

Legal and Regulatory Framework for Digital Credit Providers in Nigeria: Lessons from Kenya's Digital Credit Providers Regulations, 2022

Tayewo A. Adewumi ^{*} and Temilade O. Jolaosho ^{**}

Abstract: *The current issue that affects Sub-Saharan Africa is the proliferation of unlicensed digital credit providers. These digital credit providers employ the use of information and communication technology in making their loan products attractive. Their loan recovery methods are crude and life-threatening coupled with a very high-interest rate. This article discusses the current situation in Nigeria and Kenya. The Nigerian government, through joint action, carried out a raid on these digital credit providers, freezing their bank accounts and ordering that google play store and apple store should remove them from their platforms. Kenya has been able to put these digital credit providers under the regulation of the Central Bank of Kenya. In its press release dated March 21, 2022, the Central Bank of Kenya (CBK) announced the publication by Legal Notice No. 46 of March 18, 2022, of the Central Bank of Kenya (Digital Credit Providers) Regulations, 2022. The Regulations were issued in accordance with Sections 57(1), 57(3), and 57(4) of the Central Bank of Kenya Act (the CBK Act). They provide for the licensing and oversight of previously unregulated Digital Credit Providers (DCPs). The Regulations are now operational This article examines the regulations and concludes by recommending that Nigeria should emulate Kenya by publishing Central Bank of Nigeria Digital Credit Providers Regulations.*

^{*} Ph.D., ACIS, MCIB, Lecturer, Faculty of Law, Elizade University, Ilara-Mokin (Ondo State, Nigeria).

^{**} Ph.D., Lecturer, Faculty of Law, Elizade University, Ilara-Mokin (Ondo State, Nigeria).

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I. Introduction

The Sub-Saharan Africa has seen and is experiencing the menace created by digital credit providers. Digital credit providers have continued to pose dangers to the lives of poor innocent people. With the advancement in information technology, there has been an influx of several digital lending companies into Africa. The lending companies employ the use of information and communication technology in making their loan products attractive. The loan recovery methods of these lenders are crude and life-threatening coupled with very high-interest rates. There has been an outcry on the activities of these digital credit providers.

On Friday, March 11, 2022, the Nigerian Inter-Agency Joint Regulatory and Enforcement Task Force (JRETF); particularly the Federal Competition and Consumer Protection Commission (FCCPC), National Information Technology Development Agency (NITDA), and Independent Corrupt Practices and Other Related Offences Commission (ICPC) carried out investigations into the operations of these digital money lenders.

According to an order of the federal high court obtained by, and granted to the FCCPC, the JRETF executed a search and confiscation order on certain digital money lenders. As part of the operation, the JRETF in conjunction with the Nigeria Police and bailiff of the Federal High Court searched the locations of the money lenders for evidence, and to prevent their continuing operations. Also, the FCCPC served orders on several financial institutions, freezing certain accounts (pending further investigations) being used by some of the money

lenders in conducting their businesses. The FCCPC had also served wide-ranging orders on Google LLC (Play Store) and Apple Inc. (App Store) to remove some of these loan applications where the use of the application in violation of the rights of consumers has been established.¹

In Kenya, since the launch of M-Shwari in 2012, the number of digital lenders and loans disbursed has grown substantially. Advances in credit scoring, few regulatory barriers, and the widespread use of mobile phones and mobile money have enabled the growth of the digital lending industry, giving borrowers a quick and convenient option for credit. However, industry practices around pricing, marketing, and debt collection have raised concerns. In addition, the widespread negative listing of digital borrowers in credit reference bureaus points to the difficulty many borrowers have in repaying digital loans.²

Consultative Group to Assist the Poor (CGAP) was of the view that digital credit is fast, private, and convenient. It is also potentially risky. Since 2012, millions in East Africa have borrowed small amounts with a quick tap on their mobile phones, making the region the first to achieve high penetration rates for digital consumer credit. Many in the financial inclusion community have supported digital consumer credit for its potential to easily help poor people meet their short-term household or business needs, while others have cautioned that it could lead to risky credit booms and over-indebtedness by those least equipped to manage the risk.³

This article carries out an appraisal of the regulatory framework for the digital credit providers in Nigeria and Kenya. The first section is the introduction, the second section discusses digital credit, the third section discusses digital credit providers in Nigeria, the fourth section discusses digital

¹ FCCPC, ICPC, EFCC, NITDA, NHRC AND CBN to jointly investigate rights violations in money lending Industry: initial enforcement operations by the joint task force (FCCPC, NITDA, and ICPC)

<https://www.fccpc.gov.ng/news-events/releases/2022/03/14/fccpc-icpc-efcc-nitda-nhrc-and-cbn-to-jointly-investigate-rights-violations-in-money-lending-industry-initial-enforcement-operations-by-joint-task-force-fccpc-nitda-and-icpc/> on 20 March 2022.

