# Legal Framework for Impact Financing in the Digital Economy: What the Future Looks Like for the BRICS+ Countries

**Anna Belitskaya,**

**Lomonosov Moscow State University (Moscow, Russian Federation)**

**Yulia Kharitonova,**

**Lomonosov Moscow State University (Moscow, Russian Federation)**

https://doi.org/10.21684/2412-2343-2024-11-3-70-91

**Abstract.** The article is devoted to the analysis of the legal regulation of the process of introducing FinTech in the sphere of impact finance within the context of digital technologies in the newly expanded BRICS bloc. This is a crucial step in order to be able to meet the challenges of the new global digital economy and cooperate in achieving common goals. The authors come to the conclusion that although the BRICS countries are geographically located on different continents, the states that decided to form this organization share a number of key features. Firstly, the governmental role in the digital transformation of all BRICS countries is significantly greater in comparison to the Western countries. Secondly, because not all BRICS countries have developed economies, the BRICS member states, despite their strong interest in digitalization of their countries, do not always have the capacity to finance such projects from their own national budgets, which highlights the important role of the BRICS New Development Bank in the process of digitalization of the BRICS economies. Thirdly, cooperation among the BRICS countries, through their participation in the New Development Bank in the digital realm, can significantly contribute to fostering the economic growth of each country within the integration. Since the greatest effect of digital technology penetration is achieved when starting from the lowest level, harmonization of approaches in the BRICS countries and new member countries of the bloc will most likely have a synergistic effect.

**Keywords:** BRICS; digital transformation; impact finance; sustainable development; crowdfunding; fintech; ecosystem; digital platform; investment platform.

**Recommended citation:** Anna Belitskaya & Yulia Kharitonova, *Legal Framework for Impact Financing in the Digital Economy: What the Future Looks Like for the BRICS+ Countries*, 11(3) BRICS Law Journal 70–91 (2024).

**Table of Contents**



## Introduction: BRICS Countries in the Digital Era

Global warming, poverty, and pollution of the world's oceans have always been topics that united the world's population, but the COVID-19 pandemic was the trigger that clearly demonstrated the need to intensify the work towards ensuring conditions for sustainable development. The most important aspect of such endeavors is attracting finance, which encompasses not only pooling the resources of various states but also securing the participation of private investors in solving world problems. The link between financial inclusion and economic development in the digitalization era in the BRICS countries (primarily, Brazil, Russia, India, China, and South Africa) has been proven. Researchers have time and again demonstrated a clear link between the achievement of the desired goals of inclusive growth and the accessibility of financial services, which is now recognized as a useful tool for economic development. For example, research authors V. Shaidullina and I. Semenovskiy have noted in their works that "nowadays international cooperation is considered necessary to achieve sustainable economic growth."[1] The massive expansion of information and

1 Venera Shaidullina & Igor Semenovskiy, *BRICS Countries' Economic and Legal Cooperation Through the Prism of Strategic Planning Documents*, 9(1) BRICS L.J. 4 (2022).

communication technologies is a key issue for the expansion of financial markets and sustainable economic development. Over the years, the BRICS countries have acted as major growth drivers for the global economy due to their significant level of financial inclusiveness and the spread of information and communication technologies (ICTs) that contribute to socio-economic development. Digitalization has also undoubtedly had a significant impact on the BRICS economies. At the same time, it has been proven that the impact of public expenditure on digitalization in the BRICS countries is insignificant.[2] Furthermore, studies have shown that the ultimate effect of digital penetration is greater when it is at a lower level, just before the threshold level.[3] Therefore, countries like BRICS need more aggressive and comprehensive policies to reap the maximum benefits of the digital ecosystem.

In terms of the concept of territorial and political organization of society, which is a continuation of the evolution of a more general concept of territorial organization of society,[4] the world in some form is currently experiencing a geopolitical division, with the trend towards regionalization overpowering the trend towards globalization. The majority of cooperation for the purposes of sustainable development is mostly taking place within integrated communities, such as the BRICS group, which recently released the Statement on the 2030 Agenda for Sustainable Development.

The BRICS bloc of developing countries (Brazil, Russia, India, China, and later South Africa) was initially founded as an informal club in 2009[5] to provide a platform for its members to challenge a world order dominated by the United States and its Western allies.[6] The bloc has now expanded their alliance to include Egypt, Ethiopia, Iran, Saudi Arabia, and the United Arab Emirates. In a recent summit declaration, the BRICS leaders reinforced their commitment to strengthening cooperation in order to promote peace, a more representative international order, a reinvigorated and reformed multilateral system, sustainable development, and inclusive growth.[7] The historic expansion of the BRICS bloc in 2023 led to the union being upgraded to BRICS+. According to researchers,

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2 Madhabendra Sinha et al., *Financial Inclusion, Digitalization, and Economic Development: Empirical Evidence from BRICS Countries*, in Convergence and Developmental Aspects of Credit Allocations in BRICS Nations 224 (2024).

3 Noha Emara & Yuanhao Zhang, *The Non-Linear Impact of Digitization on Remittances Inflow: Evidence from the BRICS*, 45(4) Telecomm. Pol'y (Article 102112) (2021).

4 *Каледин Н.В.* Политическая география: истоки, проблемы, принципы научной концепции [Nikolay V. Kaledin, *Political Geography: Origins, Problems, Principles of Scientific Conception*] (1996).

5 Oliver Stuenkel, *The BRICS and the Future of Global Order* (2020).

6 *What is BRICS, Which Countries Want to Join and Why?*, Reuters, 21 August 2023 (July 2, 2024), available at https://www.reuters.com/world/what-is-brics-who-are-its-members-2023-08-21/.

7 *BRICS Countries Expand Partnership for Sustainable Development*, IISD, 31 August 2023 (July 2, 2024), available at https://sdg.iisd.org/news/brics-countries-expand-partnership-for-sustainable-development/.

