge Analytica served as a wakeup call for stronger data protection in Africa. Data privacy and sharing are critical to FinTech's success – with no confidence in the protection of data, consumers will not use products. In fact, widespread adoption of FinTech will rely heavily on robust data protection policies and frameworks. As such, businesses should expect continued legislative and regulatory development in this area. It is not unlikely that there will be FinTech-specific data protection laws introduced in the coming years.

A more exciting trend... Regulatory sandboxes

Currently, only a handful of African markets boast regulatory sandboxes, meaning there is still some way to go on FinTech frameworks – but it's moving in the right direction.

In Nigeria, the Securities and Exchange Commission (SEC) announced this year that it is working to set up a regulatory sandbox which would offer a "safe space" for businesses to test innovative products[12]. Meanwhile, the South African Intergovernmental FinTech Working Group (IFWG) has announced the first cohort of the IFWG regulatory sandbox. The Capital Markets Authority in Kenya set up its regulatory sandbox as early as 2019 and in Rwanda, the National Bank instigated a sandbox in 2017. The Reserve Bank of Zimbabwe opened applications for its new FinTech regulatory sandbox in March 2021[13].These are exciting developments which should comfort investors and businesses seeking to expand in the FinTech sector in Africa.

Another positive development is the wave of FinTech hubs emerging, including in Mauritius, Ghana, Rwanda, Uganda and Tanzania. These hubs are an important contributor to the fintech ecosystem, as they bring new innovations and foster home-grown talent, while better enabling facilitation with regulators.

11 https://privacyinternational.org/long-read/3390/2020-crucial-year-fight-data-protection-africa
12 https://thefintechtimes.com/an-overview-of-regulatory-sandboxes-in-the-middle-east-and-africa-region/
13 https://inspirationhistorical.com/zj3t52wa?key=0f22c1fd609f13cb7947c8cabfe1a90d&submetric=15899232

Focus
A glance at Mauritius

Mauritius has a sophisticated financial services industry and a vibrant ICT sector. It is increasingly well placed to take advantage of the opportunities FinTech brings for both Africa and the rest of the world.

INTERVIEW: Suyash Sumaroo

Suyash Sumaroo is a Mauritian-based FinTech entrepreneur. Suyash is CEO of Codevigor and Horizon Africa. Codevigor is now the leading blockchain-based company in Mauritius and was the first to launch a commercial blockchain solution in the Indian Ocean. Along with being a pioneer in blockchain technology, Codevigor is also involved in setting up other FinTech solutions. A member of the Mauritius Africa FinTech Hub and currently doing work on non-fungible tokens (NFTs), Suyash is well placed to give us an insight into the country's burgeoning FinTech sector.

How has the regulatory landscape developed?
In 2014, when we started Codevigor, the regulatory side of things was not so advanced. We had regulations, but it was for more traditional stuff. With the advent of cryptocurrencies, our regulators such as the Financial Services Commission (FSC) have become more involved in regulations, particularly in the blockchain/crypto sector. The regulations are catching up on previously unregulated sectors as new guidelines are being introduced all the time, including on crowdfunding. This is not necessarily a good thing for FinTech businesses – for example, if a start-up needs a Custodian Services (Digital Asset) license, the license fees are high and potentially prohibitive. It is good that they are setting up these frameworks, however, it can potentially stifle innovation.

What is the focus right now?

The primary concern is Anti-Money Laundering (AML), and it is the predominant reason our government is seeking to get on top of these technologies. Maurtius was added to the European Union's revised list of high-risk countries that have "strategic deficiencies in their anti-money laundering and counter terrorist financing frameworks" on 7 May 2020. Since this, Mauritius is striving to reassure investors and has sought to get on top of anything that could relate to AML and fraud. As such, cryptocurrencies are one of their main considerations. It is likely that, because of this, the regulatory framework against money laundering and terrorist financing for both banking and non-banking financial services will be harmonised and updated in line with the perpetually evolving developments in FinTech.

What are the regulations like for businesses operating in the space? Is there confusion?

It's not confusing per se. In fact, one of the good things about Mauritius's regulators is that they have been very open, even though they are a little out of their depth, like many when it comes to FinTech. They invited multiple actors in the FinTech space to educate them about cryptocurrencies so they could be better informed when enacting frameworks. On the downside… they don't always listen to what we have to say.

How has this impacted your business?

As a smaller start-up, the regulations don't really apply, and smaller companies are agile and ahead of the curve. By the time the regulations catch up, we and in fact the ecosystem more generally, have moved on. As a start-up, we steer clear of anything that would require us to set up a license or a custodian license. Custodian licenses require companies to have at least 35 million Rupees working capital ! As a start-up, it is extremely difficult to get funding, let alone in the crypto or blockchains space – people won't touch you. Therefore, we steer clear of sectors that would require us to have any of these licenses. Generally, we avoid any elements of either crypto or blockchain that require a license right now. For example, we are currently focused on NFTs and have just launched an NFT platform – it's in the FinTech sector, but it's not regulated in Mauritius.