² Gubbins P, 'Digital credit in Kenya: facts and figures from FinAccess 2019' https://fsdkenya.org/wp-content/uploads/2020/07/Focus-Note-Digital-Credit-in-Kenya_Updated.pdf on 23 March 2022.

³ CGAP, Lesson on digital consumer credit from East Africa <https://www.cgap.org/topics/collections/digital-credit> on 23 March 2022.

credit providers in Kenya, the fifth section discusses the Central Bank of Kenya (Digital Credit Providers) Regulations, 2022 and sixth section is the conclusion.

II. Digital credit

Most of the digital credit providers give small loans usually known as microcredit. The smallness of those small amounts qualifies them as microloans. According to Megan Whittaker, the concept of microcredit, in which poor people are given access to small loans as an alternative to charity, began as an economic and social experiment in the developing world. Micro-lending was pioneered by Bangladeshi Professor Muhammad Yunus in 1976 when he launched an action research project in his native country to ‘examine the possibility of designing a credit delivery system to provide banking services targeted at the rural poor’.⁴

Vincent Di Lorenzo,⁵ describes digital credit service as fintech lending when he states that fintech lending, sometimes referred to as online marketplace lending, is lending through digital platforms that often collect and base lending decisions on non-traditional data sources. Underwriting is typically automated and may employ non-traditional credit algorithms.

Christopher G. Bradley in describing the fintech tools states that fintech tools have ‘double edges’: the same technological tool may be used in different ways and have different effects, particularly on consumers-and each tool may lead to the development of a new tool that yields yet more sets of ultimate uses and effects. ⁶ In other words, the development of financial technology tools is unpredictable and path-dependent, contingent both on technological developments as well as the social contexts in which tools are developed and used. The double edges of fintech tools, the dynamic, unstable, and path-dependent nature of their development and use present a keen legal problem, a problem of regulatory balance and responsiveness.

⁴ Whittaker M, 'South Africa's National Credit Act: A Possible Model for the proper role of Interest Rate Ceilings for Microfinance' 28 *Northwestern Journal of International Law & Business*, 2008, 561.

⁵ Di Lorenzo V, 'Fintech lending: a study of expectations versus market outcomes' 38(2) *Review of Banking and Financial Law*, 2019, 725.

⁶ Bradley C, 'Fintech's Double Edges' 93(1) *Chicago-Kent Law Review*, 2018, 61.

In describing the fintech, Anton Didenko⁷ opines that like any new financial, technological, and legal reality, is inherently disruptive for any system of law. In many cases, it does not fit easily into the existing regulatory framework and challenges the regulators to produce an appropriate response. The adequacy and timeliness of such legal response determine not only the viability of the fintech solution but also its potential impact and capacity to contribute to positive social change. Quite often, however, regulatory feedback to financial innovation is incomprehensible, inconsistent, or comes too late. As a result, the development of adequate fintech-specific rules has become a challenge for regulators all over the world, with widely differing approaches across jurisdictions.

With the advent of information and communication technology, digital lending took a new dimension from the traditional form. There are influxes of many digital lending companies which are neither banks nor finance companies and are operating in Sub-Saharan Africa and outside the central banks' regulatory purview. The operations of these lending companies are strictly digitalised and they employ automation in the appraisal and approval of such loans. Most of them do not have physical addresses and their interest rates are higher than conventional bank rates with loan tenure as short as seven days. Their loan recovery methods are crude and life-threatening while high-interest rates and penalties are charged daily on a defaulted loan.

