



# A Fintech Paradigm

The changing face of financial services

Virtual Round Table Series  
Member Collaboration 2018



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## The changing face of financial services

Fintech is a relatively new concept that encompasses a whole variety of businesses also beneath the broader umbrella of financial services. The term generally incorporates any use of technology to disrupt the established method of offering financial services to customers.

Examples of Fintech applications range from money transfer and payment providers such as online foreign exchange or mobile phone payment technology, through to car insurance using telematics to monitor driving and tailor premiums accordingly.

Adoption of Fintech is increasing exponentially right across the globe as products, unbundled from full-service incumbent firms, are offered by wrap-around digital platforms that let consumers manage their finances on the go via mobile, disrupting traditional customer relationships.

The 2017 EY Fintech Adoption Index analysed the uptake of Fintech services by global consumers. It found an adoption rate of 33 per cent globally, up from 16 per cent in 2015. Interestingly, adoption was far higher in developing countries (46 per cent on average) than developed economies, since Fintech is able to meet unserved demand, not yet filled by traditional services.

The Index clearly shows this figure is driven by China and India, where adoption rates are as high as 69 per cent and 52 per cent respectively. A good example of this is IndiaStack, a company that facilitates cashless payments in India, where millions of people still do not have access to debit or credit cards.

In developed markets the challenges for Fintech are different, since most of the population are already served by

traditional providers. Here the aim is to stimulate economic growth by improving efficiency and providing better services to consumers. The countries that have done this well have adopted positive, light-touch regulation and encouraged the growth, funding and development of Fintech start-ups.

In the UK, where Fintech adoption is at 42 per cent according to the EY survey, the Financial Conduct Authority (FCA) has adopted a 'we are here to help' philosophy, encouraging dialogue on regulation. The same is true for Hong Kong, where an adoption rate of 33 per cent and proximity to China has persuaded the Hong Kong Monetary Authority (HKMA) to adopt an innovative approach to development, such as its Fintech Supervisory Sandbox (FSS).

In Luxembourg, there is a public-private initiative called the Luxembourg House of Financial Technology (LHoFT) which is active both domestically and internationally to develop the country's Fintech ecosystem. The country's well-developed funds industry is a major driver of this, creating high levels of cooperation between government and industry bodies.

During 2018, as well as the existing Fintech companies, we are starting to see a new wave of businesses commercialising cutting edge technology for forward-thinking consumers. As the whole Fintech space becomes more mature and congested, new subsectors are forming such as Insurtech, Wealthtech, Fundtech and Regtech, addressing specific opportunities within the financial services sector.

Cryptocurrency providers and the fundraising mechanisms known as ICOs are receiving much press at the moment and are a good example of tension between

traditional structures and new Fintech concepts with high consumer demand that are struggling to grow within the existing paradigm. Other examples include blockchain technology, robotics and artificial intelligence.

New uses for these innovative technologies are being discovered at a rapid pace as capability develops and the required digital infrastructure improves. The challenge for all jurisdictions is to keep pace with those developments, providing a fertile environment for growth, while still managing risk appropriately for consumers.

Innovations such as Fintech Bridges between jurisdictions (as seen in between the UK and Australia) and Switzerland's Crypto Valley Association, allow ideas to be shared and technology developed in an open, progressive environment. This makes it more likely that a feasible solution will be found that allows Fintech innovation to thrive, when it is ready and safe to bring to market.

The following discussion involves Fintech legal and financial experts from 10 different jurisdictions around the world, in both developed and developing economies. They will provide an insight into the Fintech ecosystems in their own jurisdictions, discussing the ways in which Fintech has been encouraged and barriers to growth managed, while also detailing the most promising innovations they have seen.

They will also discuss regulation, touching on methods used by respective regulatory bodies to encourage Fintech, while honouring their responsibility to protect consumers.



UNITED KINGDOM

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### The View from IR

Our Virtual Series publications bring together a number of the network's members to discuss a different practice area-related topic. The participants share their expertise and offer a unique perspective from the jurisdiction they operate in.

This initiative highlights the emphasis we place on collaboration within the IR Global community and the need for effective knowledge sharing.

Each discussion features just one representative per jurisdiction, with the subject matter chosen by the steering committee of the relevant working group. The goal is to provide insight into challenges and opportunities identified by specialist practitioners.

We firmly believe the power of a global network comes from sharing ideas and expertise, enabling our members to better serve their clients' international needs.



SWITZERLAND

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Hans Kuhn is a partner with Zulauf Partners in Zurich (Switzerland). He specialises in banking and financial market law with a focus on Fintech law. He has also extensive experience in securities law and payment and secured transactions.

Before joining private practice, Hans served as chief legal counsel for Swiss National Bank, Switzerland's central bank, for more than 13 years. He served as a member of national and international expert groups on matters such as bank resolution, derivatives and netting legislation. He also played a leading role in the national and international securities law reforms, acting as chairperson of the national expert group preparing the Swiss Federal Intermediated Securities Act and the Diplomatic Conference which adopted the Geneva Securities Convention.

A graduate of the University of Zurich in 1993, Hans was admitted to the bar in Switzerland in 1995. In 1998 he received his doctorate summa cum laude from University of Zurich. He holds an LL. M.-Degree from Tulane University School of Law (New Orleans, 2001).



