DFDL

Navigating the Fintech Revolution

ASEAN PATH 2021

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INTRODUCTION

COVID-19 has thrust the world into recession, which as a result akin to a domino effect, has led to rapid and accelerated change. Most notably, industries have pivoted online as we hurtle headlong into an increasingly digitalized society. In response to extended lockdowns, society has become more reliant on technology than it has ever been. Fortuitously, this post haste shift to digital has provided Fintech with an impetus for growth in alternative lending, payments, banking, capital markets, SME solutions, wealth management, real estate and insurance sectors. Embedded Fintech is increasingly prolific with non-financial companies such as telecom operators, retailers, e-commerce integrating technology enabled financial services in their product offerings here in South East Asia in order to enhance customer loyalty and monetize customer relationships and data.

The next generation of banking service providers and financial technology enablers who continue to facilitate the growth of open banking around the globe are probing markets across ASEAN given the large 'underbanked' and 'unbanked' population that legacy banks have failed to serve. Impediments to deployment of digital financial services within ASEAN are fourfold; reluctance to abandon cash, unreliable digitized national identification systems, regulatory prioritization of consumer protection over innovation and the palpable absence of robust credit bureaus.

Fintech within Southeast Asia represents a multi-billion-dollar opportunity with alternative lending as the largest revenue pool. However, the overarching ramifications of COVID-19 make the following trends immediately apparent:

1. The Rise of Digital Banks

The age of digital banking is upon us. The Monetary Authority of Singapore ("**MAS**") has led the way by originally articulating eligibility and assessment criteria for 2 digital full bank ("**DFB**") and 3 digital wholesale bank ("**DWB**") licenses for which applications were allowed until 31 December, 2019 (in addition to the existing internet banking framework that was announced twenty years ago). On 4 December, 2020, MAS awarded licenses to 4 applicants who had successfully cleared all prudential requirements and pre-conditions from a pool of 14 eligible applicants who were assessed on their proposed business models and incorporation of innovative use of technology to serve customer needs together with their ability to manage a sustainable digital banking business. MAS also took into consideration the eligible applicants' business plans and assumptions in context of the impact of the COVID-19 pandemic. Grab Holding Inc. and Singapore Telecommunications Ltd. consortium and a Sea Ltd. wholly owned entity had successfully qualified DFB licenses. DWB licenses were granted to the Greenland Financial Holdings Group Co. Ltd, Linklogis Hong Kong Ltd, and Beijing Co-operative Equity Investment Fund Management Co. Ltd., consortium and an entity wholly-owned by Ant Group Co. Ltd.

The new digital banks are expected to commence operations from early 2022.

2. Regulation for New Financial Services Technology

Regulation in the ASEAN Fintech space is also one of the key drivers for growth as this in turn affects the requirements for licensing and ease of doing business. Consumer protection has historically always taken precedence over innovation. In context of the recent Wirecard scandal in Germany, the case for consumer protection has been entrenched even further. However, the technology itself is not at fault; rather the gaps to be addressed are to be found in prevalent accounting practices – an old acorn in the trick bag of scam and fraud. Nevertheless, if Fintech is to realize its fullest potential, consistent regulatory and government policies are the need of the hour. Regulations must consistently articulate and give effect to digitization and financial inclusion, such as electronic KYC and licensing to further allow establishment of virtual banks. This would also entail establishing critical digital infrastructure being national identification systems, real-time payment systems, standardized QR codes and effective credit bureaus with regulatory foresight as the foundation for this digital infrastructure.

3. Infrastructure Redundancy

Exploiting an opportunity can be issue in itself. Both startups and established Fintech companies face an increased demand for their services during the global lockdown. People have become very reliant on Fintech and companies must be prepared to accommodate this increased demand which involves developing and improving their enterprise IT infrastructure. For startups this has been easier, as they are newer to the scene and their flexibility allows them to develop more modern and innovative solutions. On the other hand, established banks and financial institutions have found this difficult and have been slow to adopt new technologies due to the nature of their legacy IT infrastructure and services. The unprecedented year of COVID-19 has underscored the need for new IT foundations with modern technologies for established companies, especially since the world is moving into a more digitalized, cashless society with embedded Fintech.

4. Selective Funding

Deal funding of Fintech start-ups in Asia has pivoted. An anti-pattern has emerged; investors that have traditionally prioritized growth, customer acquisition and competing for market share in Fintech start-ups are now visibly more conservative and appear to be training their focus on companies that are profitable. Consequently, Fintech businesses have adjusted to working with less liquidity, since many are heavily dependent on investment to fund operational costs. Nonetheless, this trend varies contingent on the sector serviced by the Fintech startup – companies linked to industries such as tourism or entertainment are likely take the brunt of the recession to a greater extent compared to e-commerce businesses which may succeed during these times.

5. Startups vs. Established Enterprises

The ongoing recession has not only highlighted the vulnerability of startups, but also of larger financial institutions looking to adapt their business. Despite the glaring risk of failure, especially during an economic crisis like this, a key advantage that startups have which established enterprises lack, is flexibility. The ability to execute rapid change in response to fluctuations of economic activity is precisely the key to survival during a crisis like COVID-19. Start-ups are able to easily pivot, shut down projects, reorient themselves towards real profit opportunities and even launch new products or solutions in response to the current environment. Certain Fintech verticals like payments and lending are quickly reaching that point of inflection across South East Asia.

THE FUTURE OF FINTECH

The fact that Southeast Asia's consumers have less access to financial services than their peers in developed markets on one hand and yet continue to maintain high levels of smart phone penetration on the other hand, represents a world of paradoxical opportunity. Across the region, much of the growth in Fintech will come from Southeast Asia's developing markets. Vietnam, Indonesia and Philippines digital payments gross transaction value is still expected have double digit growth as opposed to a more conservative growth path for mature markets such as Singapore. Similarly, digital lending in these three countries is still expected to demonstrate meteoric growth given the amount of room left for development. Indonesia and Vietnam will dominate in terms of pure revenue potential.

While the pandemic has led to historically unprecedented economic impact in terms of scale and severity, it has also highlighted the power of digital technology which has enabled many industries and businesses to continue working during these unprecedented times. As an industry however, Fintech is unlikely to become highly concentrated despite current efforts at consolidation by regional aggregators like Grab and Gojek. The diverse business environment, divergent regulatory interpretations and high levels of competition make Fintech particularly susceptible to fragmentation. Established banking and financial institutions may retain greater capital access and arbitrage for now but Fintech itself is also being institutionalized such that both are no longer mutually opposed to each other but rather collaborators in the evolution of the financial industry.

DFDL FINTECH EXPERTISE

Our regional fintech team is a regulatory powerhouse with unmatched credentials on outbound advisory and transactions. Regulatory expertise and knowledge of local intricacies in region is our core strength and recognized by our clients and peers in the industry.

We offer a combination of deep global tech experience with regulatory and financial services knowledge. Our recent experience includes advising some of the world's leading financial institutions on legal and regulatory issues.

The team advises a large array of clients from start-up across a wide range of fintech industry segments to major multinational conglomerates, banks, financial institutions, financial services companies, insurance companies and venture capital firms, asset managers, private equity houses focus on fintech domain. By combining international experience and local legal experts, we have built a reputation as a preferred legal adviser in various sectors.