III. Digital credit providers in Nigeria

The Nigerian digital credit providers operate under an unregulated model and have yet to show positive impacts or alleviation of poverty. This lack of impact is due to abusive interest rates, loan shark methods of debt collection. There has been an outcry from the members of the public on the activities of the digital credit providers. The Central Bank of Nigeria (CBN) governor, Godwin Emefiele said Nigerians should beware of illegal money lenders, known as loan sharks. Emefiele said this on 25 January 2022 at the end of the monetary policy committee meeting in Abuja.⁸

⁷ Didenko A, 'Regulating Fintech: Lessons from Africa' 19(2) *San Diego International Law Journal*, 2018, 311.

⁸ Aro B, 'Avoid loan sharks, leverage on microfinance banks, Emefiele tells Nigerians' Cable News, 25 January 2022 <https://www.thecable.ng/avoid-loan-sharks-leverage-on-microfinance-banks-emefiele-tells-nigerians/> on 8 February 2022.

He mentioned that loan sharks offer loans at extremely high rate returns, strict terms of collection upon failure, and generally operate outside the law. The CBN governor explained that those who collect loans from places other than microfinance banks or recognised institutions are at bigger risk. The CBN governor in his words identified that the operations of these digital lending companies pose a great danger to those who patronise them. He said:

There is no need for you to go to loan sharks for a loan. People normally go to loan sharks because they are desperate and can't access the bank. We found out that those that are vulnerable are households who need money to do their businesses but they can't access bank finance and as a result go to loan sharks who charge them way above or two times higher than the amount borrowed and expected to pay back in 90 days and if that doesn't happen, they seize your house or bikes. We can only continue to advise that there is no need to go for loan sharks. The central bank has put in place the avenue through which you can raise your finance, like through the target credit facility or the SMEs loan that was set up through our microfinance banks. You don't have to owe anybody, just go to the portal and fill out the form, send your data, and if it's correct, you will be able to access loans. We have a large number of people who have testimonials from the facilities we've made available and do not have to owe anybody. The bank is putting effort to stop loan sharks, and when these people are found, they will be dealt with mercilessly.⁹

Nike Popoola succinctly described the situation in Nigeria as it relates to debt recovery by the online lending companies when she stated that:

The rise of online lenders on the back of tough loan conditions imposed by commercial banks has brought relief to thousands of borrowers. However, unconventional loan recovery tactics deployed against defaulting borrowers by unprofessional online lenders have brought untold pains and emotional trauma to many Nigerians.¹⁰

⁹ Aro B, 'Avoid loan sharks, leverage on microfinance banks, Emefiele tells Nigerians'.

¹⁰ Popoola N, 'Loan Sharks Devise Underhand Tactics, Inflict Pains on Cash-Strapped Nigerian Borrowers' Punch, 28 December 2021 <https://punchng.com/loan-sharks-devise-underhand-tactics-inflict-pains-on-cash-strapped-nigerian-borrowers/> on 8 February 2022.

According to the above, many of the borrowers never envisaged the aftermath of their decision to patronise some unprofessional online lenders. An unprofessional online lender sent a message about a friend to the WhatsApp number of a Punch correspondent. The message read, "Be advised! Babatunde Ajigbese with phone number 08000000000 (real name and phone contact withheld) is a chronic debtor who borrowed funds and is cunningly avoiding repayment despite several calls and messages sent to him. Do not trust such a person with funds as he/she is a financial liability and

Just recently, the National Information Technology Development Agency (NITDA) sanctioned an online lending platform, Soko Lending Company Limited (Soko Loans), for privacy invasion.¹¹ The action was taken after receiving a series of complaints against the company for unauthorised disclosures, failure to protect customers' data, and defamation of character as well as failure in carrying out the necessary due diligence as enshrined in the Nigeria Data Protection Regulation (NDPR).¹²

The issue with these digital credit providers is not only in the area of recovery, but the interest rates are also extremely high and the loan duration is extremely short. According to findings, there are various unregulated loan applications on the Google Play Store being patronised by Nigerians. Some of these digital loan companies are registered with the Corporate Affairs Commission to woo the unsuspecting borrowers.

It is important to note that some of these lending companies converted to microfinance banks but continue using their lending applications to extort

has proved to be a credit risk. We can send you the proof.” When the Punch correspondent contacted the accused borrower, he said he never envisaged such embarrassment from the online lender, lamenting that the same message had been sent to other contacts on his phone.