> BRICS is filling the space left by the decline of the former hegemonic powers, investing its human, financial, and political resources in areas that seem most relevant for the future and engaging countries that have hitherto been marginalized in international relations.[8]

The development of modern society currently very much depends on digital technologies, as they provide an effective, almost costless, and quick way to exchange information, services, and capital.[9] Nicholas Negroponte was an early (though not the first) popularizer of the understanding that "being digital" was the foundation for widespread, pervasive, and unique changes in our social, economic, and political world.[10] Over the past few years, significant attention has been paid to the role of technology in the financial sector, including banking and investment activities, using cryptocurrencies as a payment tool, platforms, and an ecosystem approach to combining financial and other types of services under the umbrella brand.[11] Financial inclusion has become one of the national priorities in the sustainable development strategy of nearly every country in the world.[12] The governments' willingness to innovate in the use of FinTech to achieve financial inclusion has emerged as a prominent trend.[13] The term "fintech," a combination of the words "financial" and "technology," broadly encompasses a wide array of technological advancements in financial services, including mobile banking, online lending platforms, digital payment systems, as well as blockchain-based applications, such as cryptocurrencies.[14] Businesses all over the world have involved themselves in the digitalization processes to keep up with the new challenges and trends; however, this is not that simple to do for governments and state organizations, and even more so for the population itself.

Digital cooperation is one of the critical and most sought-after issues within BRICS. The BRICS group of countries aims to establish a Digital Economy Partnership similar

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8 Elisabetta Basile & Claudio Cecchi, *Will the BRICS Succeed in Leading the Way to Sustainable Development?*, 85(2) Rivista di Studi Politici Internazionali 223 (2018).

9 Enzo M. Frazzon et al., *Manufacturing Networks in the Era of Digital Production and Operations: A Socio-Cyber-Physical Perspective*, 49 Ann. Rev. in Control 288 (2020).

10 Nicholas Negroponte, *The Digital Revolution: Reasons for Optimism*, 29(6) The Futurist 68 (1995).

11 Chenguang Wang et al., *Institutional Quality, Bank Finance and Technological Innovation: A Way Forward for Fourth Industrial Revolution in BRICS Economies*, 163 Technological Forecasting & Soc. Change (Article 120427) (2021).

12 Marian C. Voica, *Financial Inclusion as a Tool for Sustainable Development*, 44(1) Revista română de economie 121 (2017).

13 Habib Attia, *Financial Inclusion in the Technology-Led Globalization Age: Cross-Border Retail Payments and Prospects for the Arab Region*, Arab Monetary Fund (2020) (July 2, 2024), available at https://www.amf.org.ae/sites/default/files/publications/2022-01/financial-inclusion-in-the-technology-led-globalization-age.pdf.

14 Fintech, Wikipedia (July 2, 2024), available at https://en.wikipedia.org/wiki/Fintech.

to that of other developed countries, within the framework of trade facilitation, investment cooperation, consumer protection, medium and small business support, capacity building, and the sharing of policies and practices. Over the past years, the agenda for digital cooperation in BRICS has acquired a pronounced focus on infrastructure and digital security.[15]

Although the BRICS countries are geographically located on different continents, the states that decided to form this organization have many features in common, as can be proven by analyzing their legislation.[16] In a rapidly changing digital world, countries are brought closer not by sharing the same border but by sharing the same views and principles, as well as by having similar legislation in principal matters. The BRICS countries can advise one another on how to effectively meet the challenges of the new global digital economy and cooperate in fostering common goals.

## 1. Legal Tools to Promote Technological Development and Inclusive Growth in the Context of Digitalization in BRICS

While it is undeniable that the future in the digital era belongs to technologies, the legislator should take into consideration several key points when creating a new legal regime for the digital economy. These points mainly relate to impact finance, as technology should be employed to drive positive social change, enabling the achievement of socially beneficial goals.

Firstly, digital transformation *requires a significant amount of investment*, which small businesses and ordinary people cannot always afford. Rashmi Banga and Parminder Jeet Singh believe that the BRICS group has the potential to challenge the emerging global digital economic structures in the west through digital cooperation for industrialization.[17] There should be some legal forms of state support that can facilitate the process of digitalization; yet, at the same time, the role of the state is not to finance the digitalization from the nation's budget sources but to enable citizens and stakeholders to work on and resolve pressing issues. This form of government clearly leans in the direction of a technocratic, rational, transparent, and enabling approach.[18]

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15 BRICS Agenda for Digital Sovereignty, Russian International Affairs Council, 29 January 2024 (July 2, 2024), available at https://russiancouncil.ru/en/analytics-and-comments/analytics/brics-agenda-for-digital-sovereignty/.

16 Deepak Nayyar, *BRICS: Developing Countries and Global Governance*, in Rising Powers and South-South Cooperation 19 (2018).

17 Rashmi Banga & Parminder J. Singh, *BRICS Digital Cooperation for Industrialization*, Centre for Competition Regulation and Economic Development, University of Johannesburg, Working Paper 4 (2019) (July 2, 2024), available at https://static1.squarespace.com/static/52246331e4b0a46e5f1b8ce5/t/5cd18426e79c702119f878b9/1557234734932/BRICS+DIGITAL+COOPERATION+FOR+INDUSTRIALIZATION+WP_PM.pdf.

18 *Crafting the South African Digital Economy and Society: Multi-Dimensional Roles of the Future-Oriented State*, University of Witwatersrand, Johannesburg, LINK Public Policy Series (2022) (July 2, 2024), available at https://www.wits.ac.za/media/wits-university/faculties-and-schools/humanities/research-

To achieve this, the legislator usually defines certain stimuli that motivate the private businesses to co-finance state-priority national projects such as digitalization. These stimuli mostly comprise state support measures,[19] including tax incentives, state guarantees, and legal forms of public-private partnership.

