

FINANCIAL SERVICES ACT

FSC Rules made by the Financial Services Commission under section 93 of the Financial Services Act

1. Citation

These Rules may be cited as the Financial Services (Fintech Service Provider) Rules 2023.

2. Interpretation

In these Rules –

“Act” means the Financial Services Act;

“fintech” has the same meaning as in the Act;

“financial institutions” means a person licensed by the FSC under the relevant Acts to provide financial services or such other person established and duly licensed in an equivalent foreign jurisdiction;

“fintech-enabled services” means the services or solutions, as specified in the Schedule that are provided to financial institutions;

“Fintech Service Provider” means a person licensed by the Commission to provide at least one fintech-enabled service;

“foreign company” has the same meaning as in the Companies Act.

3. Scope of the Rules

- (1) These Rules shall apply to a person holding a Fintech Service Provider Licence issued by the Commission under the Act.
- (2) These Rules shall be read in conjunction with the relevant Acts and any guidelines which the Commission may issue from time to time.

4. Application for a licence

- (1) No person shall provide fintech-enabled services in or from Mauritius without a Fintech Service Provider Licence issued by the Commission.
- (2) No person shall apply for a Fintech Service Provider Licence unless that person is –
 - (a) a company incorporated under the Companies Act; or

(b) a foreign company registered in Mauritius under the Companies Act.

(3) An application for a Fintech Service Provider Licence shall be made in accordance with Part IV of the Act.

5. Letter of intent

- (1) Subject to the Commission being satisfied that the application meets the requirements of the Act and these Rules, it may issue a letter of intent to the applicant.
- (2) The applicant shall, within 3 months from the date of the letter of intent or such other period as may be approved by the Commission, demonstrate that it has in place, the required resources and infrastructure to commence business as set out in its application.
- (3) A letter of intent issued under paragraph (1) –
 - (a) may be revoked at any time by the Commission; and
 - (b) shall not imply or be construed in any way as a promise or an undertaking by the Commission, nor import any obligation on the part of the Commission, to grant a Fintech Service Provider Licence.
- (4) Where the Commission is satisfied that the applicant meets the requirements of paragraph (2), it may grant the Fintech Service Provider Licence.

6. Operations

A Fintech Service Provider shall at all times have its registered office and place of business in Mauritius.

7. Minimum Capital

A Fintech Service Provider shall, at all times, have a minimum unimpaired stated capital of MUR 600,000 or its equivalent in any other currency, or such other amount as the Commission may determine.

8. Professional indemnity insurance

A Fintech Service Provider shall subscribe to a professional indemnity insurance policy for the sum of at least MUR 2 million or such other amount as the Commission may determine, in relation to any act, error or omission in respect of the conduct of its activities under the Fintech Service Provider licence.

9. Governance and Staffing

A Fintech Service Provider shall, at all times –

- (a) ensure that its governance structure provides effective oversight of its activities, taking into consideration the nature, scale and complexity of its business activity;
- (b) have adequate internal controls and adopt strategies, policies, processes and procedures in accordance with principles of sound corporate governance and risk management;
- (c) have in place adequate arrangements to identify, manage, mitigate and report on conflicts of interests;
- (d) be managed by a board of directors composed of a minimum of three directors, of which at least one shall be resident in Mauritius; and
- (e) maintain appropriate and competent staff commensurate with the size, nature and complexity of its business activity.

10. Information Technology

- (1) A Fintech Service Provider shall have adequate measures in place to ensure -
 - (a) that its information technology systems are resilient and not prone to failure;
 - (b) protection of its information technology systems from damage, tampering, misuse or unauthorised access; and
 - (c) the integrity of data forming part of, or being processed through, its information technology systems.
- (2) A Fintech Service Provider shall review the measures referred to in paragraph (1) at least annually, to ensure that they are commensurate with the nature, scale and complexity of its business activity.
- (3) The findings of the review exercise together with the issues identified and remedial actions taken, if any, shall be made available promptly to the Commission upon request.
- (4) Without prejudice to the review required at paragraph (2), a Fintech Service Provider shall also appoint an external independent third party to undertake an independent audit of the information technology systems at least once every 3 years or at such other interval as may be determined by the Commission.
- (5) The findings of the external independent third party shall be submitted to the Commission within 1 month of the completion of the audit.

11. Data Security and confidentiality

A Fintech Service Provider shall –

- (a) implement robust data security protocols to protect personal and financial information in its possession;
- (b) store personal data securely and in accordance with all relevant Data Protection laws applicable in Mauritius;
- (c) implement and maintain measures for preserving the confidentiality of its clients' information; and
- (d) conduct security assessments and implement any necessary updates to maintain the security of its systems.

12. Disclosure requirements

A Fintech Service Provider shall –

- (a) provide clear and concise information about its services or solutions including the risks associated with such services or solutions; and
- (b) ensure that the information it provides to clients is accurate, up-to-date, and relevant to their needs.

13. Outsourcing

- (1) When outsourcing any function, a Fintech Service Provider shall conduct appropriate due diligence to ensure that the delegate is fit and proper and has the capacity to fulfil the delegated function.
- (2) A Fintech Service Provider shall not be discharged of its responsibilities upon any delegation or outsourcing arrangement and shall ensure, at all times, compliance with the requirements of the relevant Acts and any other regulatory requirements imposed by the Commission.

14. Risk Management and Business Continuity

- (1) A Fintech Service Provider shall set up and maintain, at all times, a risk management framework to identify, assess, manage, mitigate and report risks associated to its business activity.
- (2) A Fintech Service Provider shall have a business continuity and disaster recovery plan to ensure that appropriate measures are in place to address major and unforeseen disruptive events.

15. Commencement

These Rules shall come into operation on XXX.

Made by the Financial Services Commission on

SCHEDULE

[Rule 2]

FINTECH-ENABLED SERVICES

1. Anti-Money Laundering and Countering the Financing of Terrorism (AML/CFT) screening solutions
2. Business intelligence solutions
3. Compliance reporting solutions
4. Customer interfacing solutions
5. Data analytic solutions
6. Decentralised ledger solutions
7. Enterprise risk management solutions
8. Fiduciary solutions
9. Financial audit solutions
10. Fraud management solutions
11. Payment and settlement solutions
12. Third-Party aggregator solutions
13. Such other fintech-enabled services or solutions, as may be approved by the Commission.