¹¹ The National Information Technology Development Agency (NITDA) is the apex regulator for Information Technology in Nigeria under the supervision of the Federal Ministry of Communication and Digital Economy. The Agency is empowered by Section 6(c) of the *NITDA Act*, 2007 to develop guidelines for electronic governance and monitor the use of electronic data interchange and other forms of electronic communication transactions in Nigeria. The Agency issued the *Nigeria Data Protection Regulations* (NDPR) as Nigeria's first comprehensive framework for the protection of personal data. The NDPR provides the principles and framework for the protection and processing of the personal data of Nigerians and residents. See National Information Technology Development Agency <https://nitda.gov.ng/nitda-sanctions-soko-loan-for-privacy-invasion/> on February 8, 2021.

¹² According to the press release on the website of the National Information Technology Development Agency (NITDA) dated August 17, 2021, signed by Mrs. Hadiza Umar, Head, Corporate Affairs and External Relations Corporate Headquarters, Garki, Abuja; one of such complaints filed by Bloomgate Solicitors on behalf of its client, the data subject, was received on Monday, 11th November 2019. NITDA, as part of its due diligence process, commenced investigation over the alleged infractions of the provisions of the NDPR. Soko Loans grants its customers uncollateralised loans and requires a loanee to download its mobile application on their phone and activate a direct debit in the company's favour. The app gains access to the loanee's phone contacts. According to one of the complainants, when he failed to meet up with his repayment obligations due to insufficient credit in his account on the date the direct debit was to take effect, the company unilaterally sent privacy-invading messages to the complainant's contacts.

high-interest rates from poor Nigerians.¹³ The interest rate ranges from 20% to 30% on seven-day loan tenure and the penalties are as high as 3% to 5% per day.

Amos Abba of the International Centre for Investigative Reporting in corroborating the above stated that while the number of digital loan companies in the country grows daily, the permissive nature of Nigeria's regulation means that these firms are under minimal scrutiny,¹⁴ and some take advantage of those in need of fast money.¹⁵

He went further to state that some of the loan companies embarrass loan defaulters by sending their debt information to their phone contacts, defaming their character, and cyberbullying them as part of their debt collection strategies. To do this, they need some data from their customers which include their Bank Verification Number, BVN, permit access to their location, access to picture and video recording, phone contacts, media, and files on their phones.¹⁶

These lending companies, according to the provision of the Banks and Other Financial Institutions Act belong to the category of other financial

¹³ It is unclear whether they eventually got CBN approval for establishing such microfinance banks because no trace of them was found on the CBN's list of microfinance banks in Nigeria.

¹⁴ The International Centre for Investigative Reporting, ICIR, is an independent, non-profit news agency that seeks to promote transparency and accountability through robust and objective investigative reporting. The ICIR's mission is to promote good governance and entrench democratic values by reporting, exposing, and combating corruption. The Centre is envisioned to be a catalyst in encouraging and fostering a tradition of journalistic excellence through creative investigative reporting, online publishing, and training programs. Abba A, 'How fintech loan sharks in Nigeria cyberbully, trap customer in debt' International Centre Investigative Reporting, 27 October 2021 <https://www.icirnigeria.org/how-fintech-loan-sharks-in-nigeria-cyberbully-trap-customers-in-debt/> on 8 February 2022.

¹⁵ Investigations by the International Centre for Investigative Reporting (ICIR) revealed that XGO Finance Limited, Lagos, was registered as a financial company with the CAC on May 20, 2019, and co-owns three other loan apps, namely *imoney*, Xcredit, and Credit9ja. With registration number RC 1586333, it was listed as inactive by the CAC. The company owners are Chinese nationals, Duan Wei, also known as Robin Duan, and Zhong LiuHao. Wei is the co-founder and Chairman of Mobvista Inc, a Chinese technology firm whose subsidiary, MIB Network Limited, owns majority shares in XGO Finance Limited. The Chinese directors also registered an unlicensed microfinance bank with the CAC, Finpath Microfinance Bank, and a logistics firm XGO Technology Limited on the same address as XGO Finance Limited in Victoria Island, Lagos. They listed their address on the CAC forms as Room 503, No 33 Jiansheliu Road, Yuexiu, and 84, 1st Road, Xing Tian Town, Xingning, all in Guangdong, China. The microfinance bank, though registered with the CAC, is listed as inactive. A check on Finpath Microfinance Bank's status on February 9, 2022, on the Corporate Affairs Commission website showed the corporate entity with RC 1598389 as inactive.

