



# Mauritius: Roadmap for a Regional Fintech Hub

## *A Synopsis*

*Loretta Joseph, Leader of the OECD's Global Blockchain Directorate and Chair of the Australian Digital Currency and Commerce Association*

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## The Financial Services and Innovation-Driven Regulatory Committee (the “Fintech Committee”) (1/2)

- The Fintech Committee was set up in February 2018 under the aegis of the Financial Services Commission, Mauritius
- Members of the Fintech Committee comprised experts in the fields of financial services, law, technology, taxation as well as artificial intelligence:
  - **Lord Meghnad Desai**, House of Lords, United Kingdom (UK);
  - **Lord Anthony St John of Bletso**, House of Lords, UK;
  - **Ms. Loretta Joseph**, Leader of the OECD's Global Blockchain Directorate and Chair of the Australian Digital Currency and Commerce Association;
  - **Mr Nishith Desai**, Founder of the Nishith Desai Associates Law Firm in India;
  - **Mr Yandraduth Googoolye**, Governor of the Bank of Mauritius;
  - **Mr Harvesh Seegolam**, Chief Executive of the Financial Services Commission, Mauritius; and
  - **Mr Rajesh Sharma Ramloll S.C.**, Deputy Solicitor General, Attorney General's Office, Mauritius.

## The Fintech Committee (2/2)

### ➤ The Fintech Committee:

- Undertook an in-depth assessment of the current regulatory set-up in Mauritius;
- Concluded that the framework is essentially technology-neutral;
- Identified priority areas within the space of fintech activities for regulation in Mauritius; and
- Made recommendations on the need to introduce new sets of regulations for fintech and innovation.

### ➤ Report of the Fintech Committee

- Submitted its report entitled *“Mauritius: Roadmap for a Regional Fintech Hub”* on 18 May 2018.

# The Regulatory Sandbox Licence (RSL) framework

- The Fintech Committee observed that the RSL is pivotal for the development of innovative products and services, including fintech-enabled services, for which there are currently no regulatory structure under Mauritian Law.
- In view of the increasing quantum of Fintech-related RSL applications, the Fintech Committee recommended enhancements to be made to the RSL set-up including the creation of the National RSL Committee

## The National RSL Committee

- Consists of representatives of the Bank of Mauritius (BOM), the Financial Services Commission (FSC), the Economic Development Board (EDB) and the Financial Intelligence Unit (FIU).
- Chaired by an apolitical person with expertise in financial services.
- May co-opt members with relevant experience for RSL applications under consideration.
- Will work in close collaboration with the EDB to evaluate fintech-related RSL applications.
- A fintech-related application approved by the National RSL Committee will be issued with an RSL by the EDB.
- Will assign the supervision of the RSL holder to the FSC or the BOM, depending on the nature of the proposed fintech activity.

## Priority areas for regulation in the Fintech space

- The Fintech Committee identified three (3) priority areas within the Fintech space for regulation in Mauritius, namely:
- Initial Token Offerings (ITOs);
  - Custody services in relation to Digital Assets; and
  - Trading of Digital Assets.



## Initial Token Offerings (1/5)

- An ITO refers to an offer by a company to the public or specific investors to purchase or otherwise acquire digital assets or tokens as a means of raising funds.
- The Fintech Committee recommended that the framework for ITOs to be conducted from Mauritius, be developed.
  - The regulatory framework is currently being set-up.



## ➤ Classification of Tokens

- Identification of three (3) distinct types of tokens being issued by ITO organisers:
  - **Cryptocurrency or Payment tokens** representing a unit of a cryptocurrency intended for use as method of payment for the purchase of goods or services or as a means of value transfer without giving rise to any claim by the participant on the issuer;
  - **Access tokens** intended as a licence to digitally access a blockchain-based service, a platform or an application; or
  - **Equity tokens** which are akin to securities such as bonds or derivatives since they relate to the possibility or promise of the investor participating in the returns generated from pooled investments or in the future cash flow generated from an underlying asset.
- The three categories are not mutually exhaustive as some tokens, referred to as “hybrids”, often cumulate the characteristics of more than one token category.



### ➤ Application of the existing legislative framework to ITOs

- Depending on the token category, the following existing legislations are likely to be applicable:
  - Statutory provisions applicable to securities transactions in situations where tokens qualify as “securities” or “derivatives” as defined under the Securities Act 2005 (SA); and
  - The Financial Intelligence and Anti-Money Laundering Act 2002 (FIAMLA) relating to the prevention of money-laundering and terrorist financing in circumstances involving payment in fiat currencies for a token.

## Initial Token Offerings (4/5)

- **Equity Tokens meeting the definition of “Securities” under the SA**
  - An issue of tokens issued will be regulated by the FSC if the tokens are considered as “securities”.
  - any offer, trading, underwriting, distribution as well as solicitation in relation to a “securities” token will constitute a licensable activity under the SA.
  
- **Tokens not considered as “securities”**
  - Access tokens and cryptocurrencies will not to be considered as “securities” to the extent that they do not have an investment function.
  - Should an access token or a cryptocurrency also cumulate an investment function, then such hybrids will have to be regulated by the FSC as “securities”.

## ➤ Cryptocurrencies

- Investments in Digital Assets including cryptocurrencies:
  - High-risk nature
  - Not suitable for retail investors
  - May constitute an asset-class appropriate for investment by Expert and Sophisticated Investors
- Guidance note issued by the FSC regarding Investments in Digital Assets including cryptocurrencies
- Investors in Digital Assets and in cryptocurrencies are not protected by any statutory compensation arrangement in Mauritius.

# Custody of Digital Assets

- Fintech activities have been growing exponentially in complexity.
- lack of appropriate custody services for the safekeeping of digital assets has remained a growth limiting factor
- The FSC will be setting up a regulatory framework for the custody of digital assets in Mauritius and will be issuing the Custody Services (Digital Asset) licence under section 14 of the Financial Services Act (FSA).
- The holder of this licence will be authorized to hold the digital assets of both Collective Investment Scheme (CIS) and Non-CIS in custody.
- A pivotal requirement for this licence is to have appropriate cybersecurity infrastructure to ensure proper safekeeping of the digital assets including protection against cyber threats.

# Digital Asset Marketplace

- Trading of tokens considered as “securities” (equity tokens or hybrid tokens exhibiting an investment function) will have to be undertaken in accordance with the relevant provisions of the SA.
- Non-securities tokens (access tokens and cryptocurrencies) are also likely to be exchanged for fiat currencies or other digital assets at “digital asset marketplaces”, also known as exchangers.
- New line of business relating to facilitating the buying, selling or exchanging of digital assets for fiat currencies or other forms of digital assets and vice versa, for a fee (commission).
- The FSC is creating the regulatory framework for Digital Asset Marketplaces.
- The “Digital Asset Marketplace licence”, will be issued under section 14 of the FSA.

# Supervision of fintech activities

- Anti-Money-laundering and Combatting Financing of Terrorism (AML/CFT)
  - Uniform AML/CFT requirements will be applicable in the Mauritian financial services sector.
  
- Cybersecurity and Cyber-resilience
  - As fintech continues to grow in sophistication, threats posed by cyber-attacks are likely to escalate causing significant disruption
  - It is vital for operators in the fintech space to have effective cybersecurity programmes
  - The requirements for such cybersecurity programmes will be imposed on fintech service providers licensed by the FSC, including the need to have dedicated in-house cybersecurity personnel.



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# Panel Discussions