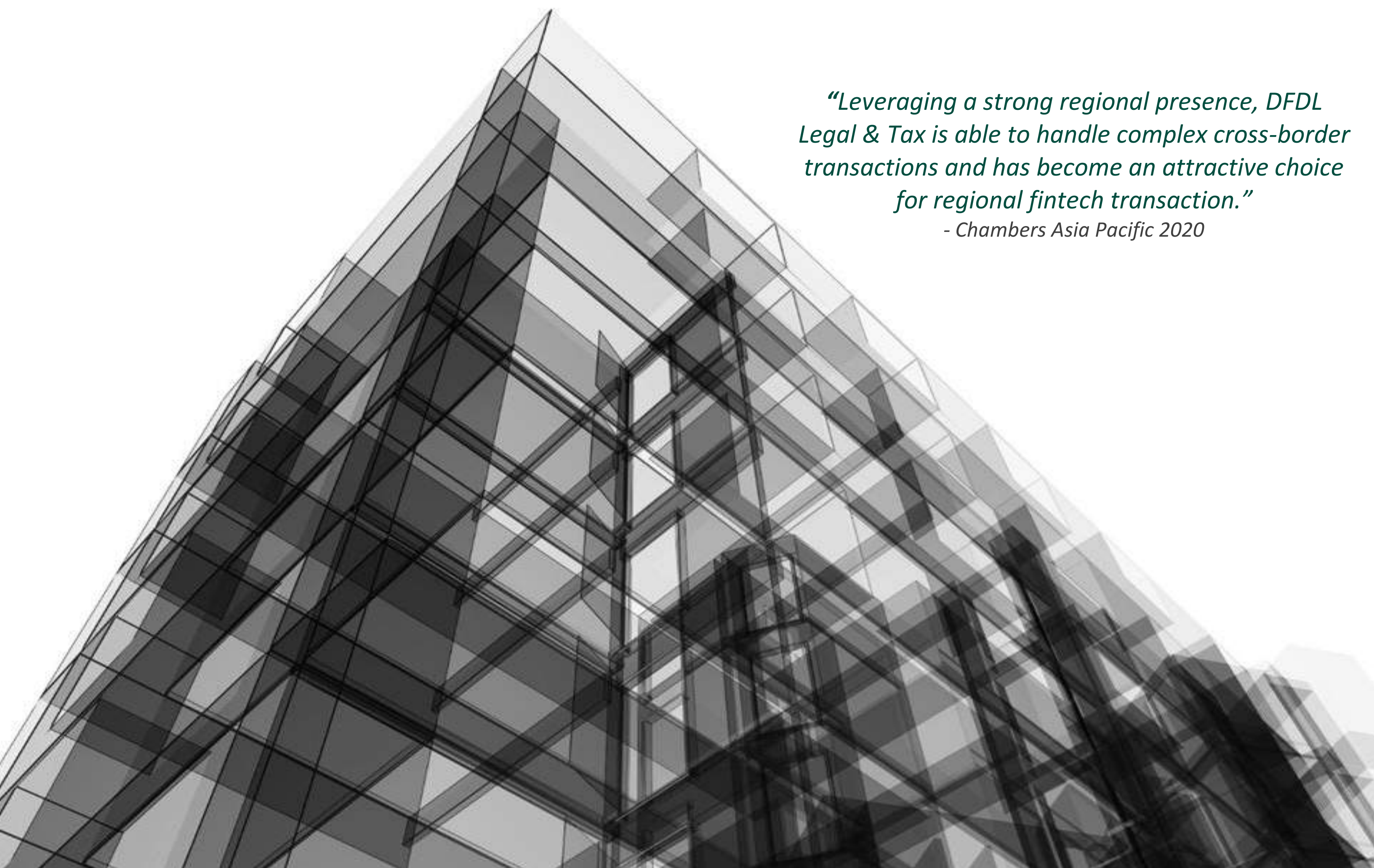
KEY CONTACTS

VINAY AHUJA
Partner,
Head of Regional Banking, Finance & Technology
vinay.ahuja@dfdl.com

SIMON Z. RAJAN
Senior Legal Adviser,
Regional Banking, Finance & Technology
simon.rajan@dfdl.com

DFDL was established in 1994 and founded on a unique vision: to create an integrated legal and tax advisory firm, with in-depth knowledge of the developing jurisdictions in which we are based.

Our dedicated professionals exhibit the acumen and insight necessary to assist you in navigating the legal complexities and challenges. We strive to provide concise, commercially focused and innovative advice, drawing on over 26 years of wide ranging experience and finely tuned local knowledge of the countries in which we operate. Providing a full range of legal and tax services to investors interested in developing their operations in our markets.



"Leveraging a strong regional presence, DFDL Legal & Tax is able to handle complex cross-border transactions and has become an attractive choice for regional fintech transaction."
- Chambers Asia Pacific 2020

BANGLADESH

Author: **TARANNUM TASNIM** | *Partner, DFDL Bangladesh* | tarannum.tasnim@dfdl.com

Financial inclusion is a high priority policy of the government of Bangladesh and as a result the financial technology ("**fintech**") sector is growing rapidly. One of the most notable fintech platforms to have emerged is Digital Financial Services ("**DFS**"), which opened up a new avenue for individuals and businesses to have more control over personal finances and to make prompt transactions. DFS consists of financial services that are accessed and delivered through digital channels; such as payments, credit, savings, remittances and insurance. DFS also includes mobile financial services ("**MFS**"). Increasing use of mobile phones has emerged as a strong medium to perform many other business activities besides interaction and communication.

In order to encourage financial inclusion, the Bangladesh Bank ("**BB**"), the central bank of Bangladesh, has issued guidelines and granted permission to 28 banks to provide such MFS. BB allows the undertaking of local Cash in, Cash out, Person to Person ("**P2P**"), Person to Business ("**P2B**"), Business to Person ("**B2P**"), Person to Government ("**P2G**") and Government to Person ("**G2P**") payment services through MFS. However, due to strict foreign exchange controls, no outward remittance is permitted under these services although local disbursements of inbound foreign remittances through banking channels is allowed.

One of the key challenges facing the growth of this sector is that a majority of the population is still unbanked and not fully familiar with the new technology. Further, existing KYC procedures are complicated and time consuming, factors which act as a barrier to formal financial inclusion.

The Current Operations of BB

- **Bangladesh Automated Cheque Processing Systems ("BACPS"):** BACPS provides cheque clearing facilities. It uses Cheque Imaging and Truncation ("**CIT**") technology for electronic presentation and payment of paper-based instruments; such as: cheques, pay orders, dividend and refund warrants etc.

- **Bangladesh Electronic Funds Transfer Network ("BEFTN"):** The BEFTN introduced the country's first paperless electronic inter-bank fund transfer system. It facilitates both credit and debit transactions, as a lead over cheque clearing systems. This network can handle credit transfers such as payroll, inward and outward remittances, social security payments, company dividends, bill payments, corporate payments, government tax payments, and person to person payments. At the same time, it accommodates debit transactions like utility bill payments, insurance premium payments, club/association payments, EMI payments etc. Most government salaries, social benefits, all social safety net payments and other government payments are processed through the BEFTN.

- **National Payment Switch Bangladesh ("NPSB"):** The NPSB maintains interoperability among participating banks for their account and card-based transactions. 51 Banks are now interconnected through NPSB for their Automated Teller Machines ("**ATM**") transactions. It also covers Point of Sale ("**POS**") and Internet Banking Fund Transfer ("**IBFT**") transactions.

- **Real Time Gross Settlement System (RTGS):** In order to facilitate the settlement of high value and time critical payments, BB introduced the Bangladesh Real Time Gross Settlement ("**BD-RTGS**") system. It opened a new dimension for banks and corporates to settle their payments promptly. At the same time individual customers are also availing of this service to settle their large value transactions.

On 15 May 2020, the CBM issued Notification No. 9 2020 ("**Notification**") which prohibits financial institutions from transacting in any form of cryptocurrency (including Bitcoin, Litecoin, Ethereum and so on). Any violation of this Notification may be subject to imprisonment, fines or both. This Notification also places restrictions on fintech companies transacting in such cryptocurrencies.

The Regulations

The BB issued the Bangladesh Payment and Settlement System Regulations 2014 ("**BPSSR**") which is the primary legislation regulating payment and settlement systems in Bangladesh. Pursuant to the BPSSR, the BB may grant a license to any payment service provider ("**PSP**") or payment system operator ("**PSO**") in Bangladesh. It gives PSP licenses to companies that facilitate payments or payment processes directly to customers and settling their transactions through a scheduled bank or financial institution; for example, through e-wallets, mobile wallets etc. The BB Payment Systems Department reviews market demand, business climate, regulatory requirements, risk management systems, settlement systems, eligibility criteria and more, according to the BPSSR when considering PSP or PSO license applications.

The Regulators

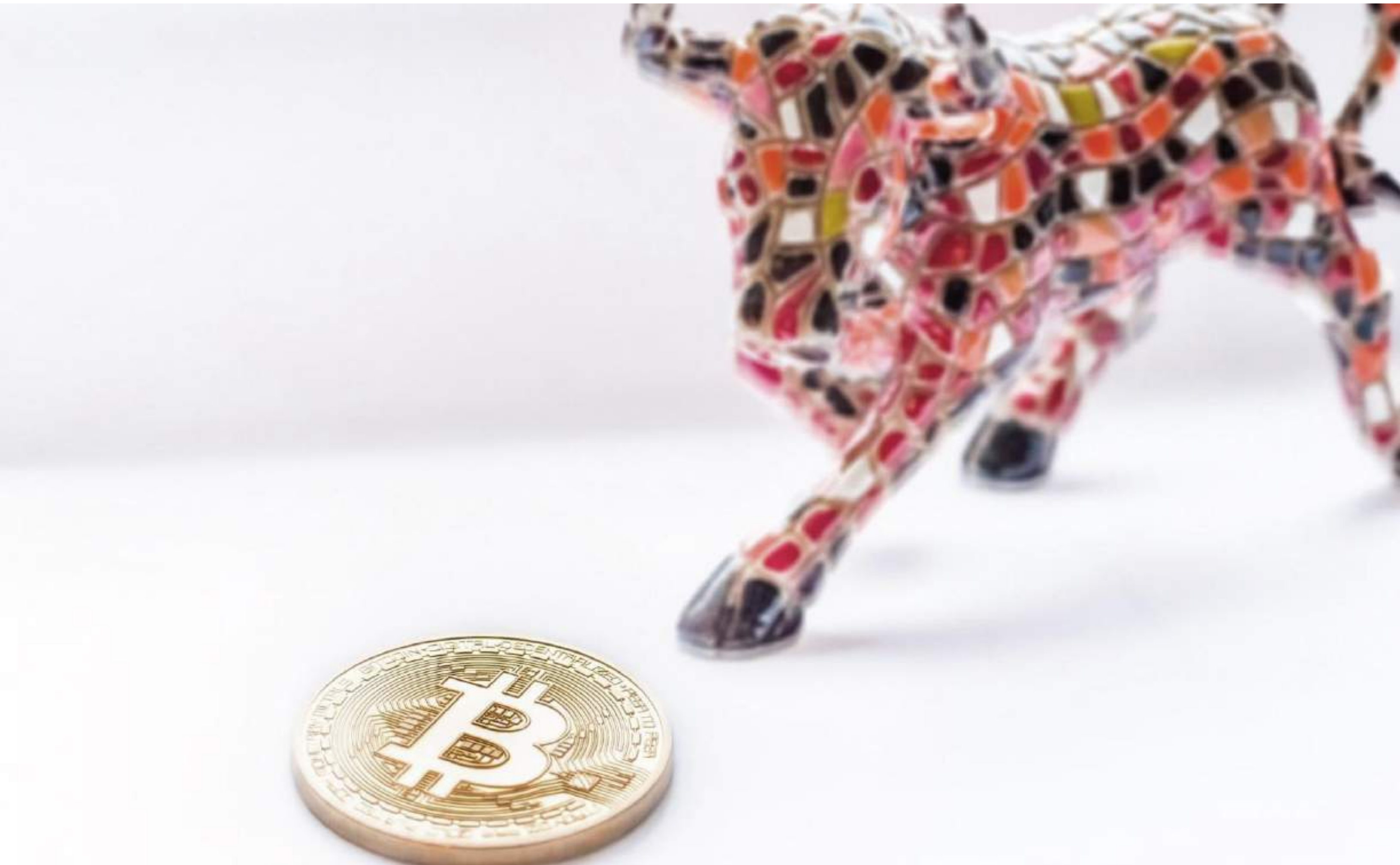
The Ministry of Finance | Payment Systems Department | Bangladesh Bank