BRAZIL

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Adriano Chaves specialises in M&A, corporate law, finance, foreign investments, technology and contracts. He graduated from the University of São Paulo in Brazil (1995) and concluded his LL. M. at Columbia University School of Law in New York (1999), where he was a Harlan Fiske Stone Scholar. Adriano is recommended by reputable publications (Chambers Global, Chambers Latin America, Leaders League, LACCA, Análise Advocacia).

Adriano is co-rapporteur of the task force on B2C General Conditions of the Brazilian Chapter of the Commission on Commercial Law and Practice (CLP) of ICC, and a member of the Commission of Law Firms of the Brazilian Bar Association, São Paulo (OAB/SP).



LUXEMBOURG

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**In cooperation with Melvin Tjon Akon - Associate Expert in the Fintech sector at Bonn Steichen & Partners.**

Evelyn Maher has been active in the Luxembourg investment fund market since 2001. She assists fund promoters and asset managers in relation to the structuring and establishment of a wide range of funds including private equity, venture capital, loan origination, loan participation and real estate.

She provides advice on compliance with all aspects of the regulatory regime applicable to investment funds and in particular the alternative investment fund managers directive (AIFMD). Following launch of the fund Evelyn offers on-going assistance in relation to closings, investments, divestments, liquidation and general issues arising throughout the life of the fund.

Evelyn has also provided assistance in relation to the listing of securities on both the regulated and Euro MTF markets operated by the Luxembourg Stock Exchange.

She has extensive experience in relation to Luxembourg regulatory and corporate law.



US - NEW JERSEY

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David Sorin is Chair of McCarter & English's Venture Capital & Emerging Growth Companies practice.

He focuses primarily on privately and publicly-owned startup, early stage, emerging growth, and middle market technology, tech-enabled and life science enterprises, as well as the investors, executives, and boards of directors who support and lead them.

Most recently, Chambers, the leading publication that ranks lawyers and law firms, named Dave one of the top lawyers in the US in the representation of startup, emerging growth and venture capital backed companies.

Under his leadership, McCarter & English has become one of the leading, and most active, law firms in transactions for venture-backed companies. It is a top-ten global law firm in several distinct categories according to PitchBook's most recent global league rankings, including regionally, nationally, ninth globally, and with respect to global early stage company transactions generally.



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Luis Santine, born in Curacao in 1970, is the founder and managing director of InfoCapital and CX Pay; providing diversified advisory services related to international business solutions, e-commerce and payment solutions.

InfoCapital & CX Pay serve a wide range of clientele ranging from corporate to small business owners and from institutional to individual investors.

On an executive level, Luis is a board member of Banco del Orinoco, Travelsure Insurance Company and Manrique Capriles International as well as the chairman of the board of Curacao Investment & Export Development Foundation (CINEX). He has extensive experience in the international financial sector, having occupied positions at various local and international companies in the financial sector.

Luis holds a MBA degree in Entrepreneurship & Management and a B. S. B. A. degree in International Business in Finance from the American University in Washington, D. C. Luis is proficient in Dutch, English and Spanish, in addition to Papiamentu.



HONG KONG

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Clinton Morrow qualified and practiced in Queensland, Australia prior to moving to Hong Kong and starting with Charltons where he qualified as a Hong Kong lawyer and is now a Partner.

Clinton's practice focuses on corporate finance and commercial transactions, including public offerings and placings, structuring, mergers and acquisitions, takeovers and cross-border corporate transactions, financing and security transactions, licensing matters and regulatory compliance. He has acted across a number of sectors with a particular focus on cross-border mining and information technology infrastructure transactions.

Clinton was named as a Leading Lawyer and Rising Star in Corporate and M&A by Asia Law & Practice in 2016 and a Leading Lawyer and Rising Star in Capital Markets, Corporate and M&A in 2017 by Asia Law & Practice and a finalist Young Lawyer of the Year for the Asian Legal Business Awards in 2016 and 2017. He holds a double degree of Law (with Honours) and International Business.



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Kevin Bertouille has a law degree (2001) from the University of Louvain-la-Neuve and a LLM in Business law from Vanderbilt University (TN) (2003).

After 10 years being active in banking institutions in Brussels, Paris and Luxembourg, he joined Everest Law in Brussels (2012) where he became a partner in 2016.

Kevin practises banking law (litigation and regulatory issues) and business law.

Everest is a law firm specialised in legal services for businesses and corporations. Everest lawyers are highly specialised in those fields of law with which companies are faced on a daily basis. Legal services focus on quality, economy and expertise, with a regional and an international focus.



ENGLAND

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Craig Blackmore is a director of corporate finance boutique Verde Corporate Finance (CF).

He joined the company as a consultant in July 2017, then promoted to the senior role due to his impressive input.

Verde CF, which is part of the Greenaway Scott Group, specialises in providing advice around mergers and acquisitions, business finance and growth capital.

Principally trained with Deloitte, Craig worked for KTS Owens Thomas before moving on to executive and non-executive financial director positions with some smaller businesses.

Craig will lead Verde while also maintaining his roles as chief financial officer at GlobalWelsh, a not for profit company with a mission to connect the international diaspora of Wales, and coaching on the Welsh Government's Accelerated Growth Programme.

During his time at Verde CF, Craig has worked alongside commercial law firm Greenaway Scott, which is also part of the GS Group, in a collaborative partnership to combine services.



MALTA

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Gordon Micallef leads the Technology Consulting practice of RSM Malta where he assists organisations in addressing their digital agenda by guiding board of directors and executives develop and execute transformation strategies enabled by technology.