According to the Federal Law of 31 December 2014 No. 488-FZ "On Industrial Policy in the Russian Federation,"[20] a special investment contract can be used to stimulate a private business to participate in technology development. Under such a contract, the investor undertakes to implement an investment project for the introduction or the development and implementation of a particular technology with the goal of developing serial (or mass) production of industrial products based on this technology on the territory of the Russian Federation. Under this contract, the state does not contribute to the investment project in the form of budget investments or state property, but rather fulfills its obligations by creating a favorable investment climate for the private investor, which serves as an indirect measure of state support of technology development. Direct state support in terms of digitalization often refers to development of science and innovation. To that end, the Russian government provides a variety of state support measures, including grants, subsidies, and tax incentives.[21] Other BRICS countries also provide state financial aid for innovation growth. For example, India's technology law framework is set to undergo a significant revamp with the adoption of the Digital India Act 2023. The Act focuses on ensuring the establishment of an "open internet," which includes online safety and trust, accountability and quality of service, an adjudicatory mechanism for timely grievance redressal, and a framework to address any harmful effects that may be caused by new technologies (such as, artificial intelligence).[22] The use of artificial intelligence (AI) is believed to have increased access to financial services, improved access to healthcare and education, and contributed to India's broader socio-economic progress through decentralization and international cooperation.[23] China has rolled out a plan for the overall layout of the country's digital development, vowing to build a digital China

entities/link/documents/public-policy-series/Public%20Policy%20Series%20-%202022%20-%20Crafting%20the%20South%20African%20Digital%20Economy%20and%20Society%20-%20Abrahams%20et%20al.pdf.

19 *For e.g.*, tax incentives in the Federal Law of 31 July 2020 No. 258-FZ "On Experimental Legal Regimes in the Field of Digital Innovation in the Russian Federation" (Collection of Legislation of the Russian Federation, 2020, No. 31 (Part 1), Art. 5017).

20 Collection of Legislation of the Russian Federation, 2015, No. 1 (Part 1), Art. 41.

21 Federal Law No. 127-FZ of 23 August 1996. On Science and State Scientific and Technical Policy, Collection of Legislation of the Russian Federation, 1996, No. 35, Art. 4137.

22 *Rewriting India's Decades-Old Technology Laws in 2023*, Trilegal, 22 May 2023 (July 2, 2024), available at https://www.lexology.com/library/detail.aspx?g=f8c556b6-a2a6-4f22-8ae6-550356023e5a.

23 Jaskirat S. Rai & Megha Goyal, *Role of the Digital India Movement to Incorporate the Digital Technologies in the Indian System: Adoption of Artificial Intelligence*, in Omnichannel Approach to Co-Creating Customer Experiences through Metaverse Platforms 142 (2024).

by 2025;[24] and innovation is regarded as the primary driving force of growth in the country. Since the enactment of this plan, scholars have found that there is an upward trend in China's development of productive capacity, research and development, and investment in human capital:

> The Made-in-China paradigm has been evidenced by the products today that are made in China, ranging from high-tech goods such as personal computers and mobile phones to consumer goods such as air conditioners.[25]

It is important to mention that the BRICS countries have a lot of poor rural areas[26] where only cash is used for payments, the Internet does not work well or work at all, and medium and small businesses are struggling to survive. Despite this, researchers citing studies and assessments conducted by UNCTAD and other international organizations, conclude that all of the BRICS countries, without exception, are "among the fastest growing e-commerce markets in the world and have the highest potential for further development."[27] The BRICS member country of Brazil is no exception to this claim and is actively implementing its own digital strategies to promote technological development. Thus, the Brazilian Digital Transformation Strategy (E-Digital) as an initiative by the federal government states that:

> One cannot conceive of modern and dynamic economy that does not offer equal opportunities in all regions of the country.[28]

The Decree of the President of the Russian Federation of 5 July 2024 No. 309 "On the Development of the National Power of the Russian Federation for the Period until 2030 and for the Future until 2036" recently announced the following targets and tasks in regards to the country's national goal entitled "Digital Transformation of State and Local Government, Economy and Social Sphere":[29]

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24 *China Unveils Plan to Promote Digital Development*, State Council of the People's Republic of China, 28 February 2023 (July 2, 2024), available at https://english.www.gov.cn/policies/latestreleases/202302/28/content_WS63fd33a8c6d0a757729e752c.html.

25 Ling Li, *China's Manufacturing Locus in 2025: With a Comparison of 'Made-in-China 2025' and 'Industry 4.0,'* 135 Technological Forecasting and Soc. Change 66 (2018).

26 Karine HAJI, *E-Commerce Development in Rural and Remote Areas of BRICS Countries*, 20(4) J. Integrative Agric. 979 (2021).

27 *Id.*

28 *Brazilian Digital Transformation Strategy E-Digital* (2018) (July 2, 2024), available at https://www.gov.br/mcti/pt-br/centrais-de-conteudo/comunicados-mcti/estrategia-digital-brasileira/digitalstrategy.pdf.

29 Decree of the President of the Russian Federation No. 309 of 7 May 2024. On the Development of the National Power of the Russian Federation for the Period until 2030 and for the Future until 2036, Collection of Legislation of the Russian Federation, 2024, No. 20, Art. 2584.

• achieving "digital maturity" by 20230 for the nation's state and local government and key sectors of the economy and social sphere, including healthcare and education;

• formation of a data market and its active involvement in economic circulation, storage, exchange, and protection;

• increasing the percentage of households that have access to high-quality, high-speed broadband access to information through the Internet and telecommunications network (up to 97 percent by 2030);

• ensuring that the growth rate of investments in the field of domestic information technology solutions is twice as high as the growth rate of the gross domestic product;

• transition of at least 80 percent of Russian organizations in key sectors of the economy to the use of Russian software in management processes by 2030;

• increasing the share of use of Russian software in governments and state and semi-state organizations to 95 percent by 2030;

• increasing the share of providing mass socially significant state and local services in electronic form, etc. to 99 percent by 2030.