Key Participants

FinTech Companies: BKash, Nagad, Ukash, Rocket, MCash, Surecash | Retail Users

Key Regulations

Bangladesh Bank Order 1972 | Bank Company Act 1991 | Bangladesh Payment and Settlement System Regulation 2014 | Regulations on Electronic Fund Transfer Network | Bangladesh Mobile Financial System (MFS) Regulations 2018



Author: **CHUAN HOW TAN** | *Senior Consultant, Head of Banking & Finance, DFDL Cambodia* | chuanhow.tan@dfdl.com

Author: **NEARIRATH SRENG**| *Deputy Head of Banking, Finance & Technology Practice, DFDL Cambodia* | nearirath.sreng@dfdl.com

Author: **RICHARDS GRAMS** | *Senior Consultant, DFDL Cambodia* | richard.grams@dfdl.com

The Kingdom of Cambodia has transformed into one of the ten fastest-growing economies of the past 20 years. Poverty has sharply fallen from 50% of the population in 2005 to 13.5% in 2014. The World Bank now classifies Cambodia as a lower-middle income economy, no longer a low-income economy as before.

The Fintech Allure of Cambodia

Cambodia's rapid progress is often chalked up to macroeconomic stability reflected by low inflation, increasing international reserves, modest fiscal deficits, low public debt and well-framed economic policies.

From a fintech perspective, part of Cambodia's allure lies in its young population demographics, 9.7 million daily internet users by January 2020, 27 million mobile subscriptions and the fact that so far, only 23.5% of the population enjoys financial inclusion. To address that gap, there has been rapid growth of mobile accounts for remittances and payments, with institutional investment channeled to companies like Wing and PiPay in promoting financial inclusion through their apps.

Banks and microfinance institutions in Cambodia have also been quick to embrace digital transformation which is creating opportunities for entrepreneurs to develop third-party service providers ("**TPPs**") that can offer banks and MFIs the wherewithal needed to power not only mobile payment solutions but other services as well.

Somewhere in 2021 or 2022, we expect to see the debut of new account-related apps equipping account holders with a variety of personal finance tools such as the ability to get mortgage and personal loan quotes and financing over their mobile devices. In other words, the advent of open banking in Cambodia.

The main hurdles that Cambodia faces are the modest size of its market and its incomplete legal framework for regulating fintech (i.e. nothing present so far akin to the EU Payment Services Directive 2 ("**PSD2**") or Open Banking UK). Thus far, major international fintech operators have stayed out of the Kingdom. Accordingly, most fintech business operators in Cambodia are homegrown, which is a double-edged sword: having so few foreign competitors make it easier for local entrepreneurs to compete but at the same time, without an influx of foreign competitors, there is less pressure on the Cambodian government to roll out new policies and regulations that adequately support fintech and safeguard consumers' rights. This is what we are seeing with mobile payments: local demand for digital solutions is making it easier for startups and SMEs to access cheaper and flexible capital. However, because the only regulatory sandbox that exists in Cambodia is for mobile payments, operators have been hesitant to develop services that cut across regulated sectors until new regulations permitting this are introduced. As regulatory support for the industry grows in Cambodia, it is likely that the necessary legislative changes will inevitably occur.

Recent Progress

Some recent initiatives deserve mention in connection with Cambodia's evolution as a fintech ecosystem. First, in November 2019, the Cambodian government promulgated the Law on e-Commerce, which dovetails with a new Consumer Protection Law (introduced simultaneously), providing greater certainty to fintech businesses involved in payment systems and the like. Then, in May 2020, the National Bank of Cambodia ("**NBC**") announced the launch of Project Bakong which is a 'next generation' blockchain-driven payment system that promotes access to banking services through user-friendly apps that run on iOS and Android systems. Users can open a Bakong account and make payments even if they lack a traditional bank account. Powered by a platform developed by Soramitsu of Japan, Bakong has evolved into a Central Bank Digital Currency ("**CBDC**") that serves as an ultra-efficient bank settlement system which does away with physical transfers of cash between banks.

The case of Bakong demonstrates such evolution, as Cambodia's digital economy represents a market opportunity for overseas vendors of both products and services. Cambodian fintech players often look abroad to seek and procure the technical know-how needed to power and formulate services offered at home. Another recent example of this is Vattanac Bank's July 2020 unveiling of its mobile banking app which relies on data security protocols developed by Paris-based Thales Group.

The Bakong project and CBDC are stunning achievements for such a small country but before the Kingdom can embrace other digital assets such as crypto currencies and STOs (Security Token Offerings which are used to tokenize physical assets such as real estate), bold new policies and regulations are needed. Without regulations akin to PSD2 or Open Banking UK, open banking will struggle to achieve a full launch in Cambodia. Despite demand, local fintech entrepreneurs and banks lack the experience and wherewithal to drive this change themselves, the necessary impetus and backing will need to come from regulators.

The Current Fintech Stakeholders

The main stakeholders are Cambodia's banks and microfinance institutions and several government ministries, as well as the NBC which serves as the country's de facto central bank. Cambodia's banking sector is regulated by the NBC and the Ministry of Economy and Finance. While the Ministry of Economy and Finance regulates the fintech industry with general laws, the primary regulator with respect to fintech remains the NBC. The Cambodian Investment Board is also a stakeholder: it offers incentives to investors looking to support entrepreneurs that are established businesses in a number of fields and while there are no dedicated investment incentives for participation in fintech, it is understood that this is currently under review.

The NBC has publicly endorsed digital policies including the "digital government" concept championed by both the Minister of Post and Telecommunications and the Ministry of Economy and Finance but until it comes forward with new regulations, neither the banks nor their third-party providers will be too eager to roll out any new, revolutionary or paradigm-shifting products or services.

The Regulators

National Bank of Cambodia | Ministry of Economy and Finance| Cambodian Investment Board | Cambodian Credit Bureau

Key Participants

Fintech Start-ups (Wing, Pi Pay, Bongloy, BanhJi, True Money, Ly Hour Pay Pro, SmartLuy, Karprak, Kiu, Tesjor, KB Global) | Traditional Financial Institutions | Overseas workers

Key Regulations

Law on Banking and Financial Institutions | Law on e-Commerce | Law on Negotiable Instruments and Payment Transactions | Law on Financial Leases | Prakas on Third Party Payment Processors | Prakas on Management of Payment Services Providers

INDONESIA

Author: **VINAY AHUJA** | *Partner, Head of Regional Banking, Finance & Technology* | vinay.ahuja@dfdl.com

Author: **ANDI ZULFIKAR** | *Partner* | andi.zulfikar@mataramlaw.com

2019 was a bustling year on the regulatory front with a slew of new fintech-related regulations issued by the Indonesian government (through the OJK, BI and Bapeppti). It was expected that Indonesia's fintech industry would scale new peaks in 2020 with continued growth for the industry given the ever-increasing number of participants in the lending space. Several existing banks remain keen to transform their existing businesses and to definitively enter the digital age. Growth is synonymous with challenges, but the onslaught of COVID-19 spared none in 2020.

Current regulations classify fintech into the following functions:

1. **Payment Systems** which include payment processing services (e.g. blockchain or distributed ledgers technology for fund transfer, electronic money, electronic wallets and mobile payments) clearing and final settlement services.
2. **Market Support** which covers dissemination of information related to financial products and/or services to the public such as data comparison of financial services, e.g. consumer credit scoring based on social, online and mobile data.
3. **Investment and Risk Management** by way of online investment products and online insurance. One example brand of this type is Bareksa, an integrated fund marketplace that facilitates their users in buying and selling mutual funds online, and provides data and information relating to the mutual funds, stocks, bonds and other financial products.
4. **Lending and Crowdfunding** a category covering peer-to-peer lending ("**P2P**"), financing and equity crowdfunding.
5. **Other financial services** which include commodity futures trading which in turn now includes crypto assets tradable only on a futures exchange (but precludes use as a payment instrument or currency.)

Digital Financial Innovation

OJK has identified 17 business activities, divided into clusters, that must be compulsorily registered which include service aggregators, e-KYC service providers, credit scoring services, insurtech, regtech, and blockchain based service providers. The first batch of registered participants in the OJK's regulatory sandbox for digital financial innovation commenced in June 2019, pursuant to the implementation of its regulation on digital financial innovation issued in 2018. There were 74 participants in the programme in the beginning of 2020.

In parallel, the regulatory sandbox supervised by BI has not demonstrated any significant developments since 2018. Tokopandai is the only fintech service provider that has completed the BI's regulatory sandbox. None of the 14 sandbox participants registered in 2019 were found eligible.

Payments

Despite the flurry of license applications in 2019, 2020 witnessed a significant reduction (up to 30%) in payment transactions, though there were certain outliers among e-wallet service providers given the aversion to the use of cash in the context of the COVID-19 pandemic.

Linkaja (formerly Telkomsel's t-cash) marked the entry of the first state-owned enterprise into Indonesia's e-money ecosystem in an active demonstration the government's commitment to developing the payments space. Linkaja is the fourth most popular e-money service provider in Indonesia, after GoPay, Ovo and Dana.