He services various industries including financial services and online gaming, where he assists organisations through their strategic technologic evolution of embracing key aspects such as fintech, regtech, and aspects distributed ledger technologies.

Together with his multi-disciplined team of technology, business analysis, and legal specialists, he also delivers managed services to various industries including cyber security, privacy, regulatory technology, and data management.

Gordon joined the firm in 2014 and is a Certified Public Accountant (CPA), Certified Information Systems Auditor (CISA) and holds other certifications in governance of IT (CGEIT), risk management (CRISC), and project management (Prince2).



CYPRUS

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Soteris Flourentzos is the founder and managing director of Soteris Flourentzos & Associates LLC. Soteris has 14+ years of broad corporate and financial law experience, including nearly nine years at two prominent Cyprus law firms, where he represented major multinational corporations, financial institutions and private equity firms in contentious and non-contentious corporate and financial law cases of great magnitude and scale.

Before executing his vision of building his own law firm with a new, innovative business model to accommodate the needs of international equity firms, entrepreneurs and family offices, Soteris was a partner at Soteris Pittas & Co.

Soteris holds an LL. B. (Hons) Law and an LL. M. International Business Law from the University of Exeter, UK.

SESSION ONE – THE FINTECH ECOSYSTEM

## Is there an established Fintech ecosystem in your jurisdiction? If so, what are the main areas of expertise?

**Adriano Chaves – Brazil (AC)** Brazil has the largest and most developed entrepreneurial ecosystem in Latin America, but the financial services environment is inefficient and expensive, providing fertile ground for Fintech innovation.

Brazil has a high bank concentration with approximately 78 per cent of the credit controlled by four banks. Interest rates have historically been high, and there is much bureaucracy and a poor customer experience.

In this environment, it is unsurprising that the number of mapped Fintechs grew from 54 in 2015 to 485 in early 2018, according to the Brazilian Fintech Association ABFintechs. Brazilian Fintech saw investment of BRL 457million in 2017, increasing to BRL 800million already so far in 2018.

These businesses operate in ten different verticals, of which payment gateways, financial management, loans and investments are seeing the most activity.

- Payment gateways (more than 30 per cent)
- Financial management
- Loans
- Investments
- Insurance (Insurtechs)
- Funding
- Debt renegotiation
- Cryptocurrency
- Currency exchange
- Multiservice

In response to this challenge, the big banks are attempting to actively participate in the ecosystem, creating innovation environments, investing in Fintechs and partnering with Fintechs. The Brazilian Central Bank is watching the developments attentively, trying to learn as much as possible, and considering the possibility of light touch regulation. The Securities and Exchange Commission (CVM) is also taking a positive approach.

**Clinton Morrow – Hong Kong (CM)** Hong Kong is a leading financial centre, with both government and industry support for developing its Fintech ecosystem and promoting Hong Kong as a Fintech hub. There have been a number of initiatives to develop Hong Kong's Fintech ecosystem, including funding schemes, technology parks and regulatory sandboxes.

In its 2018 budget, the Hong Kong government allocated HKD50 billion to support the development of innovation and technology. Further, according to the EY Fintech Adoption Index 2017, Hong Kong has established a strong and active Fintech payments sector.

One of the fastest growing ecosystems has been the use of initial coin offers or ICOs to raise capital for Hong Kong tech start-ups. Whereas China banned ICOs in September 2017, Hong Kong has developed as something of a hub with a number of ICOs over the last year.

An ICO typically involves an offer of digital tokens, the proceeds of which are used to fund the development of a block chain-based platform. There are

a number of different types of tokens, which include 'utility tokens', used to give holders access to the platform and sometimes as a means of payment for services available on the platform. ICOs raised over USD4 billion in 2017 worldwide.

**Craig Blackmore – UK (CB)** The UK has one of the most successful and renowned Fintech ecosystems of any jurisdiction. In 2016, the UK was ranked as providing the number one Fintech ecosystem when benchmarked against the illustrious comparators of California, New York, Singapore and Hong Kong. The Fintech policy environment in the UK is ranked as being particularly supportive and enabling to Fintech companies.

The UK is also well supported by a wealth of accelerator hubs which generate a significant amount of Fintech activity. These accelerators are established by a variety of providers, many government led, but, increasingly, UK banks are pushing the envelope by setting up UK wide Accelerator networks across a number of locations.

These facilities not only provide great working environments, but also access to skills, expertise and equipment that many start-up businesses just could not afford.

Internationally, the UK Fintech ecosystem looks like it is already embracing Brexit opportunities with 'Fintech Bridges' being developed with countries globally. One such bridge is already being advanced with Fintech Australia, and others are high on the UK Government's agenda.

The UK's ability to provide industry leading talent is a particular area of strength, with a talent pool that boasts considerable technical and entrepreneurial skillsets.

Capital and funding also continues to perform strongly with investors now seeing beyond the initial Brexit hesitation that surfaced in the last few years. Investment in Fintech saw considerable growth across 2017, and the signs are that it will receive much higher levels of investment in 2018.

The UK seems to be undecided on cryptocurrency though. While many see the UK as a potential destination for their cryptocurrency business, there is confusion as to how investors, funders and regulators interact with cryptocurrency companies. UK banks seem to have pulled the shutters down with many recently announcing they would not do business with any companies dealing in cryptocurrency.