What about larger companies?

The bigger companies are often slower to get ahead of the innovation curve. They usually have to apply for licenses. I think the main challenge for international companies currently is not necessarily the regulations – we have a fairly clear framework, even if it is not hugely developed, and if you stay within that, you will be okay. Depending on your activity, it is the more practical issue of setting up a bank account in Mauritius that poses a challenge. You must have one to operate in the country, however, it is really hard to get one – largely due to the reluctance of banks to engage with companies in the blockchain and crypto space. In fact, it is the banks that are not so open to give financial facilities to FinTech companies, particularly those in the crypto space. Even most of the local start-ups have problems, and we have been very vocal about this. Hopefully, this is going to change – particularly as the government is seeking to push investment in the blockchain sector. Practically, this will be difficult in this context.

How important are hubs to building the ecosystem and to businesses in the sector?

The hubs are definitely very important, especially in countries like Mauritius. The Mauritian culture is not very attractive for start-ups, particularly in the tech sector. These hubs and associations create a bridge between what is happening in the region and what people are doing in Mauritius. The Mauritius Africa FinTech Hub is two and a half years old and has made a huge amount of progress.

In conclusion...

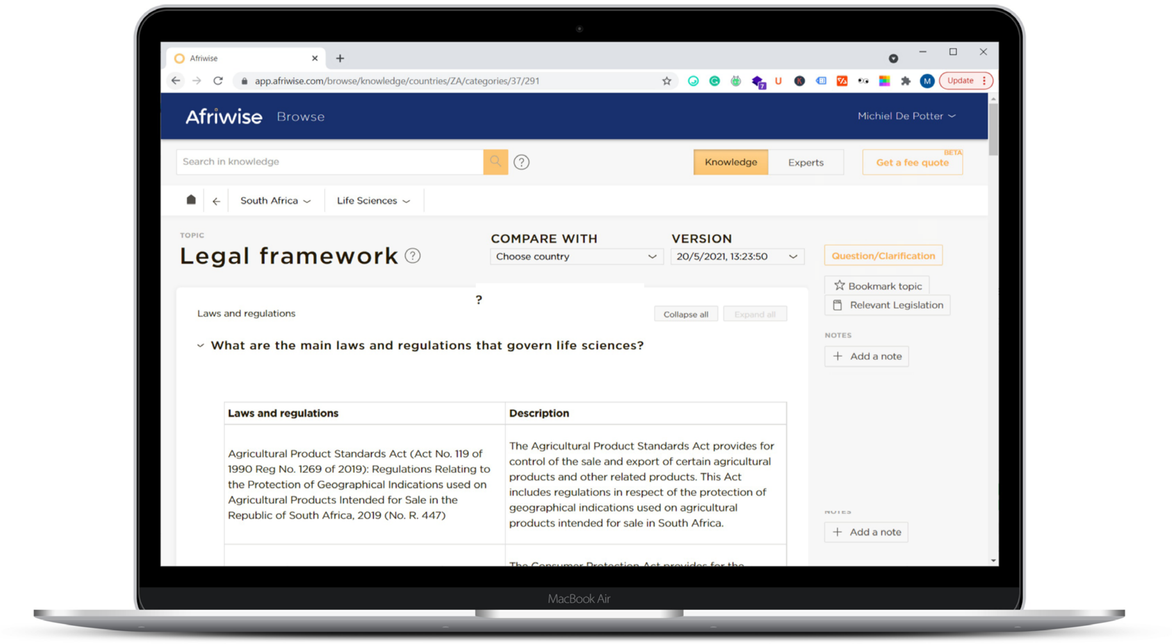
In the coming years, countries across Africa are expected to introduce new regulatory frameworks to cover the FinTech industry. This is likely to see the introduction of regulators specifically set up to monitor the sector. It will also no doubt prompt updates to existing laws – particularly in the fields of AML and data protection but also cybercrime.

Governments and regulators are increasingly aware of the need to build investor friendly FinTech ecosystems. Over time, this will necessarily see a move toward harmonisation and an ironing out of irregularities. However, in the short-term, the transition may not be so smooth in all countries. As new sector-specific laws are put in place, there may be an initial overlap with existing regulators and ministries which could cause some confusion. In addition, new regional-level legislation could also add a further layer to regulations that businesses will need to navigate. Due to the fast-paced nature of the industry, there may be knee-jerk regulatory reactions which could have significant consequences for businesses.

To mitigate challenges, it is important that FinTechs work directly with regulators, build relationships and ensure they keep up with constantly evolving regulation.

Afriwise

NEW
FinTech Regulatory Module



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