Secondly, the transition to a digital economy *necessitates a certain level of education and experience of the population* to avoid becoming victims of fraud in financial markets, which is often easily achieved with the help of technologies that can be used for both beneficial and harmful purposes. This is why some of the BRICS countries have implemented legislation that restricts the activities of non-qualified investors in digital financial markets, especially in regards to crowdfunding. For example, in India, a company seeking to raise capital is not permitted to raise an amount exceeding a maximum limit of Rs 10 crore in a period of twelve months.[30] In Russia, the state also defines a limit of 600 thousand rubles during a twelve-month period.[31] China has issued the Private Fund Regulations,[32] aimed at enhancing investor protection and fostering innovation in the nation's private fund industry. The core objective of the Private Fund Regulations is to bolster financial stability by managing risk sources and optimizing the operation of private funds to promote the real economy.[33] However, it should be noted that crowdfunding constitutes a risky activity for investors. Thus,

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30 Regulatory Regime of Crowdfunding Platform in India, Dolce Vita Advisors (July 2, 2024), available at https://dolcevitaadvisors.com/regulatory-landscape-of-crowdfunding-in-india/#:~:text=SEBI%20further%20recommended%20to%20place,a%20period%20of%2012%20months.

31 Federal Law No. 259-FZ of 2 August 2019. On Attracting Investments Using Investment Platforms and Introducing Amendments to Certain Legislative Acts of the Russian Federation, Collection of Legislation of the Russian Federation, 2019, No. 31, Art. 4418.

32 Regulations on the Oversight and Management of Privately-Offered Investment Funds, 9 July 2023.

33 Yi Wu, *China's New Rules for Private Funds: Implications for Chinese and Foreign Fund Managers*, China Briefing, 6 September 2023 (July 2, 2024), available at https://www.china-briefing.com/news/chinas-new-rules-for-private-funds-implications-for-chinese-and-foreign-fund-managers/.

there are three significant risks associated with crowdfunding, namely information asymmetry, reliability of investors, and unfavorable selection.[34]

Moreover, even when technologies are used for beneficial purposes, a certain level of technical and financial literacy is still needed for clients with limited technical-skills who do not know how to use digital services, in particular elderly and rural residents. For example, according to the World Bank, although digital transformation drives development in Africa, there are certain challenges that still need to be addressed, such as underdeveloped digital infrastructure, lack of accessible and affordable connectivity, inadequate regulatory environment, etc.[35] Thus, in keeping with this objective, the African Union has adopted the Digital Education Strategy and Implementation Plan, which, *inter alia*, states that

> education in Africa needs a future-ready framework for visioning, planning, and implementation of technology-enabled learning, teaching, research, administration, and digital literacy and skills development.[36]

The National Strategy for Connected Schools of Brazil aims to connect all schools in Brazil to the Internet by the end of 2026, with quality targets to ensure that all students in the country are guaranteed access and are able to use information and communication technologies for educational purposes.[37]

Thirdly, carrying out activities in a digital environment requires a certain level of professionalism and skills that are different from those used in face-to-face work. In this regard, it is necessary to *attract a wide pool of information technology (IT) specialists or outsource certain functions of businesses*. The various BRICS countries have different approaches to solving this problem. For example, in Russia, the state offers support measures in many different laws and by-laws for IT specialists, including a moratorium on scheduled and unscheduled reviews in 2022–2024 of IT companies;[38] a preferential mortgage program for IT specialists; the right to

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34 Murat Aydemir & Ahmet F. Aysan, *Regulating the Unregulated: The Advent of Fintech Regulations and their Impacts on Equity-Based Crowdfunding*, 10(3) BRICS L.J. 4 (2023).

35 *Digital Transformation Drives Development in Africa* , World Bank Group, 24 January 2024 (July 2, 2024), available at https://www.worldbank.org/en/results/2024/01/18/digital-transformation-drives-development-in-afe-afw-africa.

36 African Union, *Digital Education Strategy and Implementation Plan* (September 2022) (July 2, 2024), available at https://au.int/sites/default/files/documents/42416-doc-1._DES_EN_-_2022_09_14.pdf.

37 *Brazil's New Strategy Aims for Internet in All Schools*, ITU News, 22 November 2023 (July 2, 2024), available at https://www.itu.int/hub/2023/11/brazils-new-strategy-aims-for-internet-in-all-schools-2/.

38 Decree of the Government of the Russian Federation No. 448 of 24 March 2022. On the Specifics of State Control (supervision), Municipal Control in Relation to Accredited Organizations Operating in the Field of Information Technology and On Amendments to Certain Acts of the Government of the Russian Federation, Collection of Legislation of the Russian Federation, 2022, No. 13, Art. 2108.

receive a deferment when applying for military service; grant support for promising developments of domestic solutions in the field of information technology;[39] etc. According to calculations from the OECD, Chinese manufacturers receive nine times more government support than their Western counterparts. This helps to explain the country's complete dominance in so many sectors,[40] including IT, which is perceived by Western countries as the China tech threat.[41] Despite this reaction of the Western world, China firmly believes that

> States should respect others' cyber sovereignty as well as the right to independently choose their own paths of digital development in light of their own national conditions.[42]

Thus, we can conclude that the state plays a priority role in digital transformation in the BRICS countries. The development of digital technologies is supported by each of the nation's government entities, facilitating the rapid growth of the IT sector. In other words, it is the public authorities and the government as a whole in the BRICS countries that act as drivers of digitalization, including by setting well-defined goals in national and cooperative development plans and strategies, as well as by creating incentives for businesses to participate in this process. There is a growing consensus in the literature that the BRICS countries have strengthened their digital internet infrastructure in recent years, which is a key element in contributing to the global digital superiority of the United States, the creator of the internet. Furthermore, it is not only private companies such as the Alibaba Group, which owns several online marketplaces, many of which are located outside China, in Southeast Asia, Turkey, Europe, and India, but also public policy that plays a major role in developing and promoting information technology, digital sovereignty, and cybersecurity in these countries.[43] Compared to their Western counterparts, the initiative in this process in the BRICS group of countries is largely taken by their respective governments that recognize the importance of technology in the modern world.

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39 Decree of the President of the Russian Federation No. 83 of 3 February 2022. On Measures to Ensure the Accelerated Development of the Information Technology Industry in the Russian Federation, Collection of Legislation of the Russian Federation, 2022, No. 10, Art. 1468.