**Gordon Micallef – Malta (GM)** The Fintech ecosystem in Malta is growing steadily, although it is still predominantly focused on the payments cycles primarily due to the vibrant online gaming ecosystem in Malta. We have seen a substantial transfer of skills moving from the online gaming ecosystem into the Fintech one. We are also noting the fact that Fintech organisations are moving closer to the blockchain technology itself, and blockchain organisations. Legacy/traditional banks and insurance companies are no longer in a position to ignore the Fintech ecosystem. For example, banks are now embracing such opportunities to collaborate with Fintech partners towards the objective of implementing effective open banking concepts.

Primarily, a Fintech's promise is to deliver innovative financial products and services in a business to business (B2B) or business to consumer (B2C) context, tapping into new revenue streams quickly, improving customer retention/

experience, and delivering it through improved profitability in environments where profit margins have been traditionally going down.

More recently we have seen a significant increase in attention towards the power that blockchain technologies can deliver, and specifically how Fintech organisations are seeking to embrace such technologies. A significant increase in interest around initial coin offerings (ICOs) and cryptocurrencies has brought about a lot of discussion, with different intentions to regulate across various jurisdictions.

**David Sorin – USA (DS)** Throughout many of the tech centres in the US there is a thriving and established Fintech ecosystem. The areas of expertise are many, and include growing segments dealing with blockchain solutions to various Fintech issues.

Examples include disintermediation to make the relationship with financial services providers more 'sticky' and to enhance payment systems. One area of particular note is security for financial transactions, which includes technology such as biometrics. Of course, the Fintech space actually is comprised of multiple financial technologies and sub-sectors. Together, they cover virtually all aspects of financial services and solutions.

Elsewhere, there are thriving Fintech businesses involved with smart contracts and digital currencies and a growing segment dealing with AI and deep learning, as well as virtual reality and augmented reality.

These technologies have the capability to be disruptive to traditional business models, and also to be complementary. As an example, while blockchain currently presents a potential existential threat to banks, investment banks, and venture capital funds, it also can be used to improve services, processes and cus-

tomers relations for those intermediaries who change their underlying processes to incorporate and integrate blockchain technologies.

The emergence of ICOs and tokenisation as a third capital raising mechanism alternative, in addition to the traditional debt versus equity analysis, should be of benefit to the economy if managed correctly. The business paradigm needs to be transformed to meet the changes resulting from technological innovation. Tokenisation financings are not a panacea and certainly are not a solution for all capital raising needs, but for the right company, business and economic model they can be an elegant, non-dilutive solution.

Many of the Fintech sectors require consideration of existing and emerging regulatory landscapes. Tokenisation transactions, for example, are the newest entrant to the marketplace implicating securities laws, commodities regulations, and others. Many jurisdictions also will, for example, need to consider the impact of digital currencies on their ability to monitor, measure and control their money supply. Great opportunities and concomitant challenges abound.

**Hans Kuhn – Switzerland (HK)** Switzerland is home to a very well developed Fintech ecosystem, centred around the 'Crypto Valley' close to the city of Zug. This is a global hotspot for blockchain applications, and more recently has become a global hub for initial coin offerings (ICOs), a new and innovative method for raising funds for new ventures.

Switzerland has become a leading jurisdiction for disruptive Fintech technologies, due to very supportive political authorities. Businesses can even pay municipal taxes using Bitcoins in the city of Zug. The regulator always tries to clarify applicable regulations as quickly as possible, while still enforcing strict anti-money laundering (AML) and know



Clinton Morrow pictured at the 2017 IR 'On the Road' Conference in Singapore

your customer (KYC) policies. The role of Fintech beyond blockchain and ICOs is less dynamic, because the banking sector is somewhat reluctant to embrace new technologies. However, a number of challenger banks are getting ready to enter the market.

**Luis Santine – Curaçao (LS)** The Curaçao Blockchain and Cryptocurrency Task Force is in the process of evaluating the opportunities for this new market segment and is building a draft legal framework to attract investments and blockchain-related companies. The Curaçao Innovation and Technology Institute (CITI), a subsidiary of the Ministry of Economic Development, is also currently organising Fintech Roundtables with various stakeholders from the financial and technology sectors to build a robust Fintech platform.

The focus in Curaçao with regard to initial coin offerings (ICOs) is predominantly on compliant token launch solutions. Private companies have developed a compli-

ance framework for token launches and have partnered with the Dutch Caribbean Stock Exchange (DCSX). Local law firms, notaries, Big 6 audit firm affiliates, administrators and brokers have joined the project and developed expertise on the subject. The approach is expected to be approved as a blueprint for use, thus making the island a destination for legitimate blockchain fundraising.

The Central Bank of Curaçao & St. Maarten (CBCS) awarded an exemption to a crypto asset investment fund in August 2017, the first of its kind worldwide to our knowledge. The exemption means that the CBCS will not actively supervise the crypto investment fund, however an annual review is required for maintaining the status. In addition, the CBCS specifically reviewed and approved crypto assets as the underlying asset of the fund.

InfoCapital's subsidiary CX Pay, is specialised in transaction services for online merchants and provides pay-

ment solutions that facilitate online and mobile transactions for any business or consumer. CX Pay's focus is on payment technology and e-commerce innovation, geared towards simplifying collection of funds for business owners through different payment methods. As such, CX Pay is a trusted partner of banks, Fintechs, and e-commerce businesses all over the world.