Zipay, PACCash, Paydia and Netzme were among the other e-money providers that received their e-license from BI in 2019. In terms of other developments in the payments space, Delameta, Bayarind, Cashlez, 2C2P, E2Pay and Ipay88 received their payment gateway licensed in 2019. Bayarind also received its e-wallet license in 2019.

Lending

2020 had every indication (at least from OJK data in December 2019) of being another boom year, with a manifold increase of total disbursed amounts; lender's accounts increased by almost 200% compared to accounts from December 2018. Similarly, borrower's accounts in 2019 increased by more than 300%, compared to December 2018. By August 2020, while loan portfolio's continued to grow, fintech lending start-ups were reporting a 10-15% rise in non-performing loans.

The fintech lending space in Indonesia remains plagued by illegal operators. In 2019 thousands of illegal and unlicensed lenders had been shut down by OJK, in stark contrast to its having issued only 25 licenses to lenders and supervised 139 registered lenders in the fintech lending space.

The crowdfunding space in Indonesia remains rather desolate with OJK having licensed only 2 equity crowdfunding platforms and another 6 applicants still being vetted.

Digital Banking

The existing OJK regulation provides a pathway for collaboration between existing banks and fintech companies rather than disruption by new entrants. However, digital banking has much room for growth despite being formally regulated by OJK since 2018, possibly stemming from the requirement that commercial banks are required to first set out new initiatives in their annual plans. Nevertheless, several Indonesian commercial banks have initiated and implemented digital banking as part of their conventional services.

Digital Commodities called Crypto Assets and Digital Gold

BI and OJK have consistently prohibiting crypto assets from being used as payment instruments. In 2019, Bappebti ushered in a new era by permitting the trading of crypto assets as digital commodities on commodities exchanges. Furthermore, Bappebti also stipulates digital gold as a digital commodity. The license application process was accordingly streamlined through relevant regulatory amendments, which reduced the previously colossal minimum capital requirements.

Quick Response Indonesian Standard

BI issued a new Regulation on the nationwide standardization of quick response codes, effective as of 1 January 2020, which introduced Quick Response code Indonesian Standard ("**QRIS**"), as a single quick response code to facilitate and integrate electronic payment transactions in Indonesia. BI has imposed a transaction threshold of IDR 2 million per transaction when using QRIS. E-money transactions are also required to use the National Payment Gateway ("**NPG**") scheme, namely ATM Bersama, Link, Alto and Prima.

The Regulators

Otoritas Jasa Keuangan ("**OJK**") | Bank Indonesia ("**BI**") | Ministry of Communications and Informatics ("**MOCIT**") | Badan Pengawas Perdagangan Berjangka Komoditi Kementerian Perdagangan ("**Bappebti**"), the Commodity Futures Trading Regulatory Agency of the Ministry of Trade

Key Regulations

BI Regulation No. 19/12/PBI/2017 on Financial Technology Operations | OJK Regulation 13/POJK.02/2018 on Digital Financial Innovation | BI Regulation No. 18/40/PBI/2016 on Payment Transaction Processing | BI Regulation No. 20/6/PBI/2018 on Electronic Money | OJK Regulation No. 77/POJK.01/2016 on P2P Lending | OJK Regulation No. 12/POJK.03/2018 on Digital Banking | OJK Regulation No. 37/POJK.04/2018 on Equity Crowdfunding | BOG Regulation No. 21/18/PADG/2019 on Quick Response Code Standard for Payment | Bappebti Regulation No. 5/2019 on Cypto Asset in Future Exchange | Bappebti Regulation No. 2/2020 on the Amendment of Bappebti Regulation No. 5/2019 | Bappebti Regulation No. 4/2019 on Digital Gold in Future Exchange.

Key Participants

GoPay | OVO | Midtrans | Dana | Modalku | Moka | Cermati | Cecil | KoinWorks | Gojek | Tokopedia | Trusting Social

THE LAO PDR

Author: **VINAY AHUJA** | *Partner, Head of Regional Banking, Finance & Technology* | vinay.ahuja@dfdl.com

Author: **SENESAKOUNE SIHANOUVONG** | *Partner, DFDL Lao PDR* | senesakoune.sihanouvong@dfdl.com

The Lao PDR has a total of 35 financial institutions, 15 insurance agencies, 48 non-bank financial institutions, 64 microfinance institutions and around 4,000 village funds.

In terms of financial inclusion, reports suggest that 38.5% of adults have access to financial institutions, 25.5% use micro-finance institutions, 60.2% use informal services while 25.7% of the population don't use any financial services.2

Given the early stages of Fintech development in the Lao PDR there are currently no Fintech startups/companies that pose any competitive challenges to the traditional financial services offered by the brick-and-mortar financial institutions based in the Lao PDR (likely due to tight licensing requirements imposed by the BOL). In fact, we are seeing it is the financial institutions themselves who are piloting projects to adopt and promote digital financial services in the country. Many companies have applied for a license from the Bank of Lao PDR to be payment service providers.

Current Digital Financial Services and Practices

The digital finance services ecosystem in the Lao PDR is still at a nascent stage. At present, only (i) mobile "top-ups"; (ii) utility bill payments through a formal bank account or the internet; (iii) payments /transfers to vendors and bank accounts; (iv) mobile wallets and E-wallets, are the only digital financial services prevalent in the Lao PDR.

The use of credit and debit cards, internet banking and POS devices is limited to high volume business transactions predominantly in Vientiane and Luang Prabang but in more recent times has flowed over to smaller cities in and around the Lao PDR. Heavy reliance on cash and cash transactions is due to roots in culture, habit and to some extent the high cost and time-consuming nature of digital financial services currently offered in the country. Studies and reports3 to date suggest that despite widespread use of cash for financial transactions, the business community and the people of the Lao PDR are ready for digital financial services provided that they are convenient, cheap and hassle-free.

The Hurdles

- Lack of Internet Infrastructure: The ability to provide digital financial services in the Lao PDR is dependent on the telecommunication sector's infrastructure capabilities.
- Cost of Internet Services: A recent study of broadband pricing in 196 countries revealed that prices for internet services in the Lao PDR were amongst the world's priciest (≈US$232/month)4. Cheaper and faster internet services are essential to helping fintech thrive in the Lao PDR.
- Lack of Legal & Tax Incentives for Sector Participation: There are currently no tax incentives or registration subsidies from the GOL for participation in the fintech/start-up sector in the Lao PDR. Putting in place such incentives will encourage the creation of a fintech ecosystem in the Lao PDR.

Recent Developments

- The BOL as the Central Bank of the Lao PDR has taken the initiative to create an enabling regulatory framework to permit banks and non-banks to offer digital financial services. The Payment Systems Department of the BOL has been established to supervise payment services in the Lao PDR.

- BCEL released Lao PDR's first mobile banking application in 2015 allowing customers to transfer funds between accounts, pay utility and phone bills along with paying taxes via their mobile phones. More recently in November 2017, BCEL launched another application called OnePay which allows users to pay anyone, anywhere, directly from their account by simply photographing a QR code. Similar initiatives are also currently being pursued by other licensed commercial banks in the Lao PDR.
- The Government of the Lao PDR has enacted new laws intended on putting in place a suitable framework to better regulate the realm of information and communication technology, electronic data and electronic transactions. These new laws include: (i) Law on Electronic Transactions (No. 02/NA, 7 December 2012); (ii) Law on Prevention and Combating of Cyber Crime (No. 61/NA, 15 July 2015); (iii) Law on Information and Communication Technology (No. 02/NA, 7 November 2016); (iv) the Law on the Protection of Electronic Data (No. 25/NA, 12 May 2017); and (v) the Payment System Law (No. 32/NA, 7 November 2017).
- After the Payment System Law has been enacted, the BOL has issued many decisions, notifications and instructions to provide guidelines on the implementation of this law, these include Decision on Systemically Important Payment Systems (No. 29/BOL, 14 January 2019); Decision on Retail Payment Systems (No. 293/BOL, 1 April 2019); Decision on QR Code Standard (No. 74/BOL, 28 Jan 2020); Decision on the Provision of Payment Service (No. 288/BOL, 17 March 2020); and Decision on Lao Payment and Settlement System (No. 327/BOL, 26 May 2020); Notification on the Use of Point of Sale (POS) for the Receipt of Payment of Goods and Service Fees in Lao PDR (No. 889/PSD, 3 November 2020).