40 *Chinese companies receive far more state support – making it harder for Western businesses to compete, data suggests*, Sky News, 2 May 2024 (July 2, 2024), available at https://news.sky.com/story/chinese-companies-receive-far-more-state-support-making-it-harder-for-western-businesses-to-compete-data-suggests-13127191.

41 Jost Wübbeke et al., *Made in China 2025*, Mercator Institute for China Studies (August 2016) (July 2, 2024), available at https://merics.org/en/report/made-china-2025.

42 Giulia Interesse, *China's Positions on Global Digital Governance*, China Briefing, 29 May 2023 (July 2, 2024), available at https://www.china-briefing.com/news/chinas-position-on-global-digital-governance/.

43 Daya K. Thussu, *BRICS De-Americanizing the Internet?*, in BRICS Media 280 (2020).

## 2. Impact Finance in the BRICS Digital Economy: Options for a Legal Framework

The realm of impact finance has enormous potential to ensure inclusive growth for countries' economies. Impact investing is one of the pathways leading to sustainable growth and development. Impact investments, also known as social or responsible investments, refer to investments made to promote the overall well-being of people in addition to generating a profit and that are usually encouraged by the state. This phenomenon is also referred to as "responsible investing." As noted in the legal literature, as the segment of financial markets that is focused on solving environmental crises grows more numerous and diverse, "it carries with it the idea that capital can be used not only to finance and generate profits, but also to solve extra-financial problems."[44] Impact financing is characterized by a number of key features, including long-term investment returns, low project profitability, and high unprofitability risk. Additionally, impact finance requires consideration of environmental, social, and governance (ESG) factors in decision-making in order to better manage risk and ensure sustainable and long-term investment returns. At the same time, the positive result of achieving sustainable development goals is not an additional, but rather the main goal of the investment project realization, which is comparable in importance and sometimes even more important than the financial benefits. It is necessary to emphasize that impact finance requires a financial return on equity, which can range from a below-market rate to a risk-adjusted market rate. This feature distinguishes impact finance from philanthropy and charity.

Based on the general idea that there is a need to harmonize legislation in the field of digital technology in general and in the field of impact finance in the context of digital technology in particular, this study aims to compare the available approaches currently in place for the regulation of these fields in the original and new members of the BRICS group.

### *2.1. The Legal Framework for Impact Finance in the Digital Economies of the Original BRICS Countries*

Impact financing is not yet a legal concept in Russia and a few other BRICS countries, where there are no special laws on this instrument. At the same time, the legal regulation governing the limited individual instruments of impact financing that are in place is fragmented. For example, all of the BRICS countries have their own development banks, which are mostly state organizations regulated by special laws.

In particular, VEB.RF is a Russian national economic development institution established by law exclusively for the public good as a non-commercial, non-profit

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[44] Marco Migliorelli & Philippe Dessertine, *The Rise of Green Finance in Europe: Opportunities and Challenges for Issuers, Investors and Marketplaces* 21 (2019).

organization. Like the majority of development banks in the BRICS countries, VEB.RF finances large-scale projects to develop the country's infrastructure, industrial production, and social sphere, strengthen its technological potential, and improve the quality of life.

The China Development Bank is also a state-funded and state-owned development finance institution that supports major national projects, including sustainable development of the Chinese economy. Given that sustainable growth in the modern world is unattainable without technology, the Bank prioritizes investing in digital innovation to support Chinese national development strategies for digital transformation.[45]

In India, it is important for development banks to focus not only on long-term and medium-term investments but also to provide support for successful enterprises with the appropriate technical framework (know-how).[46] Thus, the Industrial Development Bank of India provides financial assistance to facilitate the modernization and advancement of medium-sized and significant industrial enterprises in key sectors of the economy, including the innovation and technology sector.[47]

In Brazil, the State Bank for Economic and Social Growth is crucial to the country's strategy for industrialization and growth. It has played a key role in the evolution of import substitution policies, the formation of the Brazilian market, privatization policies, and "new development."[48] The Bank serves as the main instrument for implementing the government's investment policy, and its mission is to support public government programs and infrastructure projects, as well as provide for other services related to the country's economic and social development.[49]

The Development Bank of South Africa, as a national entity, is a development finance institution that primarily supports economic development by providing funding for large-scale public infrastructure projects, and mobilizing resources for the development of digital infrastructure in the Sub-Saharan African region. Currently, the bank mainly finances infrastructure projects through public-private partnerships, and the financing of individual entrepreneurs and startups, including the SME sector, is not part of its mandate,[50] which is a huge shortcoming in terms of the bank's full potential role in digital transformation.

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45 About CBD (July 2, 2024), available at https://www.cdb.com.cn/English/gykh_512/khjj/.

46 *Evolution of Development Banks in India and Abroad*, Shodhganga (July 2, 2024), available at http://shodhganga.inflibnet.ac.in/bitstream/10603/9584/9/09_chapter%203.pdf.

47 Ritika Gauba, *The Indian Banking Industry: Evolution, Transformation & the Road Ahead*, 5(1) Pac. Bus. Rev. Int'l 85 (2012).

48 Mahrukh Doctor, *Assessing the Changing Roles of the Brazilian Development Bank*, 34(2) Bull. Latin Am. Res. 197 (2015).

49 *Id.*

50 Development Bank of Southern Africa (DBSA), National Government of South Africa (July 2, 2024), available at https://nationalgovernment.co.za/units/view/92/development-bank-of-southern-africa-dbsa.

Today, digital transformation has become a critical component of nearly every developing economy. The original BRICS member countries have made significant progress in this area through their policies and regulations, which will create a favorable environment for the continued development of their digital economies.

***2.2. The Legal Framework for Impact Finance in the Digital Economies of the New BRICS Member Countries***

The uneven level of development between the new and original BRICS member countries is an undeniable obstacle to the development of common standards and requirements. Ensuring financial inclusion among the new BRICS member countries requires special attention in terms of achieving harmony in economic and regulatory development.