**Melvin Tjon Akon & Evelyn Maher – Luxembourg (MTA)** There is an established Fintech ecosystem in the Grand Duchy of Luxembourg (Luxembourg). The main areas of expertise are closely linked to the foundational pillars of the country's financial sector, two of which are private banking and investment funds. Luxembourg has a long history as the number one European incorporation jurisdiction of investment funds, both in volume as well as in net assets.

According to a recent market study of the main Luxembourg industry associations and the Luxembourg House of Financial

Technology (LHoFT), the main areas of expertise of the Luxembourg Fintech ecosystem are payment services, fundtech and investments (including robo-advisors and fund distribution), and regulatory compliance.

Among these areas, fundtech stands out as the key area of expertise, principally due to the deep specialisation of Luxembourg's investment fund industry and the high degree of public-private collaboration in that area. In the Luxembourg ecosystem, both start-ups and established institutions are actively involved in the development of new-offerings. For example, two major banks (BCEE and Keytrade) were the first companies to launch a robo-advisor in the Luxembourg market, closely followed by a start-up (Gambit Financial Solutions).

There is a fair amount of collaboration between the public sector and the private sector, as well as between newcomers and incumbents. A major facilitator of this collaboration is the LHoFT, a public-private sector initiative which is active both domestically and internationally to develop the country's Fintech ecosystem. Its leadership circle features leading private institutions, a representative from the Luxembourg Government, and leaders of the Luxembourg Chamber of Commerce, Luxembourg for Finance and the Luxembourg Financial Industry Federation.

**Soteris Flourentzos – Cyprus (SF)**  
There is not yet an established Fintech ecosystem per se in Cyprus, however a Fintech community has begun to emerge and seems set to become well established.

It is not an exaggeration to say that Cyprus is already regarded as an FX industry powerhouse, a sector which lends itself well to Fintech innovation. As a result, many international Fintech companies have set up branches in

Cyprus, including firms providing alternative forms of payment and liquidity aggregation.

More recently, the numerous complex and challenging international regulations, including, inter alia, EMIR, Dodd-Frank, MiFID2, MiFIR, Finfrag, CRS and SFTR, has paved the way for the rapid evolution of Fintech firms in Cyprus offering monitoring, risk management and reporting.

The cryptocurrency community in Cyprus has matured a lot, while the Cypriot banks have already hosted some Fintech Hackathons (marathons for the development of applications for innovative technologies in the field of financial transactions).

Some other start-ups have already been designed and are currently being introduced. Many governmental authorities have begun to use electronic applications and software for the execution of their transactions, as is the case with the tax authorities. All the key players of the financial sector are ready to collaborate, namely hi-tech firms, traditional institutions and the government, and the Fintech ecosystem, which will have expertise across many different areas, is just around the corner.

**Kevin Bertouille – Belgium (KB)**  
Belgium offers a favourable Fintech ecosystem. According to a B-Hive and Roland Berger survey published last year, Belgium is ranked number five in Europe on deals higher than EUR750,000 and number nine when it comes to invested capital, with a total of EUR87 million. Compared to international hubs such as London and Paris, improvements are still needed regarding the regulatory environment and governmental support. However, the digitalisation of financial services is continuously progressing. Consumers are more and more eager to use technology to make payments, buy stock, and to rely on new technologies to make investment decisions. The quality

of digital services provided by traditional banks becomes a key element for consumers when selecting their bank.

Belgium holds more than 100 companies focusing on Fintech. Some of them are big names in the financial industry (SWIFT and Euroclear), while others are newcomers. Several non-profit organisations such as Fintech Belgium are active in Belgium. Fintech Belgium is an independent association gathering professionals and investors interested in new technologies development for the financial industry. They provide discussions forums and represent their members.

The supervisory authority, i.e.: the FSMA, has provided a legal framework for crowdfunding activities and ICOs. Since 2016, the FSMA has hosted a special Fintech portal on its website. The market has responded very positively to these regulatory innovations, demonstrated by the crowdfunding market, which has doubled in size in only one year. Fintech companies, whether they are traditional players developing new products or newcomers, can contact the FSMA to exchange information for the benefit of all parties concerned.

SESSION TWO – PROMISING INNOVATIONS

## What are the most promising Fintech innovations you have seen in your jurisdiction? Any specific examples?

**USA – DS** The emergence of financial discipline and professionalism in the blockchain, smart contract and crypto space is beginning to give the sector real credibility within the financial services industry. An example of this is the creation of crypto hedge funds.

Enhanced Security and KYC applications are also growing in importance within the Fintech space.

**Cyprus – SF** The Fintech industry is touted as one of the most promising industries in Cyprus, as it has the potential to lead to direct innovation and new paradigms.

Wargaming, an award-winning online game developer, is based in Cyprus and this is a very promising innovation, considering that it is a leading firm using technology to promote sports and gaming.

Additionally, SafeCharge, which provides alternative payment methods, along with other similar Fintech firms, has also launched its Cyprus office. Its technology allows consumers and businesses to more easily conduct business and carry out transactions through the use of alternative forms of payment. Furthermore, Cyprus plays host to other major platforms, including MetaQuotes, which is a leading developer of financial trading software providing evolutionary services for mobile trading, algorithmic trading and web trading, helpful to businesses and brokers.