The Future

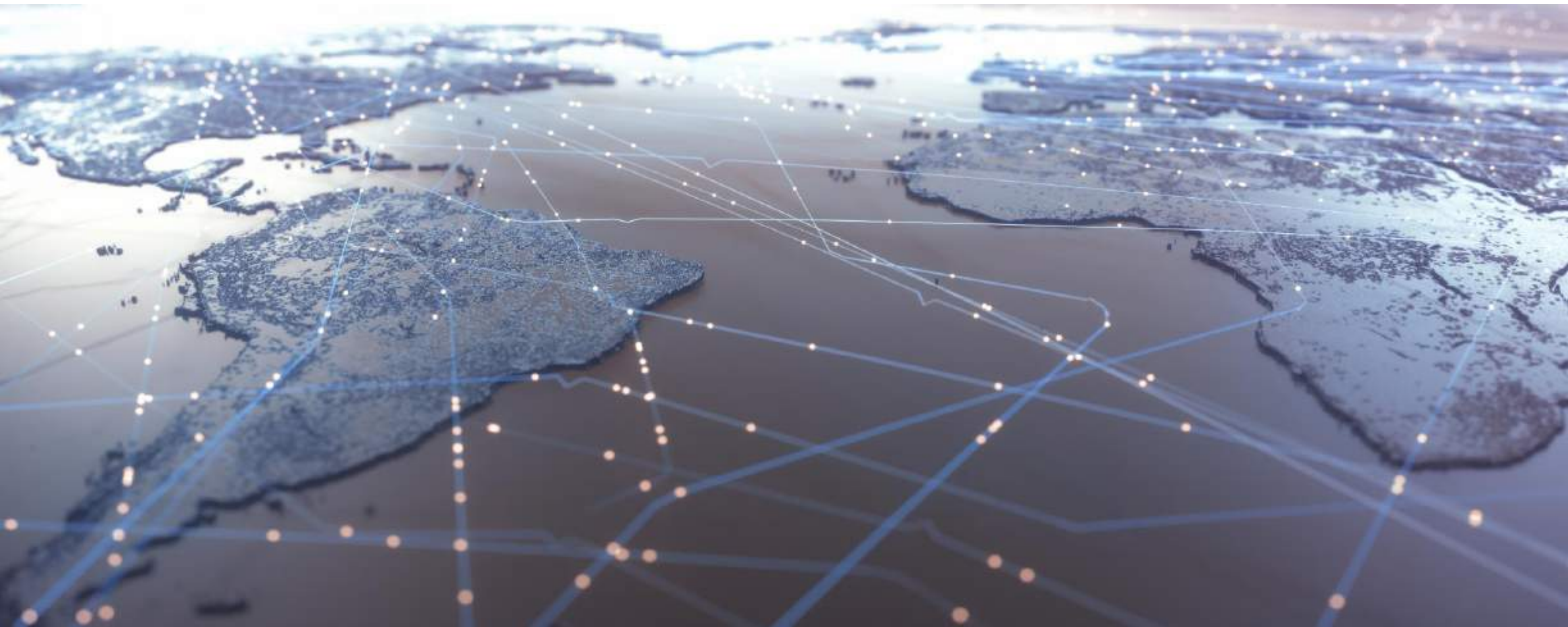
Fintech has a future in the Lao PDR given its ability to promote financial inclusion. For fintech to thrive in the Lao PDR the Government of the Lao PDR and the BOL will need to play a vital role to incentivize participants in the sector. From a comparative perspective with the rest of ASEAN, fintech activities in the Lao PDR are not being undertaken by start-ups or tech companies, initiatives are being taken by traditional banking and finance participants Promoting fintech growth will also require input and commitment from the telecommunications sector to ensure that digital financial services can be offered across the country – until such time that the underlying infrastructure and correct regulatory conditions are in place, the development of Fintech in the Lao PDR will be slow.

The Regulators

Bank of the Lao PDR (BOL) | Ministry of Industry and Commerce | Ministry of Finance | Ministry of Posts and Telecommunications | Ministry of Science and Technology

Key Participants

Commercial banks: Banque Pour Le Commerce Exterieur Lao Public (BCEL), Lao Viet Bank, Joint Development Bank, etc. | Lao National Payment Network Co., Ltd. | UNITEL | Australian Aid



MYANMAR

Author: **NISHANT CHOUDHARY** | *Partner, Deputy Managing Director, Head of Banking & Finance, DFDL Myanmar* | nishant.choudhary@dfdl.com

Myanmar stands out among the ASEAN nations with truly promising and rich potential to reap the benefits of financial inclusion offered by the latest fintech boom. The rapid advances of communications and financial technology are changing the way Myanmar resident's access and consume financial products.

In the last few years, fintech companies and corporations have made active efforts to capitalize on Myanmar's rapid development and increasing smartphone and internet penetration to offer low-cost, user friendly digital financial products. A handful of foreign players have also established a foothold in the country in partnership with local Mobile Financial Services Providers. Recently in May 2020, Ant Financial Services Group announced its intentions to invest USD 73.5 million in Wave Money - a mobile payments joint venture between Telenor group and the Yoma group - as part of a wider strategic partnership to promote financial inclusion in Myanmar.

While Myanmar has four state-owned banks, around 27 private banks and 13 foreign banks, well over 50% of the population remains under-banked or unbanked. Given this void, fintech companies offering mobile banking services have gained a great deal of traction in attracting users given the rapidly increasing rates of internet penetration.

Services offered by fintech companies (called "**Mobile Financial Service Providers**" or "**MFSPs**" under the Regulation on Mobile Financial Services) in Myanmar are mostly focused on domestic money transfers. These are typically between individuals, businesses and individuals and between the government and private individuals. Services also include "top-ups" and bill or purchase payments. Most if not all the operators offer their customers the possibility to "cash out" the money received on the platform through "cash agents". While this feature is not so prominent in more developed markets, it is quite common in developing countries like Myanmar or the Philippines. This may be explained by the relative lack of trust held by the population in terms of depositing their funds or savings to a developing and relatively un-tested new financial sector. Note that unlike its counterparts in the Philippines, an MFSP can only conduct transactions in the local currency (Myanmar Kyat).

The Regulations

The Financial Institutions Law, enacted in January 2016 serves as the main piece of legislation regulating the financial sector in Myanmar. It targets both banks and non-bank financial institutions (which encompasses fintech companies). In addition to setting out the licensing process, standard banking-related (i.e. taking capital and reserve deposits) and corporate governance (board of directors, accounting and auditing etc.) rules and related offenses, it also contains sections titled "E- Money, E-Banking and Mobile Banking", which is directly fintech-related. In fact, the "E- Money, E-Banking and Mobile Banking" chapter includes a provision explicitly restricting the issuance of "E-Money or credit tokens unless the issuer is a bank or a financial institution registered for that purpose by the Central Bank of Myanmar (the "**CBM**"). While no specific definition is offered for the term "credit token", the "credit token business" is defined as "the activity of issuing a token being a credit card, debit card, charge card or stored value card and such other card or device prescribed by the Central Bank".

The Mobile Banking Directive issued by the CBM in 2013 allowed banks and non-banking financial institutions to provide mobile banking services. The Mobile Banking Directive is limited to a bank-led model for mobile financial services in Myanmar. It also sets out obligations and operational parameters for banks providing mobile financial services in association with mobile network operators or mobile banking solution providers.

In order to regulate the fintech market, the CBM issued the Mobile Financial Services Regulations (FIL/R/01/03-2016) in 2016 (the "**MFSR**"). Previously, mobile banking operators had to form a partnership with traditional banks. With the introduction of the MFSR, non-bank financial institutions and mobile network operators can now apply for a license to provide mobile financial services ("**MFS License**") in Myanmar, and are directly regulated by the CBM under the MFSR. The MFSR sets out registration requirements, duties of an MFSP, compliance requirements such as KYC and anti-money laundering rules, consumer protection regulations and complaint procedures.

On 15 May 2020, the CBM issued Notification No. 9 2020 ("**Notification**") which prohibits financial institutions from transacting in any form of cryptocurrency (including Bitcoin, Litecoin, Ethereum and so on). Any violation of this Notification may result in the offending party being subject to imprisonment, fines or both. This Notification also places restrictions on fintech companies from transacting in such cryptocurrencies.

Challenges Ahead

There has been a significant rise in the use of fintech services and Myanmar is gradually progressing (albeit more slowly than other ASEAN counterparts) from a cash-based financial paradigm to a more digital financial one. Nonetheless, significant challenges still loom over this sector. One such challenge that a fintech company may face is the lengthy licensing process. While the MFSR states that applications are to be processed within 90 days, it took one fintech company seven months to receive its license, while another had to wait for four months.

Furthermore, while there is no restriction under the FIL or the MFSR on a foreign company in applying for a license to provide mobile financial services, the CBM as a matter of policy is currently not issuing MFS Licenses to foreign companies other than multinational organizations. However, this situation is expected to change and further liberalization may be introduced across this sector in the coming years.

Consistent enforcement of the existing rules and regulations by the CBM would be another challenge for the fintech industry. There have been allegations that certain MFSPs were previously operating in a grey area and without proper licenses. Not only would such behavior constitute and confer unfair competition advantages against the interests of lawfully compliant operators, it could fatally erode all-too-important customers trust in this booming yet still nascent sector. However, over the years this sector has shown remarkable improvements and its continued growth has remained durable. Given the potential that Myanmar has in spades, significant developments in Myanmar's fintech sector are rapidly emerging and feature prominently on the horizon.

The Regulators

Ministry of Planning, Finance and Industry Central Bank of Myanmar

Key Participants

Fintech companies: Ongo, Wave Money, Ok Dollar, MyKyat, Myanmar Mobile Money, 633 Mobile Money, True Money | Mobile Network Operators: Telenor, Ooredoo, Mytel, MPT | Retail Users

Key Regulations

Financial Institutions Law (Pyidaungsu Hluttaw Law No. 20, 2016) | Mobile Banking Directive (CBM Directive No. 4/2013) | Mobile Financial Services Regulations (FIL/R/01/03-2016)

THE PHILIPPINES*

Author: **CHRISTINE V. ANTONIO** | *Partner* | cantonio@ocamposuralvo.com | **In partnership with Ocampo & Suralvo Law, Philippines*

The Philippines is a unique ASEAN jurisdiction where 10% of its GDP comes from Filipino overseas workers based outside of the Philippines. While a majority of the Filipino population remains unbanked, there was notable growth in account penetration from 22.6% in 2017 to 28.6% in 2019, with e-money accounts growing to 8% in 2019 from just 1.3% in 2017. With a majority of the adult population owning smartphones, it is expected that the current fintech start-ups operating in the Philippines will lead the financial inclusion revolution and bring over 50 million unbanked Filipinos into a new digital payments eco-system. As of 21 April 2020, there are 28 E-Money Issuer ("**EMI**") banks, 2 EMI-non-bank financial institutions and 19 EMI-Others (non-banks) operating in the Philippines. The latest BSP data showed that e-money transactions rose 36.4% to 745 million Philippine pesos ("**PHP**") as of the end of 2019 from a previous year level of PHP 546 million. As of 30 June 2020, there are 16 BSP-registered remittance and transfer companies with virtual currency exchange services in the Philippines. In 2018, the Cagayan Economic Zone Authority ("**CEZA**") enacted the "Financial Technology Solutions and Offshore Virtual Currency Business Rules and Regulations 2018" ("**FTSOVCBRR**") pursuant to which the CEZA licensed a total of 42 offshore virtual currency exchanges ("**OVCEs**") as of 3 July 2020.