In Egypt, there is a recognized need to focus more on strengthening the financial ecosystem by removing obstacles. Thus, the authorities plan to act as a regulator and incubator to enhance financial inclusion by bridging the gap between demand and supply in providing various financial services through various banks and FinTech startups that have the potential to introduce innovative business models to meet the different needs of customers, businesses, and the market.[51] "Egypt's Vision 2030," the national agenda launched in February 2016, which reflects the state's long-term strategic plan to achieve the principles and goals of sustainable development in all areas and localize them in the various government bodies in Egypt is based on the principles of "inclusive sustainable development" and "balanced regional development". "Egypt's Vision 2030" reflects the three dimensions of sustainable development: the economic dimension, the social dimension, and the environmental dimension. This strategy focuses on improving the quality of life of Egyptian citizens and improving their standard of living in various aspects of life by emphasizing the consolidation of the principles of justice, social inclusion, and the participation of all citizens in political and social life.[52] In December 2019, the Central Bank of Egypt also presented the "Financial Technology and Innovation Strategy" with the aim of developing Egypt's financial technology ecosystem and making the country a recognized hub in the region. With its primary focus on Egypt's fintech landscape, this strategy is expected to have a wider impact by creating job opportunities and

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Анализ размера и доли рынка Fintech в регионе Ближнего Востока и Северной Африки – тенденции роста и прогнозы (2024–2029 гг.) // Market Research Company [*Middle East & North Africa Fintech Market Size & Share Analysis – Growth Trends & Forecasts (2024–2029)*, Market Research Company] (July 2, 2024), available at https://www.mordorintelligence.com/ru/industry-reports/mena-fintech-market.

51 *Id*.

52 Egypt's Sustainable Development Strategy (Egypt's Vision 2030), Egypt State Information Service, 19 May 2023 (July 2, 2024), available at https://beta.sis.gov.eg/en/media-center/strategies/egypts-sustainable-development-strategy-egypts-vision-2030/#:~:text=Egypt's%20Vision%202030%20focuses%20on,in%20political%20and%20social%20life.

providing Egyptian youth with the opportunity to develop skills for the future by combining both business and technology expertise.[53]

Egypt did not have specific regulations for the rapidly growing financial technology industry until the enactment of the Banking Law No. 194 in 2020 (the "Banking Law") and the new Financial Technology Law for Non-Bank Financial Services No. 5 in 2022 (the "Non-Bank Financial Technology Law"). These laws paved the way for digital banks, electronic payments, and other e-banking solutions, and the Egyptian government is actively promoting financial inclusion and digitalization through these mechanisms. As a result of the measures taken, the Egyptian FinTech landscape is set to boom in 2024, thanks to a tech-savvy population, supportive government policies, and growing demand for innovative financial solutions. At the same time, the expansion of financial inclusion, growth in digital investments, and the proliferation of non-banking financial technologies all necessitate attracting funding to the above-mentioned areas.[54]

The Kingdom of Saudi Arabia (Saudi Arabia) has emerged as one of the leading countries experiencing economic growth, demonstrating that its policies are fully capable of realizing the Saudi Vision 2030, the nation's economic diversification program. By 2025, Saudi Arabia expects Riyadh to become a global financial technology center similar to London and Singapore. The measures being taken demonstrate that Saudi Arabia is fully committed to inclusive financial technology growth. Increased technology utilization drives the market. By 2030, Saudi Arabia plans to become a nation where better data and artificial intelligence become a reality. As part of this strategy, Saudi Arabia will implement a multi-phase and multi-faceted plan that includes skills, policy and regulation, investment, research and innovation, and ecosystem development.

Fintech Saudi, an organization established by the Capital Market Authority (CMA) and the Central Bank of Saudi Arabia (SAMA) to develop the financial technology industry in Saudi Arabia, reported that in 2022, the predominant financial technology verticals in Saudi Arabia were payments and foreign exchange; private fundraising; business tools and information provision; credit and finance; capital markets; personal finance and treasury management; insurance; infrastructure; digital banking; and regulation and risk management.

Since the COVID-19 pandemic, the United Arab Emirates (UAE) has taken even bigger steps to become not only a regional but also a global financial services center. FinTech has played an important role in this. There has been significant investment in FinTech startups in recent years, and the UAE is now home to a quarter of all FinTech

53 Financial Technology, Central Bank of Egypt (July 2, 2024), available at https://www.cbe.org.eg/en/.

54 Jasmin Fouad et al., *Public Banks and Development in Egypt: Overview, Issues and the Way Forward*, ERF Working Papers Series, Working Paper No. 1594 (November 2022) (July 2, 2024), available at https://erf.org.eg/app/uploads/2022/11/1668592837_376_580106_1594.pdf.

companies in the Middle East and North Africa (MENA) region. In 2023, the UAE broke global trends by nearly doubling the level of funding in the financial technology sector, thanks in part to the launch of a venture capital fund. The growth of the UAE FinTech space is largely driven by initiatives from the Dubai International Financial Center (DIFC) and Abu Dhabi Global Market (ADGM), the UAE's two free financial zones. The success of the UAE financial technology market can also be attributed to the continued entrepreneurial approach of UAE regulators, which seeks to position the UAE as a regional and international leader in virtual assets and related services. This is evidenced, for example, by the actions of the Dubai Virtual Asset Regulatory Authority (VARA), which published its comprehensive regulatory framework for virtual assets in February 2023.

Ethiopia's case is notable for a combination of factors such as high economic and demographic growth in recent years, the critical need to create jobs and focus on marginalized and vulnerable groups in society, the need to focus on regional and spatial planning, and relatively weak performance in innovation.

The global analysis confirms the opinion of E. Gromova & T. Ivanc that financial and digital "innovations as a trend represent a challenge for every modern state. Especially for member-countries of the BRICS union who seek to become the world's leading countries."[55]

The growth examples cited show that in numerous instances across the BRICS+ countries, the principle of government coordination is being adopted. Supporting innovation, especially in a low-income country, requires a government coordination platform that identifies development priorities, strengthens coordination and cooperation among ecosystem factors, and provides appropriate regulations, infrastructure, and financial and legal services.