Covve is another up-and-coming start-up that revolutionises the way professionals network and drive effective business development. It utilises an intuitive, visual interface and a sophisticated engine to cleanse and privately share contacts between colleagues and trusted networks, facilitating warm referrals, while introducing colleagues to trusted networks. Finally, the branches of the Big4 accounting firms in Cyprus have all taken some steps to set up their Fintech departments. A promising example is the start-up which is being launched by KPMG Cyprus in cooperation with the Department of the VAT, which will enable clients to calculate any relevant amounts and pay any fees or instalments.

All these promising Fintech innovations in Cyprus strengthen the belief and hope that Cyprus will soon have its own established Fintech ecosystem.

**Curaçao – LS** Compliant token launches have led the way in terms of Fintech innovation in Curaçao. Tokens are designed and actively managed with stringent KYC/AML components and include economic value parameters that are triggered by adherence to compliance requirements. Furthermore, local payment processing is based on platforms including full compliance, while securities settlement is being driven by the tokenisation of securities through the DCSX as a regulatory platform using blockchain to achieve innovation in current systems.

As far as enhanced security or know your customer (KYC) requirements are concerned, Curaçao investment funds and token platforms employ stringent requirements, as well as GAAP and IFRS compliant audit capability.

**Belgium – KB** Lita. co which stands for 'Life Impact Trust Act' is an FSMA approved crowdfunding platform. As from June 2017, they aim to be the first impact investing platform in Europe focusing on ethical investments (social real estate, ethical property, waste management). This shows evidence that a solid regulatory framework provides for a good investment ecosystem.

Also Spreads, formerly MyMicroInvest, is a Belgian company ranked among the top 100 leading Fintech innovators. Spreads is a leading European crowdfunding platform with an impact tracer that allows people to invest alongside impact venture capital companies.

**Hong Kong – CM** A promising area of innovation has been the use of initial coin offers or ICOs to raise capital for Hong Kong tech start-ups as mentioned earlier.

Other important Fintech innovations include the regulatory sandboxes established by the Hong Kong Monetary Authority (HKMA), Securities and Futures Commission (SFC) and Insurance Authority (IA). HKMA's Fintech Supervisory Sandbox (FSS) was launched in September 2016 and allows authorised institutions to pilot trials of Fintech and



other technological initiatives in a controlled environment with a more flexible supervisory arrangement, before launching them on a fuller scale.

Fintech technologies covered by the FSS include mobile payment services, biometric authentication, blockchain, robotics and augmented reality. Hong Kong's property market is embracing Fintech with an example being that Bank of China Hong Kong currently processes 85 per cent of its mortgage valuations by blockchain. The traditional time-consuming mortgage loan application process is expedited and revolutionised with efficient coordination between parties as well as a reduction in operating costs.

Another example is the new era of smart banking. An Open Application Programming Interface (API) framework will be established to facilitate the increased adoption of API by the banking sector. This will promote innovation and improve

the efficiency of financial services through collaboration between banks and tech firms.

The HKMA published its consultation proposals for an Open API framework in January 2018. It is also consulting on a guideline to facilitate the creation and regulation of virtual banks in Hong Kong. The HKMA has also established a Fintech facilitation office to support the sustainable development of a Fintech ecosystem, and entered into collaboration/co-operation agreements with relevant bodies in Singapore, the United Kingdom, Dubai, Switzerland and Poland.

**UK – CB** Leading Fintech innovators in the UK look to be taking on the traditional banking world head-on. Disruptors such as Starling Bank, Clear Bank, Monzo and Tandem are all classed as challenger banks for just that reason.

Clear Bank, for example, is not only a Fintech bank, but exists to provide services to financially regulated businesses and Fintechs. Starling, Monzo and Tandem provide mobile-only bank accounts that empower the customer with innovative reporting, notifications and payment services. Some say that the innovative approach of Fintechs such as these have caught many traditional providers on the hop as they play catch-up, because the appeal of accessible technology solutions to the millennial consumer is overtaking the high street at a considerable rate.

Consumer engagement and financial education looks like a key route to market for Fintech businesses. The provision of advice to deal with the information, financial freedom and empowerment that Fintech can bring seems to go hand in hand with current developments.

AI also seems prevalent in many Fintech applications with chatbot technology becoming an increasingly popular method of simplifying the user experience.

**Switzerland – HK** By far the most frequent innovations that Fintechs have to offer financial services are around automation. This is good and well and greatly overdue, but not overly exciting in the sense that it will disrupt existing value chains or even terminate existing banking business models.

Examples of these non-disruptive Fintechs include robo-advisors, most payment services based on traditional technology and systems and also regulatory technology (Regtech). Another example is regulatory arbitrage, including many crowdfunding platforms and ICOs, to the extent they are trying to avoid regulation.

Only a very limited number of Fintechs have a truly disruptive potential. In addition to blockchain, or distributed ledger technology, I would mention here artificial intelligence, e.g.: for credit risk assessment and ICOs.

**Brazil – AC** A lot of investment is being made in mobile, user experience, data analytics and payment gateways, following the growth of these areas in the Brazilian market.

The relationship of the Brazilians with the financial market has already been positively affected by the innovations implemented by various Fintechs in specific segments. I am not sure there is any innovation that is disruptive, but clearly there are innovations that are being very well received by the population, particularly in connection with retail banking, robo-advisors and online lending.

A lot of attention is also being paid by all players to blockchain and artificial intelligence.