Regulatory Fintech Environment in the Philippines

The growth of fintech in the Philippines is a result of the enabling environment created by the Bangko Sentral ng Pilipinas ("**BSP**") to encourage digital financial services as a means of promoting financial inclusion. Given that the fintech regulatory environment is still in its formative stage, fintech startups currently operating in the Philippines have yet to become fully fledged companies that are engaged in digital payments, remittances and lending activities. While the CEZA started licensing OVCEs in 2018, these are only allowed to offer virtual currency exchange and transmission services outside of the Philippines.

The BSP currently regulates digital finance activities in the country. It exercises regulatory and examination powers over money service businesses and payment system operators. It also oversees payment and settlement systems in the Philippines, including critical financial market infrastructure. The Securities and Exchange Commission ("**SEC**") regulates fintech activities insofar as they relate to cryptocurrency transactions; i.e. issuance or sale of digital coins and tokens, which are deemed securities, and therefore require registration with the SEC and compliance with the Securities Regulation Code. Fintech companies that will engage in lending or financing activities under the Lending Company Regulation Act 2007 or the Financing Company Act 1998, will also need to secure a license from the SEC. OVCEs operating within the Cagayan special economic zone are regulated by CEZA in accordance with the FTSOVCBRR.

E-Money Issuers: BSP Circular No. 649 (09 March 2009) provides the guidelines for the issuance of electronic money (E-money) and the operations of EMIs in the Philippines. An EMI may either be a bank, a non-bank financial institution supervised by the

BSP, or a non-bank institution registered with the BSP as a money transfer agent. Electronic instruments or devices include cash cards, e-wallets accessible via mobile phones or other devices, stored value cards and other similar products.

Remittance and Transfer Companies: BSP Circular No. 942 (20 January 2017) governs the registration of a Remittance and Transfer Company ("**RTC**") that provides money or value transfer services, and includes remittance agents, EMIs and remittance platform providers. RTCs may also secure a license with the BSP to engage in virtual currency exchanges ("**VCEs**"). BSP Circular No. 944 (19 January 2017) provides the rules and regulations on the operations of VCEs in the Philippines and recognizes the use of virtual currency systems for the delivery of financial services, both for payments and remittances.

Financing/Lending Companies: Fintech companies, other than banks, investment houses, savings and loan associations, insurance companies, cooperatives and other financial institutions organized under special laws, that will engage in financing or lending activities shall be required to secure a certificate of authority from the SEC under the Lending Company Regulation Act 2007 or the Financing Company Act 1998. A financing/lending company engaging in online lending/financing activities must register all of their online lending platform business names with the SEC in accordance with SEC Memorandum Circular No. 13, series 2019.

Offshore Virtual Currency Exchanges: OVCEs that will offer offshore VCEs and transmission services conducted outside the Philippines may locate their operations business within the Cagayan economic zone and secure a business license from the CEZA. OVCEs registered with the CEZA will be allowed to issue digital assets or token offerings outside the Philippines, provided that they comply with the CEZA Rules on Digital Asset and Token Offerings.

Recent Fintech Developments

Crowdfunding: On 8 July 2019, the SEC issued Memorandum Circular No. 14-19, otherwise known as the "Rules and Regulations Governing Crowdfunding" ("**CF Rules**"). The CF Rules govern the operation and use of crowdfunding by registered brokers, investment houses, funding portals, and issuers and investors that participate in crowdfunding through an online platform. Crowdfunding ("**CF**") is defined as "the offer or sale of securities of a limited scale usually for start-ups, micro, small and medium enterprises ("**MSMEs**") performed through an online electronic platform. Issuance of crowdfunding securities are eligible for exemption from the registration of securities provided that the conditions and limits on aggregate amounts of securities issued in any 12-month period provided under the CF Rules are complied with.

National QR Code: Consistent with its goal to establish an interconnected electronic retail payment system in the country, the BSP issued Circular No. 1055 on 17 October 2019, which requires the adoption of a National QR Code Standard, in order to allow for the use of QR codes to facilitate payments. The payment service providers are required to adopt the National QR Code Standard approved by the 'Philippine Payments Management Inc.' which is the payment system management body for the National Retail Payment System infrastructure.

Insurtech: On 14 June 2020, the Insurance Commission issued Circular Letter No. 2020-73, entitled "Guidelines on the Adoption of a Regulatory Sandbox Framework for Insurance Technology ("**Insurtech**") Innovations." A 'regulatory sandbox' is defined as "a controlled environment with a system set up by a licensed insurance provider in collaboration with another individual or entity, licensed or not by the Insurance Commission, that allows small scale and live testing of technical innovations operating under special circumstances, allowances and/or other limited and time-bound supervision." Under the Circular, companies registered with the Insurance Commission are allowed to participate in such a regulatory sandbox initiative with the prior approval of the Insurance Commission, which shall be operated in an experimental cycle of up to one year that may be extended for another period of not more than six months.

The Future of Fintech in the Philippines

With the enactment of the Republic Act No. 11293, otherwise known as the "Philippine Innovation Act," it is expected that more fintech start-ups will be encouraged to develop new products, processes, technologies and services in a whole range of areas. These include; health, agriculture, education, energy and natural resources, communication, transportation, climate and disaster resilience, science and technology, among others. The Philippine government takes a "whole of government approach" in implementing its innovation policies, strategies and programs. The creation of an innovation fund (with an initial figure of PHP 1 billion) from which grants may be given and the requirement for all banks to set aside at least 4% of their loanable funds for innovation development credit, provides accessible financing to small and medium enterprises for the development of innovative products. Furthermore, bureaucratic red tape is being eliminated and regulatory hurdles to innovation are being removed as mandated under the Philippine Innovation Act. The creation of a "Philippine Startup Development Program" under the Republic Act No. 11337, otherwise known as the "Innovative Startup Act" is aimed at supporting research and development activities by startups and startup enablers in the Philippines, through the provision of grants, subsidies and incentives to such companies. All of these developments will provide the necessary boost to generate more sustainable growth of fintech activities in the Philippines.

The draft rules on initial coin offerings ("**ICO Rules**") and digital asset exchanges ("**DAE Rules**") have already been circulated by the SEC for public consultation. The ICO Rules and DAE Rules are important regulations that are expected to be finalized and released soon in order to formally open the cryptocurrency trading market.

The Regulators

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Key Participants

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Key Regulations

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SINGAPORE*

Author: **MAX NG** | *Partner* | max.ng@gateway-law.com | **In partnership with Gateway Law Corporation, Singapore*

Singapore offers investors unparalleled access to global and local markets. Singapore continues to be known as a "triple-A" rated economy with strong growth, i.e. a secure and stable business location for expansion and investment. Ever since the days of Sir Stamford Raffles, Singapore's founder, the city-state has gone from strength to strength. It is not difficult to understand why this is the case: the city has taken great steps in establishing itself as a financial services hub, is considered one of the prime examples of a "Smart Nation", and has a vast range of initiatives to support its growing startup ecosystem. As of September 2019, Singapore was home to 45% of all fintech companies in ASEAN. In addition, Singapore continues to attract the most funding within ASEAN, and is the number one regional base for fintech companies. Following research analysis conducted by Accenture on the total value of fintech investments in 2019, Singapore was placed as the fifth-largest fintech market by funds in the Asia-Pacific, behind only India, China, Australia and South Korea.

Singapore's Monetary Authority of Singapore (the "**MAS**") is the central authority to regulate banks, merchant banks, finance companies, insurance, securities, futures and fund management, financial advisers, money brokers, money-changing and remittance businesses, business trusts, trust companies and payment settlement systems. As the central bank and regulator of Singapore's financial industry, the MAS is empowered to issue guidelines, directions, codes, circulars and notifications to better shape the financial services sector in Singapore. The MAS is tasked with performing the following functions to achieve its objectives, being: (i) regulation, (ii) authorization, (iii) supervision, (iv) financial surveillance; and (v) enforcement.

Regulating Fintech in Singapore

Notwithstanding the benefits to be harnessed from fintech, we must still be cautious of the risks arising from the introduction of such new and disruptive technology which could adversely impact the stability of the financial systems in Singapore. Thus, while Singapore does not yet have a dedicated fintech Act, the MAS has stated that "all [fintech] businesses must be registered with the Accounting and Corporate Regulatory Authority" and must acquire the relevant licenses that fit their proposed activities from the MAS. The MAS is conscious of the revolutionary and disruptive nature of the fintech industry, and is actively taking steps to ensure that such innovations are sufficiently regulated to ensure Singapore's financial stability.

Thus, for example if a fintech company proposes to offer financial advisory services in Singapore, it must obtain a Financial Advisor License from the MAS.