¹⁶ Abba A, 'How fintech loan sharks in Nigeria cyberbully, trap customer in debt'.

institutions which are under the regulatory and supervisory purview of the Central Bank of Nigeria.¹⁷

Section 57(1) and (2) of the Banks and Other Financial Institutions Act 2020 provides that:

- (1) Without prejudice to the provisions of Chapter A of this Act, no person shall carry on specialised banking or business of other financial institutions in Nigeria other than insurance, pension fund management, collective investment schemes, and capital market business as defined respectively in the Insurance Act, the Pension Reform Act and the Investment and Securities Act except it is a company duly incorporated in Nigeria and holds a valid licence granted under this Act.
- (2) In this section, “business of other financial institutions” include:
 - (a) Business of a discount house
 - (b) Bureau de change
 - (c) Credit bureau
 - (d) Finance company or money brokerage
 - (e) International money transfer service
 - (f) Mortgage refinance company
 - (g) Mortgage guarantee company
 - (h) Credit guarantee
 - (i) Financial holding company
 - (j) Businesses whose objects include:
 - (i) Factoring
 - (ii) Project financing
 - (iii) Equipment leasing
 - (iv) Debt administration
 - (v) Private ledger services
 - (vi) Investment management
 - (vii) Local purchases order financing
 - (viii) Export finance and
 - (ix) Such other businesses as the Bank may, from time to time, designate, regardless of whether such businesses are conducted digitally, virtually, or electronically only.¹⁸

Babatunde Irukera, the Chief Executive Officer of FCCPC stated in a statement dated November 15, 2021. That the Federal Competition and Consumer Protection Commission (FCCPC), CBN and the Economic Financial

¹⁷ *Banks and Other Financial Institutions Act* 2020.

¹⁸ Sections 57(1) and (2) of the Banks and Other Financial Institutions Act 2020.

Crimes Commission (EFCC) are set to commence investigations into the illegal practices of the digital money lenders in the country.¹⁹

In a bid to crack down on these illegal online lenders who intentionally hide their physical addresses from their customers, the inter-agency Joint Regulatory and Enforcement Task Force [JRETF] particularly the Federal Competition and Consumer Protection Commission, (FCCPC), the Independent Corrupt Practices Commission (ICPC), and the National Information Technology Development Agency [NITDA] took the fight to their doorsteps by raiding their offices.²⁰

The JRETF with the Nigerian Police and bailiff of the Federal high court raided the major offices of the notorious digital money lenders, located at no 77 and 21 Opebi Road, Ikeja. Both buildings (had no signage or any indication of what was going on in their offices) housed over seven different digital moneylenders and which at the time of the raid had over 3,000 young staff working with their laptops and phones. There was no sign or billboard to indicate the nature of the business they do as they did not want their distressed customers to trace the location from which the intimidating calls to them and their contacts were emanating.²¹

Irukera, addressing journalists, said that the FCCPC started gathering information on the activities of these digital money lenders in 2020 during the peak of COVID-19 lockdown when people needed easy loans to cope with the hardship brought by the pandemic and that sometimes at the end of 2021, after gathering some information, the FCCPC engaged other agencies including the Economic and Financial Crime Commission (EFCC), Independent Corrupt Practices Commission (ICPC), National Human Right Commission (NHRC), Central Bank of Nigeria (CBN), and Nigerian Communications Commission (NCC), to create the joint regulatory task force to look into these businesses.

¹⁹ 'Publication of regulations for digital credit providers and commencement of their supervision' <https://www.fccpc.gov.ng/news-events/releases/2021/11/15/fccpc-icpc-efcc-nitda-nhrc-and-cbn-to-jointly-investigate-rights-violations-in-money-lending-industry/> on 8 February 2022.

²⁰ Okeke J, 'Day FCCPC taskforce clampdown on shylock online moneylenders' <https://thenationonlineng.net/day-fccpc-taskforce-clampdown-on-shylock-online-moneylenders/> on 20 March 2022.

