

HOW PRACTICABLE IS THE IMPLEMENTATION OF THE ENAIRA GUIDELINES IN THE LIGHT OF RECENT REALITIES?

INTRODUCTION

The Central Bank of Nigeria (CBN) engaged global Fintech Company, Bitts Incorporation as its technology partner to spearhead the eNaira project tagged 'Giant'. Bitt is a financial technology (FinTech) company providing digital currency solutions to financial institutions, central banks and ecosystem participants worldwide. The company appears to be at the forefront of FinTech innovation, with specialization in central bank digital currencies (CBDCs). In an official statement, Chief Executive Officer of Bitt, Brian Popelka, opines that digitizing the Naira will benefit the entire Nigerian financial ecosystem in the long run.

EXISTING LEGAL FRAMEWORK ON CRYPTOCURRENCY

Prior to the recently released Regulatory Guidelines on eNaira, the Securities and Exchange Commission (SEC) had earlier in 2020 published regulatory guidelines for digital currencies and crypto-based companies or start-ups, indicating that they will supervise crypto-token or crypto-coin investments, where the nature of the investments qualifies as securities transactions.

WHETHER ENAIRA IS A CRYPTOCURRENCY?

Many have confused the eNaira to be a cryptocurrency, however this is not the case. This is because, while all cryptocurrencies are digital assets/currencies, not all digital currencies are cryptocurrencies properly so called. Furthermore, unlike cryptocurrency, CBDCs are more secure, traceable and stable. Hence, problems like terrorism financing, cybercrimes, etc can easily be laid to rest. Also, as far as cryptocurrency is concerned, the extant law that appears to delimit cyber activity is the Nigeria Cybercrimes (Prevention & Prohibition) Act 2015. This law was passed in order to combat the surge in cybercrimes as a result of dealings in digital currencies, like bitcoin and other altcoins.

ENAIRA WALLETS

Just like other digital currencies, eNaira will be hosted on a wallet. The eNaira wallet is required to access, use and hold eNaira. Nigeria has so far launched two mobile applications, eNaira speed wallet and eNaira merchant wallet, available for download on the app stores. The eNaira wallet allows you to send, receive and spend eNaira without charges (for the first 90 days). There are tiers or levels of the eNaira wallet based on the minimum transaction and balance limit. The tier one (1) with a maximum transaction limit of ₦ 50, 000. 00 (fifty thousand Naira) only requires your phone number which is linked to your National Identification Number (NIN), while the other tiers require more detailed KYC procedure.

REGULATORY GUIDELINES ON THE ENAIRA

As laudable as this feat emanating from the CBN is, the following are some major concerns and recommendations:

CENTRAL BANK OF NIGERIA (CBN) DISCLAIMER

It is quite shocking that the CBN has absolved itself of all liability or damage incurred by anyone who uses materials/information on the eNaira website. This is a gross act of irresponsibility on the part of the government as against being accountable for its actions. The effect of the disclaimer is that the CBN will not be responsible for any liability incurred by anyone who uses the eNaira. This again, questions the accountability of the government towards the people it governs. In the words of the CBN, it states that CBN does not make any representations concerning the accuracy or reliability of the use of the materials on its website or otherwise relating to such materials or any sites linked to this Website.

DISPUTE RESOLUTION

Under paragraph 15.0 of the guidelines, there seems to be no adequate provision for customer dispute resolution. In other words, the process of resolving customer complaint is not time bound, unlike complaints emanating from Financial Institutions which is mandated to be resolved within 2 days. In the absence of clear-cut timelines for dispute resolution of customer complaints, the effect is that commerce will suffer. Issues may linger for days even weeks where customers' complaints are left unattended to. Therefore, if the CBN is truly serious about the ease of doing business and reducing the margin of unbanked Nigerians, there is a need to set up appropriate and adequate modalities for resolving customers' complaint which should be within a stipulated time frame just like FIs.

Furthermore, the guideline also states that if customers or parties are not satisfied with the dispute resolution mechanism, resort should be made to Arbitration. Practically speaking, one can imagine a scenario where students, or petty traders or low-income earners, attempt making payment for goods and services of relatively insignificant value, and such has to go to Arbitration! One wonders if the innovators of the eNaira have considered what the burden of having to worry about arbitration fees shall be on the parties involved. In other words, many questions remain unanswered as to whether or not, it is advisable to identify threshold of disputes worthy of arbitration or allow a floodgate of insignificantly valued disputes to go to arbitration irrespective of the financial muscle of the parties.

DISTINCTION OF ENAIRA WALLETS

In order to create a seamless and unambiguous eNaira wallet, the eNaira merchant speed wallet (for business owners) and the eNaira speed wallet (for individual) apps should be merged. A single app can host both categories. Apps are maintained to stay afloat. The duplicity of apps further complicates the process.

THE ROLE OF THE FEDERAL GOVERNMENT

Paragraph 4.4 of the guidelines states that MDAs *'may'* receive payments in eNaira and make payments in eNaira. What this suggests is that, the MDAs wield the discretion to accept or refuse eNaira as a means of transacting business. The government should be exemplary by showing citizens that all its agencies and parastatals are in alignment with the implementation of this project. Since the CBN guidelines stipulate that MDAs shall be onboarded by the CBN upon receipt of the appropriate mandate, it is expedient for the CBN to do the needful by ensuring that government executes the mandate to serve the economic interests of the nation.

SECURITY AND PRIVACY

The issue of crypto wallet hackers has been a major challenge in the cryptocurrency space. Save for the two-factor authentication measure stated (p. 3.5), the guideline does not explicitly state other measures put in place, to combat the menace. The regulators need to do more to guarantee Nigerians of the safety of their monies and also ensure control and effective security of the wallets.

CONCLUSION

In conclusion, the success of eNaira is only guaranteed where the citizens have absolute trust in the system. Amidst the brewing concerns and questions, it is hoped that the CBN is strategic enough to deliver on its promises, in order to get more Nigerians on board with a view to eradicate economic depression amongst the teeming population. No doubt, this giant stride of the CBN has catapulted Nigeria into limelight as first of its kind in Africa, however, it is hoped that unlike many other ventures taken to redeem the country's financial sector in the past, this particular initiative will help in restoring the lost hope in resuscitating the economy.

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