## 3. The Role of the BRICS New Development Bank in the Digital Transformation of the BRICS Countries

The obvious differences in the levels of economic, social, and digital development of the BRICS countries lead to an ambiguous understanding of the common goals of sustainability and, consequently, impact finance. Digital transformation brings continuous changes for the better in terms of simplicity and speed of interaction between counterparties, the ability to make payments, and the ability to create and provide various services. In a digital economy, financial institutions can play an important role in the economies of different countries regardless of their location, and this is especially important with regard to the BRICS countries. This is why the New Development Bank, as a multilateral development bank serving the BRICS countries, should become a key player in the digital transformation of the BRICS countries.

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55 Elizaveta Gromova & Tjaša Ivanc, *Regulatory Sandboxes (Experimental Legal Regimes) for Digital Innovations in BRICS*, 7(2) BRICS L.J. 10 (2020).

P.M. Spivachevsky understands a multilateral development bank as an interstate banking organization, whose capital is formed by the participating states on a multilateral basis, and which performs the functions of a collective investment institution of an integration group.[56] According to A. Vazquez,

> The Shanghai-based New Development Bank was launched in this context and in answer to the institutional crisis that the world observed with concern when US-guided international economic institutions could not lead the way out of the 2008 crisis and into recovery.[57]

International financial development institutions are understood as supranational subjects of international law, created on the basis of treaties of participating countries to support the economic and social development of a region. Multilateral development banks as international financial development institutions are, on the one hand, instruments of economic global and regional integration, and on the other, instruments of redistribution of political and economic influence.

The New Development Bank, established by the original BRICS member countries (Brazil, Russia, India, China, and South Africa), has always been at the forefront of the transition to digital technology, introducing pioneer digital solutions such as NEOS online and mobile banking.[58] The New Development Bank is redefining the future of banking for its customers by combining the most advanced technology and innovation.[59] The Bank's priority areas include supporting projects that contribute to digital connectivity as well as combat climate change and poverty.[60] Apart from this, the functions of the Bank include the following:

• use of resources to support public or private projects in the field of infrastructure and sustainable development in the BRICS countries and other developing countries through the provision of loans, guarantees, equity participation, and the use of other financial instruments;

• cooperation with international and national organizations, particularly with international financial institutions and national development banks;

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56 *Спивачевский П.М.* Банки развития и их роль в формировании единого Евразийского экономического пространства: автореф. дис. ... канд. экон. наук [Pavel M. Spivachevsky, *Development Banks and their Role in the Formation of a Single Eurasian Economic Space*, Abstract, PhD Thesis] 17 (2012).

57 Agustina Vazquez, *Is the BRICS New Development Bank a Fledgling Alternative to the World Bank?*, 4(3) BRICS L.J. 6 (2017).

58 The New Development Bank was created following the VI BRICS summit in July 2014 through the conclusion of the Agreement on the New Development Bank.

59 *NDB Bank to Transform the Future of Banking*, NDB Bank, 28 September 2021 (July 2, 2024), available at https://www.ndbbank.com/news-and-event/ndb-bank-to-transform-the-future-of-banking.

60 Nicholas Larsen, *Why Saudi Arabia's Imminent Membership Is Crucial for the BRICS' New Development Bank*, International Banker, 31 July 2023 (July 2, 2024), available at https://internationalbanker.com/banking/why-saudi-arabias-imminent-membership-is-crucial-for-the-brics-new-development-bank/.

• providing technical assistance in the preparation and implementation of projects in the field of infrastructure and sustainable development;

• support for projects that involve more than one country;

• establishment or management of special funds intended to achieve the goals of the Bank.

To summarize, we believe that digital transformation can help BRICS as a whole by incorporating FinTech within the framework of impact finance to achieve its goals of promoting development and improving the quality of life in the BRICS countries. Cooperation among the BRICS countries, facilitated through their membership in the New Development Bank in the digital world, can play an important role in fostering the economic growth of each country within the union.

## 4. Attracting Private Investment in Impact Finance

To achieve the goals of sustainable development, the concept of a socially-oriented state capitalism would be most suitable; however, the conditions of a market economy require the use of market instruments when the market actors themselves are interested in participating in certain processes. The general priorities of a state in attracting private investors to cooperation are indicated in strategic planning documents, as well as other regulatory legal acts.

Currently, in the digital economy, technology is beginning to play an integral role in the investment process. The digital environment is highly effective for capital circulation. The digitalization of banking relationships, which offers the convenience of completing transactions in one or several clicks while interacting online, is being widely implemented among all categories of participants in public relations. The emergence of such tools as digital platforms, cryptocurrencies, artificial intelligence, and blockchain technology has served as an important factor in the transformation of the banking services market in terms of objects, subjects, and forms of banking operations. The state's desire to develop the economy and resolve issues of ensuring the stability and security of the banking system are the driving factors behind attempts to combine banking activities and information technology.

At the same time, it has been convincingly shown that "technical solutions acquire a corresponding legal status only when they become an object of such legal relations."[61]

A globally recognized tool for combining the resources of the state and private investors while sharing risks is a public-private partnership, which can be effectively used to achieve sustainable development goals. Public-private collaboration has been widely adopted to promote digital service delivery. Traditionally, legal forms of public-private partnership are used for the construction and reconstruction of

