



Fintech and the Securities Market – Part 4 of 5

In the past two (2) articles the Trinidad and Tobago Securities and Exchange Commission (“TTSEC”) discussed six (6) of the twelve (12) considerations related to the International Monetary Fund (“IMF”) – The Bali Fintech Agenda. The Bali Fintech Agenda Policy Paper¹ provides a blueprint for successfully harnessing Fintech opportunities by providing a framework for countries to assess their policy options and adapt them to their own circumstances. This week’s article highlights the remaining six (6) considerations and briefly considers approaches within the local securities industry in order to facilitate compliance. Considerations.

VII. Safeguard the integrity of financial systems.

The TTSEC referenced the Financial Action Task Force (“FATF”) guidance paper² to identify, understand and assess the Money Laundering/Terrorist Financing (“ML/TF”) risks associated with Fintech. It states that ‘*countries should consider virtual assets as “property,” “proceeds,” “funds”, “funds or other assets,” or other “corresponding value”*’. Countries should apply the relevant measures under the FATF recommendations to its Virtual Asset Service Providers (“VASP”), as well as the associated virtual assets, both of which should be licensed or registered.

After Fintech providers have been assessed, the registration category will be determined along with the associated ML/TF obligations. A major opportunity exists with the use of RegTech to improve ML/TF compliance.

RegTech is a contraction of the terms regulatory and technology, and it involves the use of technology, particularly information technology, for regulatory monitoring, reporting, and compliance (Douglas W. Arner, Janos Barberis & Ross P. Buckley 2017).

¹ The Bali Fintech Agenda, IMF Policy Paper, October 2018

² FATF, 2019, Guidance for a Risk-Based Approach to Virtual Assets and Virtual Asset Service Providers, FATF, Paris

However, the current legislation may require amendments to allow electronic record keeping with regard to ML/TF obligations.

VIII. Modernise legal frameworks to provide an enabling legal landscape.

The requirements of Section 6(c) of the Securities Act 2012 (“SA 2012”) can be applied to registrants’ Fintech processes, as it mandates the TTSEC to control and supervise activities within the securities industry in order to maintain proper standards of conduct and professionalism.

All Fintech service providers will be reviewed under TTSEC’s current legislation to determine whether the products or services being offered equates to a security or a security-related activity. The TTSEC’s definition of an investment contract provides sufficient detail to determine if a product constitutes a security.

By definition, an investment contract includes any contract, transaction, plan, scheme, instrument in writing, whereby a person invests money or other property in a common enterprise, management or effort of others, as such money or other property is subject to the risks of the common enterprise. Where a Fintech product or service does not fit into the SA 2012 definition of an investment contract, consideration will be given to legislative amendments. A risk-based approach will be adopted in making these amendments which will be done on a case-by-case basis.

IX. Ensure the stability of domestic monetary and financial systems.

The Central Bank of Trinidad and Tobago (“CBTT”) is responsible for fostering monetary and financial stability in the economy. On 4th August, the E-Money Issuer Order, 2020³ (“the Order”) was given effect. Under this Order, the CBTT can grant permission for E-Money Issuers, who have registered or who have applied to be registered, to issue e-money under said Order and have been granted a provisional registration under clause 6.

Clause 3 of the Order lists the categories of E-Money Issuers while Clause 7 lists the permitted activities within Trinidad and Tobago only. These activities include:

³ The Financial Institutions Act, 2008, Trinidad and Tobago, E-Money Issuer Order, 2020

- “ (a) issuance of e-money account;*
- (b) cash-in;*
- (c) cash-out;*
- (d) provision of payment services; and*
- (e) money transfer or remittances.”*

X. Develop robust financial and data infrastructure to sustain Fintech benefits.

Strong standards of operational resilience help market participants and infrastructures to withstand and rapidly recover from disruptions, thus supporting confidence in the continuity of services and preserving the “safety and soundness” and the integrity of the financial system (International Monetary Fund & World Bank Group 2018)⁴.

The issue of cybersecurity in finance highlights the necessity of further regulatory focus and development. As the securities industry continues to become more digitised, there is an increased risk of attack, theft, and fraud from cybercriminals. The TTSEC intends to issue guidance/standards on cybersecurity for the local securities industry that will assist in maintaining data integrity and the safety and soundness of the financial system.

A solid enterprise-wide risk-management framework is also necessary for the development of robust financial and data infrastructures. During its compliance reviews, the TTSEC assesses the quality of registrants’ enterprise-wide risk-management frameworks, business continuity and recovery plans. Recommendations for improvement are made where deficiencies are identified.

XI. Encourage international cooperation and information-sharing.

International, regional and local collaborations lead to greater harmonisation of regulatory frameworks and facilitate the adoption of innovative technologies in financial services. To this end, the TTSEC has consistently endeavoured to enhance cooperation and communication with other regulators. The TTSEC is a signatory to the International Organization of Securities Commissions’ (“IOCSO”) Multilateral Memorandum of Understanding (“MMoU”) and a

⁴ Bali Fintech Agenda, Chapeau Paper, International Monetary Fund & World Bank Group, September 2018

member of the IOSCO Initial Coin Offering (“ICO”) Consultation Network. Within the Caribbean, the TTSEC is also a member of the Caribbean Group of Securities Regulators (“CGSR”) and chairs the CGSR Fintech Committee.

XII. Enhance collective surveillance of the international monetary and financial system.

In 2015, the TTSEC began the process of collecting key micro and macro, prudential and financial soundness indicators by implementing the Micro and Macro-Prudential Reporting Framework (“MMRF”). These indicators allow the TTSEC to analyse and evaluate the health, soundness, and potential vulnerabilities of the financial markets, within all segments of the securities industry (stocks, shares, bonds, mutual funds, repos, etc.).

In next week’s article, the TTSEC will discuss the different types of Fintech products/services in the securities industry. You can commit to helping protect yourself and the integrity of our markets by taking our Caribbean Fintech Pledge; <https://investucatett.com/caribbean-fintech-pledge-initiative/>.

END

For more information on the securities market, please visit our corporate website, www.ttsec.org.tt, or our Investor Education website at www.investucatett.com or connect with us via any of our social media handles:



**Published Article: Business Express
September 2, 2020**