The Financial Services Licenses Available in Singapore

Under the MAS's regulatory and supervisory framework, some of the licenses with respect to the provisions of financial services in Singapore include:

- *Capital Markets Services License:* This is a license issued by the MAS under the Security and Futures Act and is required by any person "who wishes to carry on a business in any regulated activity". The term "regulated activity" includes: dealing securities, trading futures contracts, leveraged foreign exchange trading, advising on corporate finance, fund management, REIT management, securities financing, providing custodial services for securities and providing credit rating services.
- *Financial Advisers Licenses:* This license is issued by the MAS under the Financial Advisers Act and is required to be obtained by companies engaging in any activity or conduct that is intended or likely to induce the public in Singapore to use any of the following services: advising others about any investment products other than advising on corporate finance, issuing and promoting analyses or reports on any investment product, marketing any collective investment scheme including unit trusts and setting up life insurance policies.

The MAS Fintech Regulatory Sandbox: Owing to the complex and rapidly evolving nature of fintech, regulatory requirements ought to be strengthened to keep pace with these developments. The MAS is therefore providing regulatory support by encouraging fintech companies to experiment with their products so that promising innovations can be tested in the market and have a chance for wider adoption in Singapore and overseas. The regulatory sandbox has thus enabled fintech companies to experiment with innovative financial products or services in a safe environment.

While the sandbox does allow for more relaxed regulations; it is not intended as a means for companies to circumvent legal and regulatory requirements.

In August 2019, the MAS launched “Sandbox Express”, which provides firms with a faster option to test innovative financial products and services in the market. Eligible applicants can begin market testing in the pre-defined environment of Sandbox Express within 21 days of applying to MAS instead of taking a longer time under the existing fintech Regulatory Sandbox. Sandbox Express shortens the approval process for entry into the sandbox, by relying on standard disclosures and pre-determined rules. Nevertheless, Sandbox Express is only suitable for activities where the risks are low and well-understood by the market, and can be reasonably managed within pre-defined parameters. Applicants with more complex business models should continue to avail themselves of the fintech Regulatory Sandbox.

The Future of Fintech in Singapore

In the absence of specific fintech legislation governing the activities of fintech companies, current domestic legal requirements are being applied to fintech participants to ensure compliance with the same industry standards as other traditional brick-and-mortar financial institutions.

The current Covid-19 pandemic has since brought the issue of accessibility of financial services to the fore, with the implementation of safe distancing measures and the closure of workplace premises. In order to help financial institutions, deal with the immediate challenges and adapt effectively to the new operating environment precipitated by the COVID-19 pandemic, the MAS recently announced a SGD 125 million support package in April 2020. This support package will help fintech firms save manpower and operational costs while still encouraging digitalization and the boosting of capabilities across these sectors.

Additionally, to help support Singapore-based fintech firms amid the challenging business climate caused by the COVID-19 pandemic, the MAS, along with the Singapore fintech Association (SFA) and AMTD Group and AMTD Foundation, have also launched a SGD 6 million MAS-SFA-AMTD Fintech Solidarity Grant. In order to promote innovative fintech solutions, the MAS has also launched a SGD 1.75 million MAS Global fintech Innovation Challenge which would be comprise of the revamped MAS fintech Awards and the MAS Global fintech Hackcelerator. In all, up to 12 winners will be selected to receive a total of SGD 1.2 million in prize money.

**** The above grants and support reflect the relevance of the fintech sector, and its capacity for growth. These are in line with the goals of the Industry Transformation Map published by the MAS in 2017 which outline its plans to cement the country’s status as a leading global financial center. The strategic plan aimed to make Singapore a leading international wealth management hub, fund management and domiciliation hub and global center for FOREX in Asia. Singapore’s financial services industry transformation looks to: (i) create a diverse ecosystem where financial institutions and startups can compete and collaborate, (ii) create an open API (Application Programming Interface) economy where financial institutions develop and share APIs openly, while following standardized guidelines that enable service providers to create seamless customer experiences, (iii) create a network of international links, (iv) ensure robust cyber security defenses through collaboration of institutions; and (iv) strengthening human resources to sustain upcoming fintech efforts.*

THAILAND

Author: **VINAY AHUJA** | *Partner, Head of Regional Banking, Finance & Technology* | vinay.ahuja@dfdl.com

Author: **NG WOAN NA** | *Regional Legal Adviser, China Desk* | woanna.ng@dfdl.com

The Thai financial services sector remains heavily regulated and still subject to various licensing, registration, notification or approval requirements. These include: e-payment licenses, securities licenses, lending licenses, banking licenses, credit card business licenses, foreign exchange licenses, money transfer licenses and peer-to-peer lending platform and crowdfunding platform licenses.

In addition to the licensing/approval requirements, participants in the financial services sector are subject to regulatory compliance in terms of ensuring minimum IT security systems, data and consumer protection, anti-money laundering safeguards, exchange controls.

Thailand's Fintech Horizon

Thailand 4.0 is a much-publicized national policy that lays the foundations of the country's innovation and technology development strategy. In line with plans to create a 'digital economy', the Digital Economy Promotion Agency (DEPA) is tasked with steering digital transformation by engaging both public and private bodies alike.

The Thai Government continues to take active steps to ensure that Thailand remains an attractive destination for fintech participants through the use of regulatory and non-regulatory approaches. Regulatory support for fintech has continued to grow in Thailand, with several new pieces of legislation having been passed. Fintech development has seen four areas of growth: (1) Digital Payments (2) Insurance (3) Lending and Deposits and (4) Investment. We discuss Thailand's responses to date which aim to facilitate the growth of fintech in the country and encourage overseas investment into Thailand.

Thailand's Fintech Sandboxes

Thailand was among the first countries in the world to introduce regulatory sandboxes, three of which were under the auspices of Thailand's most prominent financial regulators, the Bank of Thailand ("**BOT**"), the Securities and Exchange Commission ("**SEC**") and the Office of Insurance Commission; with the fourth being initiated and supported by the Thai Fintech Association.

In keeping with the spirit of learning and adapting that should be the defining characteristics of any sandbox, the BOT issued a new set of guidelines in 2019 which repealed those issued in 2016 by developing on the lessons learnt and feedback received from the industry incumbents. Of particular note are the types of sandboxes that are permitted under the new rules, i.e. the traditional regulatory sandbox and what is commonly referred to as 'own sandbox' where the former supports trials of 'never before' seen innovations whereas the latter applies the testing of new iterations of existing financial services. 'Own sandboxes' are subject to periodic reporting to BOT as opposed to direct supervision in a regulatory sandbox.

Technologies being developed under the BOT sandbox include identification verification implementing the National Digital Identity ("**NDID**") for bank account opening, biometric recognition and the furtherance of the blockchain use case for letters of credit and international payments. QR code payments have matured beyond the phase of experimentation into what is now covered by the Standardized Thai QR Code for Payment Transaction Policy Guidelines.

Similarly, SEC regulatory sandboxes now cater specifically to the digitalization of securities and derivative businesses and their processes such as clearing houses, depositories and registrars and the continuous evolution of KYC procedures.

A natural corollary to the implementation of the NDID for bank account opening would be the launch and issuance of digital bank licenses.

Since the formal issuance of regulation relevant to mobile and internet banking in 2018, certain banking products and services of commercial banks were given autonomy in the sense that prior BOT approval was no longer a prerequisite. The planned launch of digital bank licenses edges closer to reality despite the cutthroat competition and natural disruption this would naturally entail. However, given that fintech is premised on financial inclusion and if Thailand is to keep pace with its regulatory peers in Singapore, South Korea, Japan, Hong Kong and China, the BOT would do well to take the lead in the market sooner rather than later.

The writing is on the wall with a large number of brick-and-mortar bank branches having been shut down and reliance on physical banking transactions being gradually phased out over the past decade. However, as identified by the outgoing BOT governor, Veerathai Santiprabhob, '3 key pillars are needed to build digital banks: data from non-financial sources, an electronic identification system, and a suitable regulatory framework', Thailand must establish an internationally comparable standard in this regard. On two fronts, i.e. personal data protection and NDID, matters appear to be pressing forward. For the third pillar, a regulatory framework could be the priority for the next BOT governor, especially in the context of sharply reduced physical banking transactions given the disruption being caused by the COVID-19 pandemic.

Peer-To-Peer Lending

2019 was an eventful year for the peer-to-peer ("**P2P**") lending platform industry with formal regulation by way of the much-awaited Notification 4/2562 Re: The Determination of Rules, Procedures, and Conditions for Peer-to-Peer Lending Businesses and Platforms, which came into effect on 30 April 2019. Among other notable requirements of the Notification, the P2P lending platform providers' participation in the BOT regulatory sandbox for up to a year is compulsory before the formal license application process can actually begin with the Ministry of Finance ("**MOF**") through the BOT; this would ensure proper risk management and consumer protection. As of date, the BOT has allowed three P2P lending platform providers to launch P2P lending between a limited number of users in its regulatory sandbox, i.e. DeepSparks Peer Lending Co., and more recently, Nestifly Co. and Peer Power Platform Co.

The Notification defining a 'borrower' only as an individual has unfortunately left the playing field for platform-based corporate P2P lending noticeably unregulated. Whether this was a deliberate omission or a 'wait-and see' regulatory approach on the part of the MOF and BOT (given the industry's relative newcomer status) remains to be seen. It also remains to be determined as to whether platform-based corporate P2P lending will be regulated in the future.

Crowdfunding

2019 also saw crowdfunding activities being regulated in Thailand by the SEC pursuant to the SEC Notification Tor Jor. 21/2562 Re: The Offering of Securities for Sale through Crowdfunding Portals, thereby presenting fintech enabled fundraising for startups and SMEs at the grass roots level. Pursuant to the Notification, crowdfunding portals or platforms are defined as websites or mobile applications or other electronic media developed and deployed for the offer of securities, being crowdfunding shares and debentures.