²¹ Okeke J, 'Day FCCPC taskforce clampdown on shylock online moneylenders'.

FCCPC said it had frozen the accounts of some money lenders being investigated for violating the rights of consumers.²²

However, the raiding of the hideouts of these illegal digital money lenders will continue to be a herculean task when they are also taking all steps to ensure that they are never found by the regulators.

IV. Digital credit providers in Kenya

In its press release dated 21 March 2022, the Central Bank of Kenya (CBK) announced the publication by Legal Notice No. 46 of March 18, 2022, of the Central Bank of Kenya (Digital Credit Providers) Regulations, 2022. The Regulations were issued in accordance with Sections 57(1), 57(3), and 57(4) of the Central Bank of Kenya Act (the CBK Act). They provide for the licensing and oversight of previously unregulated Digital Credit Providers (DCPs). The Regulations are now operational.²³

The press release stated that the regulations seek to address concerns raised by the public given the recent significant growth of digital lending, particularly through mobile phones. These concerns relate to the predatory practices of the previously unregulated digital credit providers, and in particular, their high cost, unethical debt collection practices, and the abuse of personal information. The Regulations provide for inter alia the licensing, governance, and lending practices of DCPs. They also provide for consumer protection, credit information sharing, and outline the Anti-Money Laundering and Combating the Financing of Terrorism (AML/CFT) obligations of DCPs. Consequently, under Section 59(2) of the Central Bank of Kenya Act,²⁴ all

²² Kolawole Y, 'FCCPC freezes accounts of digital money lenders' <https://www.vanguardngr.com/2022/03/fccpc-freezes-accounts-of-digital-money-lenders/> on 18 March 2022.

²³ 'Publication of regulations for digital credit providers and commencement of their supervision' https://www.centralbank.go.ke/uploads/press_releases/2119450187_Press%20Release%20-%20Publication%20of%20Regulations%20for%20Digital%20Credit%20Providers%20and%20Commencement%20of%20their%20Supervision.pdf on 23 March 2022.

²⁴ Section 59(2), *Central Bank of Kenya (Amendment) Act*, 2021 (Act No. 15 2021) provides that: 'Any person who before the coming into force of this Act was in digital credit business and is not regulated under any other law shall apply for a licence under section 33S, within six months of publication of the regulations under subsection (1)'.

previously unregulated DCPs are required to apply to the Central Bank of Kenya for a license within six months of the publication of the Regulations, i.e., by September 17, 2022, or cease operations.

The press release stated that the Central Bank of Kenya will continue working with all stakeholders to ensure that the regulations work for and with Kenyans, and are in line with best global practices.

V. The Kenya digital credit service provider regulations

The Central Bank of Kenya on 18 March 2022 came up with the Central Bank of Kenya (Digital Credit Providers) regulations 2022 through the legal notice no. 46 and under Sections 57(1)-(4) of the Central Bank of Kenya Act. The regulations have 12 parts with 59 sections. A digital credit provider is defined by the Central Bank of Kenya (Amendment) Act, 2021 as a person licensed by the Central Bank of Kenya to carry on a digital credit business.²⁵ Section 2 of the *Central Bank of Kenya (Digital Credit Providers) Regulations 2022* outlined those entities the regulations shall not apply to:

- ‘(a) An institution licensed under the Banking Act;
- (b) An institution licensed under the Microfinance Act, 2006;
- (c) A Sacco society licensed under the Sacco Societies Act, 2008;
- (d) The Kenya Post Office Savings Bank supervised under the Kenya Post Office Savings Bank Act;
- (e) Credit arrangements involving the provision of credit by a person that is merely incidental to the sale of goods or provision of services by the person whose primary business is the provision of the goods or services;
- (f) An entity whose digital credit business is regulated under any other written law;
- (g) Any other entity approved by the Bank’.

The Central Bank of Kenya (Digital Credit Providers) Regulations 2022 under section 4(1) provide that no person shall establish or carry out digital credit

Section 33S(1) however provides that a person shall not carry on any digital credit business unless that person has been licensed by The Bank under this Act or is permitted to do so under any other written law.

