



Financial Services Commission  
Mauritius

## **FINANCIAL SERVICES (PEER TO PEER LENDING)**

### **RULES 2017**

#### **EXPLANATORY MEMORANDUM**

- 1) The proposed Financial Services (Peer to Peer) Lending Rules 2017 (or the 'Peer to Peer Lending Rules 2017' hereinafter) has been inter-alia introduced by the Financial Services Commission to provide an adequate licensing and regulatory framework for operators of automated Peer to Peer Lending platforms, within the non-banking sector of Mauritius, ie. P2P Operators as defined in the Rules.
- 2) The foundation of the Peer to Peer Lending Rules 2017 is based on the premises that the non-banking sector can leverage on the power or efficiency of the Peer to Peer networks for offering equivalent and sound alternatives in terms of lending opportunities (which are not bank related) in Mauritius.
- 3) Peer to Peer Lending platforms are an important segment of the Fintech space. In the elaboration of the Peer to Peer Lending Rules 2017, the Financial Services Commission has undertaken a benchmarking exercise with various other jurisdictions.

- 4) Under the Peer to Peer Lending Rules 2017, P2P Operators will thus be entitled to accept lenders and borrowers on their Peer to Peer Lending platforms. The proposed Rules, in fact, provides the flexibility to P2P Operators for accepting both legal and natural persons respectively, as lenders and borrowers on the Peer to Peer Lending platforms.
  
- 5) Borrowers, as defined under the Peer to Peer Lending Rules 2017, must be residents in Mauritius whilst there is no restriction of participation by foreign lenders on the Peer to Peer Lending platforms of licensed P2P Operators with the Financial Services Commission.
  
- 6) However, the Peer to Peer Lending Rules 2017 contains certain well-specified limits that shall be adhered to by lenders whenever they will transact with licensed P2P Operators in Mauritius. These limits are as follows:
  - a. A lender, who is a legal person, shall not lend more than Rs 500,000 in any 12-month period;
  - b. Any lender, who is a natural person, shall not lend an amount in excess of 10% of his annual income or a maximum of Rs 300,000, whichever is lower, in any 12 month-period; and
  - c. The maturity of all lending executed through Peer to Peer Lending platforms shall be limited to 60 months or below.
  
- 7) For the avoidance of doubt, prospective applicants of a P2P Operator licence should note that the Peer to Peer Lending Rules 2017 does not allow the following types of entities to submit an application for a P2P Operator licence with the Financial Services Commission, amongst others:
  - a. Collective investment schemes and closed-end funds, as defined in the Securities Act;

- b. public listed entities or any of their subsidiaries;
  - c. entities that propose to access a Peer to Peer Lending platform for further lending to other entities.
- 8) Any P2P Operator shall, moreover, not be involved in any donation-based or equity-based crowdfunding activities, as a result of it being licensed under the Peer to Peer Lending Rules 2017.
- 9) The Peer to Peer Lending Rules 2017 provides for a minimum cap of Rs 2 million in relation to the unimpaired stated capital that shall typically have to be met by licensed P2P Operators with the Financial Services Commission.

However, considering the fact that certain applicants, based on their proposed business models, may be assessed as being more complex or risky, the Rules also allow for the imposition of such other capital amount as may be determined by the Commission, in Mauritian rupees or any other foreign currency.

As the Peer to Peer Lending industry will grow or mature over time, the Financial Services Commission may consider, in due course, to prescribe further risk-based capital standards based on, for example, the observed funds' lent by Peer to Peer Lending platforms.

- 10) With the view of ensuring adequate accountability and decision making, the Financial Services Commission has deemed it important to require that P2P Operators shall be managed by a board of directors consisting of a minimum of three directors, one of whom shall be a resident and independent director in Mauritius.
- 11) It is, furthermore, a requirement under the Peer to Peer Lending Rules 2017 for a licensed P2P Operator to be a participant of a credit information bureau in Mauritius. Stakeholders will note that this includes the Mauritius Credit Information Bureau (MCIB) which has

been set up by the Bank of Mauritius. This specific requirement underscores the statutory need of the Financial Services Commission to ensure for financial stability regarding the conduct of business by P2P Operators in Mauritius.

- 12) A P2P Operator shall, pursuant to the Peer to Peer Lending Rules 2017, be required to also establish an office and appropriate Information Technology infrastructure in Mauritius. These requirements are all but necessary for ensuring that the licensed P2P Operators in Mauritius will:
  - a. meet the substance or physical presence needed for adequate monitoring purposes by the Financial Services Commission; and
  - b. accordingly, safeguard the interests of users (ie. including both lenders and borrowers) of the P2P Operators.
- 13) From a protection of lenders' and borrowers' perspective, the Peer to Peer Lending Rules 2017 further provides for the preservation of the integrity and privacy of lenders' and borrowers' information which are hosted on the Peer to Peer Lending platforms of licensed P2P Operators, in conformity with the Data Protection Act of Mauritius.
- 14) The P2P Operator, as a licensee under Section 14 of the Financial Services Act, will be subject to the obligations and responsibilities for putting in place AM/CFT measures, in accordance with the provisions of the AML/CFT Code, which inter-alia includes the appointment of a MLRO.
- 15) A P2P Operator will be expected by the Financial Services Commission to adopt and maintain adequate internal control policies and procedures which is not limited to the sound management of possible conflicts of interests and handling of complaints by its borrowers and lenders.

- 16) Banks, as defined under the Banking Act 2004 in Mauritius, would finally not be allowed to be a shareholder of a licensed P2P Operator unless prior approval is obtained by the Financial Services Commission. The same approach would be, in principle, also applied by the Financial Services Commission to similar request for shareholding in a licensed P2P operator, by foreign-established banks.