In early 2020, we see a relaxation of rules in respect of 'debenture crowdfunding' whereby debenture issuers are no longer required to cancel their offering if they do not reach 100% of their target project values. An issuer can raise up to 80% of its fund goals and can disclose information to investors for pushing through with the offering. As compared to the previous 'all or nothing' rule, i.e. where issuers are required to fully meet the targeted fundraising amount failing which such projects are to be nullified, this updated policy is regarded by many as a good indicator that the SEC is embracing the realities of the current business environment.

Further validation by the SEC on crowdfunding exercise was also seen in February 2021, where SME debenture crowdfunding licenses were granted to both Siam Validus (a joint venture between foreign fintech firm Validus and Thai retail and distribution company SCG Distribution) and Funding Societies. Such step has provided Thai entrepreneurs and SMEs with an accessible and intelligent platform to access capital via debt crowdfunding, thus affording them with more confident in their growth and contribution to Thailand's economy.

Digital Assets

The evolving digital assets regulatory landscape was also seen in 2020 and 2021. In Thailand, digital assets comprise two classes of assets namely: cryptocurrency and digital tokens. A cryptocurrency can be deemed as a digital token in the case where the issuer intends to raise funds from the public, and if the cryptocurrency: (a) determines the right of an investor to invest in any particular project or business; or (b) determines the right to receive specific goods, services or any other right as agreed between parties.

The SEC periodically issues list of approved cryptocurrencies. As of June 2021, the recognized form of cryptocurrency in Thailand that an offeror of digital tokens or a digital asset business operator, can accept as consideration for transactions are Bitcoin (BTC), Ethereum (ETH), Riple (XRP) and Stellar (XLM).

Essentially, the Digital Asset Decree mainly governs two aspects of regulated activities: (1) offering of digital tokens to the public, commonly known as an initial coin offering ("**ICO**"); and (2) operation of digital asset businesses.

To offer the digital tokens to the public, the issuer must (1) have the specified qualifications; (2) obtain an approval from the SEC; and (3) file a registration statement for the offering of digital tokens and the draft prospectus to the SEC. Such offering must be done through the approved ICO portal.

The SEC also provides a private placement regime for the offering of digital tokens to certain groups of investors, i.e. offering to only qualified investors, or offering to only a limited amount of investors, or offering only up to a limited offering size within a specified timeframe, in which a deemed approval would be granted from the SEC and the offeror would thereby be exempted from filing a registration statement and prospectus with the SEC.

In 2021, the SEC has issued a set of new regulations governing digital token offerings that refer to, or for which the cash flow comes from, real estate, i.e. real-estate backed tokens. The key requirement remains that the amount or value of the investment in real estate must not be less than 80% of the project's amount or value, or the aggregate value of the real estate to be invested must not be less than THB 500 million.

Generally, all digital asset business operators are subject to licensing and regulatory requirements. However, there are three specific scenarios where operators could be eligible for certain regulatory exemptions:

- Business operations by the BOT which could be considered as digital asset businesses, provided that the digital assets are issued and processed by the BOT.
- Business operations by an exchange, broker, or dealer offering digital token exchange services, provided that: (1) the exchange is done solely for the same types of digital token; and (2) such digital tokens are utility tokens (or other digital tokens that entitle the holder to receive the right from utility tokens), which the underlying products or services must be ready-to-use as of the date of the offering.
- Digital asset broker or dealer who provides sale or purchase services only for digital assets whose value has been pegged against the THB at a fixed exchange rate and has a clear mechanism to fix such value. The sale or purchase of digital assets must be done in exchange for THB at the specified set value, and any payments must be made through a financial institution recognized under the anti-money laundering law.

The Regulators

Ministry of Finance |Bank of Thailand| Securities and Exchange Commission | Office of the Insurance Commission

Fintech Regulatory Landscape

Payment Systems Act B.E. 2560 | Digital Asset Decree B.E. 2560 | Crowdfunding Regulation B.E. 2562 | Peer-to-Peer Lending Platform Regulation B.E. 2562

VIETNAM

Author: **PHONG AHN HOANG**| *Partner, DFDL Vietnam* | phonganh.hoang@dfdl.com

Vietnam is another sleeping fintech giant in ASEAN. Vietnam's population is currently at around 97 million and this continues to rise at the rate of 1.14% per year. Internet penetration is currently at 60.7% with consistent growth year-on-year. fintech and traditional financial institutions are offering money transfers, POS systems, P2P lending, crowdfunding, data management, insurtech, crypto blockchain, personal finance and mobile payments solutions. These are catalyzing growth in the financial services sector making Vietnam an optimal environment for fintech.

Today, the Vietnamese fintech start-up scene counts over 120 startups and brands tackling all areas of fintech from P2P lending and credit scoring to mobile payments, equity-based crowdfunding and blockchain technology.

Currently, Vietnam does not have a general legal framework for fintech activities, albeit specific regulations governing certain activities such as electronic payment services. In parallel, the Vietnamese government amended the Law on the State Bank of Vietnam [and the Law on Credit Institutions] several times in order to adapt the 1997 legislation to the new realities of banking and finance. The State Bank of Vietnam (the "**SBV**") is currently examining the possibility of setting up a legal framework for fintech. To serve the urgent need for a legal framework for fintech, Vietnam can refer to the experience of developed countries in the formulation and development of such legislation. One pilot mechanism enacted so far to assist fintech firms is called the 'Fintech Regulatory Sandbox' ("**Sandbox**"). The SBV submitted a draft Decree on a Regulatory Sandbox to the National Assembly of Vietnam. The SBV felt that this would be suitable to roll out prior to an official legal framework being put in place.

As Vietnam has a very cash-reliant economy, current official support tends to be oriented towards increasing e-commerce and electronic (cashless) transactions. The first piece of legislation to provide a legal framework for e-payments was promulgated in 2012 (the Decree on Non-Cash Payments). It was amended in 2016 by the Decree on Amendments to the Government's Decree No. 101/2012/ND-CP dated 22 November 2012.

Aside from the electronic banking services offered by traditional banking institutions (with or without the cooperation of fintech companies), most existing Vietnamese fintech businesses are focused either on peer-to-peer lending or peer-to-peer transfers (including international remittances). Compared to its neighboring countries, peer-to-peer lending platforms in Vietnam seem to be more active. Notably, the COVID-19 epidemic, though causing severe disruption to the whole world, has on the other hand revealed a great opportunity for some new emerging fintech trends. Since the COVID-19 pandemic began to spread globally, fear of the disease spreading through social contact and when dealing with cash is one of the reasons why increasing numbers of Vietnamese people have started to adopt e-money or paperless transaction style fintech technologies.

Unique Vietnamese Features

Even though fintech market entry is made easier for foreign investors by cooperating with Vietnamese partners, Vietnam not only counts domestic firms (which may or may not have a foreign founder) but also foreign players that have independently entered the market. For example, London-based WorldRemit, an online transfer platform, launched its Vietnam-based services in November 2015.

Another distinguishing feature of the Vietnamese fintech sector is the participation of foreign aid agencies. For example, Australian Aid partnered with The Asia Foundation, Vietnam Bank for Social Policies and MasterCard to launch a first-of-its-kind mobile banking platform to cater to low-income communities in Vietnam.

Recent Trends and Developments

According to forecasts from the SBV, by 2025, personal credit will account for about 24% of the domestic fintech market. Demand for personal credit in Vietnam is expected to continue to grow in the near future. This shows that Vietnam has many favorable platforms to accelerate the formation of a fintech ecosystem with the banking and finance sector taking the lead. Cashless payments in Vietnam have many advantages, such as the young population demographic combined with a fast-growing economy and rising middle class. This market is expected to experience robust and rapid developments in the future.

The SBV is developing a pilot mechanism for peer-to-peer lending and a mobile money pilot project, in addition to finalizing a proposal on a pilot management mechanism for fintech activities (the regulatory sandbox) to be submitted to the Government.

The Regulators

State Bank of Vietnam | National Payment Corporation of Vietnam

Key Participants

Fintech Start-ups (Bitcoin Vietnam, HuyDong, VayMuon, MatchMove Pay, Cash2VN, Mobivi, MoMo, Moca, ZaloPay, ViettelPay, AirPay, VnMart, Vimo, Sharemoney, Timo, Lendbiz, Tima, Mofin, OnOnpay, Payoo)
Traditional Financial Institutions
Foreign aid agencies

The Regulations

Law on the State Bank of Vietnam | Law on Electronic Transactions | Law on Information Technology | Decree on Electronic Transactions in Banking | Law on Credit Institutions | Circular on Installation, Management, Operation and Security of Automated Teller Machines | Decree on Non-Cash Payments | Circular on Intermediary Payment Services | Master Plan for E-Commerce Development | Circular on Management, Operation and Use of the National Interbank Electronic Payment System | Directive on the Strengthening of Security in Electronic Payment and Card-Based Payments

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DFDL offices:

Bangladesh
Dhaka
bangladesh@dfdl.com

Myanmar
Naypyidaw
Yangon
myanmar@dfdl.com

Thailand
Bangkok
Samui
thailand@dfdl.com

Lao PDR
Vientiane
laos@dfdl.com

Singapore
singapore@dfdl.com

Vietnam
Hanoi
hanoi@dfdl.com
Ho Chi Minh City
hcmc@dfdl.com

DFDL collaborating firms:

Cambodia
Sarin & Associates, Phnom Penh
cambodia@dfdl.com

Indonesia
Mataram Partners, Jakarta
indonesia@dfdl.com

Philippines
Ocampo & Suralvo Law Offices, Manila
info@ocamposuralvo.com

www.dfdl.com