61 Liudmila Efimova et al., *Digital Financial Assets: Concept and Legal Nature*, 11(1) BRICS L.J. 32 (2020).

infrastructure facilities, but the transition to the digital economy has led to the assignment of new tasks to this instrument for the development of intellectual, scientific, technical, and implementation activities. Currently in the BRICS countries, public-private partnerships can be aimed at creating energy and social infrastructure, providing public (state, social) services, and using energy-saving technologies and innovations developed to protect the environment. Public-private partnerships, for instance, can make use of project financing mechanisms that allow for the issuance of infrastructure, green, social, or other bonds. These bonds can attract public savings, which may then be used for subsequent investments in responsible investments through crowdfunding platforms or institutional investors. According to the Federal Law No. 224-FZ of 13 July 2015, "On Public-Private Partnership, Municipal-Private Partnership in the Russian Federation and Amendments to Certain Legislative Acts of the Russian Federation,"[62] digital innovation and technology can now be the objects of a public-private partnership. For instance, Beijing in China uses its own model of public-private partnership in urban development to transform the city into a 'smart' city through reducing energy consumption and greenhouse gas emissions and by building up the community's technical capacity to conduct energy-efficient retrofits of existing infrastructure, ultimately helping to foster local job creation.[63] In Egypt, public-private partnerships are set to assist in bringing agriculture into the digital age by delivering real-time data for good agricultural practices, such as intelligent water demand forecasting using AI, cloud and mobile data, and connected farms that benefit from data collected using agriculture IoT devices.[64]

At various stages of development of the financial market, collective investments were accumulated mainly under the management of banks, trustees, management companies of investment, or non-state pension funds. Today, one of the important players in the investment market is becoming a "virtual collective investor," which is formed and functions on the basis of investment platforms. This new "form of investor" differs significantly from traditional collective investors, negatively affecting their activity and even pushing them out of the market. The Brazilian Development Bank recently launched a new feature, namely "Investors Network," on its digital platform for long-term investment projects. This feature is designed to foster the attraction of investments in the sectors highly promoted by the bank. The new "networking" feature constitutes an expansion of the platform's logged area, enabling the sharing of information between investors as well as between investors and other interested

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62 Collection of Legislation of the Russian Federation, 2015, No. 29 (Part 1), Art. 4350.

63 Louis Witters et al., *The Role of Public-Private Partnerships in Driving Innovation*, in Global Innovation Index 2012 (Chapter 2) (2012) (July 2, 2024), available at https://www.wipo.int/edocs/pubdocs/en/wipo_pub_gii_2012-chapter2.pdf.

64 *Public-Private Partnerships Hold the Key to Future Development*, Microsoft News Center, 22 September 2020 (July 2, 2024), available at https://news.microsoft.com/en-xm/2020/09/22/public-private-partnerships-hold-the-key-to-future-development/.

parties within a protected environment.[65] The existence of such platforms must be taken into account as an important component when developing a new vector of state investment policy in the era of the digital economy, which can be defined as a system of economic relations where data in digital form is a key factor of production in all its spheres, where economic activity is carried out using electronic or digital tools.[66] In Russian legislation, for instance, the investment platform is defined as a program that acts as a market (platform) for electronic approvals; it provides the opportunity to effectively attract investments from a significant number of donors interested in the transfer of property, property rights, as well as the outcomes of intellectual activity[67] to achieve the goals for which funds are being accumulated. In this model, there are no typical investment brokers; instead, an operator manages the program and acts as a middleman between the investor and the recipient.

To conclude, in the BRICS countries, resource-saving approaches are mainly used to deliver impact finance to the digital sphere. These investments in digital transformation are intended to benefit not only the investor, but also society, the state, and all future inhabitants of the planet.

## Conclusion: Issues of Harmonization of Sustainable Development Strategies in the Renewed BRICS Architecture

In the rapidly moving digital world, countries establish close connections not by sharing the same border but by sharing the same views and principles, as well as by having similar legislation in principal matters. Although the BRICS countries are geographically located on different continents, the states that decided to form this organization have a lot of features in common, as can be proven by analyzing their legislation. The governmental role in the digital transformation of each of the respective BRICS countries is vast. These states have declared their support measures to develop digital technology in order to help the IT sector grow. The BRICS member states are the drivers of digitalization because they have included this goal in their national plans and actively encourage the businesses to participate in this process. In comparison to the Western countries, where businesses are the primary drivers of innovation, the initiative in the process of digital development in the BRICS countries

65 The Brazilian Development Bank (BNDES) launched a new feature, namely "Investors Network," Apex Brasil (July 2, 2024), available at https://portal.apexbrasil.com.br/regulatory_report/the-brazilian-development-bank-bndes-launched-a-new-feature-namely-investors-network-in-its-digital-platform-on-long-term-investment-projects-designed-to-match-interested-invest/.

66 *Вайпан В.А.* Правовое регулирование цифровой экономики // Предпринимательское право. Приложение «Право и Бизнес». 2018. № 1. С. 12–17 [Victor A. Vaypan, *Legal Regulation of the Digital Economy*, 1 Bus. L. Application 'Law and Business' 12 (2018)].

67 *Кирилловых А.А.* Краудфандинг как альтернативный способ привлечения инвестиций в предпринимательскую деятельность // Право и экономика. 2020. № 9. С. 33–42 [Andrey A. Kirillovykh, *Crowdfunding as an Alternative Way to Attract Investment in Business*, 9 L. Econ. 33 (2020)].

mostly belongs to the governments that acknowledge the importance of technology in the modern world.

Despite their high interest in advancing the digitalization of their countries, the BRICS states do not always have the capacity to finance such endeavors from their budgets as not all these countries have developed economies. The states are especially interested in partnering with national businesses to co-finance digital innovation projects; yet, not all of the BRICS countries have strong businesses that are capable of investing in the high-risk technological projects.

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## Information about the authors

**Anna Belitskaya (Moscow, Russian Federation)** – Professor, Department of Business Law, Faculty of Law, Lomonosov Moscow State University (1, Bldg. 13-14 Leninskie Gory, GSP-1, Moscow, 119991, Russian Federation; e-mail: sovet2009@rambler.ru).

**Yuliya Kharitonova (Moscow, Russian Federation)** – Professor, Head, Research and Education Center for Legal Studies of Artificial Intelligence and Digital Economy, Department of Business Law, Faculty of Law, Lomonosov Moscow State University (1, Bldg. 13-14 Leninskie Gory, GSP-1, Moscow, 119991, Russian Federation; e-mail: sovet2009@rambler.ru) – **corresponding author**.