²⁵ Section 2, *Central Bank of Kenya (Amendment) Act*, No.15 2021. “Digital credit business” means the business of providing credit facilities or loan services through a digital channel.

business in Kenya or otherwise hold himself out as carrying out digital credit business in Kenya unless that person is licensed by the Bank under the Regulations, or is a person whose digital credit business is regulated under any other written law. The regulations provide in section 4(2) on how to apply for the licence.²⁶

Under the Regulations, a digital credit provider pays annual fees on or before the thirty-first day of December every year as set out in the second schedule of the regulations.²⁷ It is also mandatory for a digital credit provider to submit a return on or before the thirty-first day of December every year to the CBK certifying compliance with the CBK Act and these regulations.²⁸ The CBK also has to publish the names and addresses of all licensed digital credit providers in the gazette and on the CBK's website before the thirty-first day of March each year.²⁹

The regulations provide for the permissible activities of the digital credit providers, they are not allowed as part of their activities, to take deposits and cash as collateral in any form from their customers.³⁰

The Central Bank of Kenya (Digital Credit Providers) Regulations 2022 provide that a digital credit provider shall practice sound corporate governance principles based on ethics and integrity, good reputation and legitimacy, sound risk management, and compliance with the law.³¹ It shall have at least one registered physical office under the requirements of the Companies Act, 2015 the regulations further provide that a digital credit provider shall not open, relocate or close a branch or place of business without prior written notification to the

²⁶ The section provides that a person who wishes to carry out digital credit business in Kenya shall apply to the Bank for a licence in Form CBK DCP 1 set out in the First Schedule. Section 4(3) further provides for the documents required to obtain the licence.

²⁷ Section 5(6), *Central Bank of Kenya (Digital Credit Providers) Regulations 2022* (Kenya).

²⁸ Section 5(7), *Central Bank of Kenya (Digital Credit Providers) Regulations 2022* (Kenya).

²⁹ Section 5(8), *Central Bank of Kenya (Digital Credit Providers) Regulations 2022* (Kenya).

³⁰ Section 8, *Central Bank of Kenya (Digital Credit Providers) Regulations 2022* provides that:

- (1) A digital credit provider shall engage in the following activities—
 - (a) provision of credit; and
 - (b) any other activity as may be approved by the Bank from time to time.
- (2) A digital credit provider shall not invite or collect deposits in any form, including the taking of cash collateral as security for loans, in the course of carrying out digital credit business.
- (3) A digital credit provider who contravenes the provisions of paragraph (2) shall be liable to assessment of penalties and other administrative sanctions as provided for in these Regulations, including revocation of the digital credit provider's licence.

³¹ Section 11, *Central Bank of Kenya (Digital Credit Providers) Regulations 2022* (Kenya).

CBK, at least thirty days before the opening, relocation, or closure, and shall prominently display a copy of its licence in all its places of business.³² It is prohibited for a digital credit provider to share customer information with any other person except with the customer's consent, or as may be required or permitted under any written law.³³

In all, the regulations are robust enough to take care of all the aspects of corporate governance, consumer protection, data protection, anti-money laundering and combating the financing of terrorism, and licensing of digital credit providers.

V. Conclusion

The Central Bank of Kenya (Digital Credit Providers) Regulations, 2022 is a masterpiece in combating the menace of digital credit providers. The regulations adequately address the menace of digital credit providers in Kenya. It however been observed that Part V is missing from the regulations, the missing Part V did not have any effect on the validity of the regulations because it is an editorial error. It is however important to address this seemingly minor issue.

The bold steps taken by the Central Bank of Kenya in the regulation of the digital credit provider is a welcome development. The Central Bank of Nigeria should follow cue from this and make its regulations in collaboration with the other regulatory agencies in addressing the menace of the digital credit providers in Nigeria. It is not enough to continue raiding the hideouts of these illegal digital money lenders, freezing their accounts in banks, and serving an order on google play store and apple store to delete these illegal digital loan applications.

The only lasting solution to this menace is to follow Kenya's footsteps in the regulation of the Nigerian digital credit providers in terms of benchmark in the amount, tenure, interest rate, and most importantly, appropriate and lawful loan recovery process. If this is done, Nigerian economic prosperity will be enhanced.

³² Section 12, *Central Bank of Kenya (Digital Credit Providers) Regulations 2022* (Kenya).

³³ Section 13(2), *Central Bank of Kenya (Digital Credit Providers) Regulations 2022* (Kenya).