

Fintech Series

Guidance Notes

Security Token Offerings (STOs)

(Updated 23 August 2022)

1. Background

- 1.1 The Financial Services Commission, Mauritius (FSC), the integrated regulator for non-banking financial services and global business sectors, remains highly supportive of Fintech-related initiatives in Mauritius.
- 1.2 These Guidance Notes were first published by the FSC, as part of its Fintech Series, on 8 April 2019 and updated on 23 August 2022 to provide clarifications to its licensees and stakeholders regarding the statutory requirements applicable to STOs.
- 1.3 The Guidance Notes are issued under section 7(1)(a) of the Financial Services Act and accordingly highlight the regulatory approach of the FSC in relation to STOs.
- 1.4 Following the enactment of a new piece of legislation known as the [Virtual Asset and Initial Token Offerings Services Act 2021](#) (VAITOS Act), the FSC deemed it necessary to update the contents of the Guidance Notes to, *inter alia*, avoid any inconsistencies with the provisions of the VAITOS Act and the new definitions (such as ‘Virtual Asset’ or ‘Virtual Token’) provided therein.

2. Regulatory framework for STOs

- 2.1 “Security tokens” are “securities” as defined in the Securities Act (the “SA”), represented in digital format. The definition of “virtual asset”, as provided under the VAITOS Act, does not include a digital representation of securities that fall under the purview of SA.
- 2.2 An STO generally means the issue of Security Tokens, as a method of raising funds from investors, in exchange for the ownership or economic rights in relation to assets, or arrangements.
- 2.3 When STOs are conducted in or from within Mauritius, the offering of such Security Tokens shall be subject to the SA and any Regulations or FSC Rules issued thereunder, including the requirement for a prospectus, as may be applicable.

- 2.4 Subject to paragraph 2.5, no offerings of Security Tokens shall be made without prior approval of the FSC.
- 2.5 No prior approval is required in respect of offerings to the following categories of investors:
- 2.5.1 Sophisticated Investors¹;
 - 2.5.2 Expert Investors²;
 - 2.5.3 Expert Funds³;
 - 2.5.4 Professional Collective Investment Schemes⁴; and
 - 2.5.5 Specialised Collective Investment Schemes⁵.
- 2.6. Any person soliciting⁶ another person to enter into transactions involving Security Tokens shall be required to hold the appropriate licence under the SA and shall be required to ensure, at all times, strict compliance with the applicable regulatory requirements, including, but not limited to:
- 2.6.1 Undertaking adequate due diligence regarding the STOs

Conducting appropriate due diligence in view of developing a detailed comprehension of the STOs, the fitness and propriety of the management of the issuer as well as its development team, the legitimacy of the business case behind the STOs, and the rights and obligations attached to the underlying assets backing the Security Tokens.

¹The term “Sophisticated Investor” is defined in section 2 of the SA.

²The term “Expert Investor” is defined in regulation 78(a) of the [Securities \(Collective Investment Schemes and Closed-end Funds\) Regulations 2008](#) (CIS Regulations).

³The term “Expert Fund” is defined in regulation 2 of the CIS Regulations.

⁴The term “Professional Collective Investment Schemes” is defined in regulation 75 of the CIS Regulations

⁵ The term “Specialised Collective Investment Scheme” is defined in regulation 77 of the CIS Regulations.

⁶The term “solicit” has the same meaning as in section 31(2) of the SA.

2.6.2 Disclosure obligations

Providing clients with information relating to the STO in an accurate, timely and transparent manner with clear warning statements about the risks associated with the Security Tokens.

- 2.7. The FSC wishes to highlight that carrying out financial services⁷ without a licence is a criminal offence.
- 2.8. Service providers, issuers and investors shall comply with the SA, any relevant Acts, Regulations and FSC Rules made thereunder, any other enactment, guidelines, Codes and circular letters, as may be applicable.

3. Cautionary note to investors

- 3.1. Given that Security Tokens are high risk in nature, the FSC urges all prospective investors to fully assess the risks related to same prior to investing in Security Tokens.
- 3.2. In addition, the FSC hereby informs investors that any investment in Security Tokens is at their own risk and that they are not protected by any statutory compensation arrangement in Mauritius.

Financial Services Commission
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⁷ The term “financial services” is defined in section 2 of the Financial Services Act.