**Luxembourg – MTA** In our view, the most promising Fintech innovations in Luxembourg are in the areas of payment services and blockchain-based financial services, which build on the foundational pillars of the country's financial sectors.

In the payment services market, start-up companies such as Payconiq (a digital wallet and payment service provider) are growing and there are even signs of consolidation. For example, Payconiq is expanding to neighbouring countries and has acquired Digicash Payments (a mobile payment platform with over 450 partnering companies).

Meanwhile, established companies are ramping up their development. For example, Daimler AG's Mercedes Pay (formerly PayCash Europe S.A.) is a mobile payments platform allowing the car maker to develop mobility services for its clients, which it may soon use to enter the 'connected cars' market. Other promising innovations in payment services may also come from Amazon and Paypal. Both companies have Luxembourg subsidiaries which are licensed by the Luxembourg financial markets authority (Amazon Payments (Europe), e-money institution; Paypal (Europe), credit institution) and are central to the companies' upcoming innovations in peer-to-peer payments.

Other promising innovations are in the blockchain space, where there is a lot of public-private collaboration between actors, and efforts are being made to stimulate consumer adoption. One example is Fundchain, a Luxembourg blockchain research initiative which explores uses for the technology in fund

management services and includes among its partnering companies Big Four accounting firms, asset managers and financial institutions.

Another example is FundsDLT, a fund market infrastructure platform developed by Fundsquare (a wholly owned subsidiary of the Luxembourg Stock Exchange), InTech and KPMG, connecting transfer agents, payment systems and investors.

**Malta – GM** The Fintech ecosystem has already delivered a number of disrupting solutions to traditional operators, however this is just the start of what can be achieved with such a disruptive approach enabled through technology. Many existing Fintech operators offer similar services, cutting through various layers and riding on top of an ecosystem of partners to deliver quicker, easier payments solutions.

The ecosystem has been moving ahead with credit and lending facilities too, however through AI technologies and the power delivered through the analytical capabilities of volumes of data, Fintech organisations have started and will continue to deliver other innovations in areas such as robo-advisors and offer better tools towards the fight against money laundering and financing of terrorism.

## What is the general approach of the financial market regulator or regulators in relation to Fintech? Do you see a need for more regulatory action in order to foster and enable the Fintech ecosystem?

**Luxembourg – MTA** The general approach to Fintech regulation of the Commission de Surveillance du Secteur Financier, the Luxembourg financial market authority (the 'CSSF'), is predominantly reactive.

For example, the CSSF issued warnings on 14 March 2018, on initial coin offerings (ICOs) and virtual currencies, following statements from ESMA, IOSCO and other organisations. At present, the CSSF has not taken a formal stance on the regulatory treatment of ICOs or issued any specific guidance to aid the self-assessment by companies contemplating an ICO.

In some matters, the CSSF has taken a proactive stance. For example, the regulator issued a Frequently Asked Questions (FAQ) in respect of AMLF/CFT and IT requirements for specific customer on-boarding/KYC methods, which provide guidance on customer identification through video chat. It has also granted payment service provider licenses to two virtual currencies exchanges (BitFlyer and Bitstamp).

To our knowledge, the CSSF does not use innovation spaces or sandboxes. At the same time, the CSSF engages in a dialogue with the industry through speeches and conferences in which it positions itself as a flexible and business-minded regulator.

We see a need for more regulatory action to enable the Fintech ecosystem. Such action does not necessarily imply more rules. Financial services regulation is fairly comprehensive and Fintech products and services are already subject to the existing rules. We would welcome regulatory guidance as to the application of the existing regulatory regimes. Such guidance should also consider the use of artificial intelligence, of large-scale data collection and monetisation, and of automation by Fintech firms. Similarly, we do not see the need to introduce a general Fintech license, since it would introduce regulatory complexity and prevent a level-playing field for all actors. Alternatively, to stimulate start-up and SME activity in the Fintech space, evidence-based exemptions to existing rules could be introduced.

**Switzerland – HK** The Swiss Financial Market Supervisory Authority (FINMA) tries to take a positive stance in relation to Fintechs and their potential, responding to considerable pressure from the political system. It has a Fintech desk and has issued guidance and various recommendations in order to clarify if and how regulations apply. It is also possible to submit a project to FINMA in order to obtain a non-action letter.

There is a broad consensus that regulation of financial services is needed, and that further clarification is necessary. It is becoming increasingly clear, however,

that it will be difficult to accommodate all the risks presented by Fintech start-ups within the confines of the traditional regulatory system. A more flexible, case-by-case approach from FINMA, would be warranted. Moreover, the recent ICO boom has resulted in a heavy workload for the Fintech desk and delays in answering requests from start-ups.

**Malta – GM** The very reason Fintech organisations have been successful is the fact that they are primarily agile tech operations, steering away from or cutting through the regulatory implications. So, pushing for regulation over Fintech may also imply a slowdown to the delivery capabilities of Fintech organisations. This is something that is yet to be seen, possibly leading to a new breed of Fintech organisations evolving from the current ecosystem.

The regulatory landscape is evolving in Malta, and at a very quick pace. So far various regulatory bodies have been involved in the Fintech and blockchain industry, including the Maltese financial services and remote gaming authorities, via consultation and position papers. Earlier in 2018, the Government of Malta announced plans to set up a new authority focusing primarily on the regulatory aspects of innovations delivered through blockchain, but also embracing Fintech organisations.



Luis Santine pictured at the 2017 IR DealMakers Conference in Barcelona

Three bills have been presented in parliament promising to make Malta the first jurisdiction to regulate the current vacuum in which distributed ledger technology (DLT) companies operate. Malta holds an ambition to be the blockchain island, and the three bills refer to the establishment of the Malta Digital Innovation Authority (MDIA), the authority itself to regulate the digital innovation, setting out a regime for the registration of technology service providers and a third bill to set up a framework for cryptocurrencies.

The cryptocurrency framework also includes a regime, developed by the Malta Financial Services Authority (MFSA), for the approval of ICOs and the regulation of certain service providers dealing in Virtual Currencies (VCs) including brokers, exchanges, wallet providers, asset managers, investment advisors and market makers.

The above is planned to be implemented in the context of a jurisdiction with vibrant financial services and online gaming ecosystems that already embrace e-money institutions, payment service providers, and various other regulations including MIFID II and GDPR.

Organisations such as Binance have recently moved their headquarters to Malta in anticipation of the regulatory setup in a jurisdiction that is set to fill the regulatory vacuum. The key objective for such a move is to operate in a regulated context, something that so far is a key challenge for many operators in the Fintech and blockchain space, including crypto exchanges.

**Brazil – AC** The Brazilian Central Bank sees the new business models as challenging and is studying them in order to decide on a case by case basis whether to regulate or not.

Since 2013, the Bank has been regulating payment providers, however only the payment institutions that have a certain minimum volume of payments are subject to more restrictive requirements and obligations.

The Central Bank has also been working on regulations for online credit solutions. After submitting a draft regulation to the public in August 2017, the Central Bank issued in April 2018 Resolution 4,656, which regulates the organisation and operation of two types of Fintechs in Brazil:

- i. Direct credit companies (Sociedade de Crédito Direto - SCD) are financial institutions which provide loans and financing exclusively through an online platform with their own capital,
- ii. Peer-to-peer lending companies (Sociedade de Empréstimo entre Pessoas - SEP) are financial insti-

tutions that enable loans and financing among people exclusively through an electronic platform.

Such online credit Fintechs can only operate after they obtain an authorization from the Central Bank and they are subject to other regulations applicable to financial institutions.

One example is Resolution 4,658, also issued in April 2018, which establishes cyber security requirements for all institutions subject to Central Bank's authorisation. The resolution and other Central Bank regulations could represent a major cost increase for these type of Fintechs in Brazil.

The authorities have not expressly regulated or prohibited ICOs or cryptocurrencies, but are following the developments in these markets closely.

On a couple of opportunities, the Central Bank stated that there is no assurance that 'virtual coins' can be convertible into legal currency, clarified that 'virtual currencies' are not to be mistaken for 'electronic currencies' (which result from conversion of currency in the context of payment arrangements subject to specific regulations), and clarified that entities that issue, trade and store virtual currencies are not regulated, authorised or supervised by the Central Bank. The Central Bank also alerted that any transactions with virtual currencies involving international transfers based on foreign currencies are subject to the Brazilian currency exchange regulations and controls.

In October 2017, the Brazilian Securities Exchange Commission (CVM) clarified that securities offered through Initial Coin Offerings (ICO) cannot be legally traded in specific trading venues for virtual currencies, as these are not authorised by the CVM to make available securities trading environments in Brazilian territory.

In January 2018, CVM issued a note stating that investment funds cannot invest in cryptocurrencies as these are not deemed as financial assets for regulatory purposes. It is unclear if and how the Congress will try to regulate cryptocurrencies.

Capturing investment via crowdfunding emerged as an alternative to the financing of start-ups and was not properly regulated in Brazil until mid-2017. Following a public hearing, the Securities and Exchange Commission (CVM) published on July 14, 2017, CVM Instruction 588, regulating this type of operation.

**Hong Kong – CM** An example of the Hong Kong regulators' positive approach to Fintech is the establishment of regulatory sandboxes as discussed above, in particular the further initiatives announced by the HKMA in September 2017 designed to facilitate Hong Kong entering a new era of smart banking. Previously, there had been criticism that the HKMA FSS only allowed large existing financial institutions to innovate, while technology companies were excluded by regulations. The new initiatives opened the FSS to technology firms and created a new policy relating to the opening up of banks' application programmes to technology companies.

With respect to ICOs, given the different types of ICO tokens, and the fact that some may be hybrid forms of different types, there is considerable uncertainty in many cases as to whether an ICO involves a securities offer. ICOs which do not involve securities offers are currently not regulated in Hong Kong.

While this is welcome to the extent that it has allowed ICOs to be issued and offered in Hong Kong, there have been calls for more guidance as to the characteristics which would render an ICO

a securities offer. It is also considered that some form of light-touch, caveat emptor regulation of ICOs would have the advantage of providing legitimacy and discouraging bad actors from entering the market. Another possible area in which regulation might be welcome would be with regard to cryptocurrency trading exchanges which are not currently regulated.

Although many existing crypto exchanges self-regulate, there have been calls for introducing licensing requirements for these exchanges and imposing obligations on them to conduct anti-money laundering and counter-terrorist financing checks on counterparties.

Another area in which regulation would be welcome is crowdfunding, particularly equity crowdfunding and peer-to-peer lending, which are not currently permitted under Hong Kong's regulatory framework. Hong Kong's Financial Services Development Council published a paper calling for the establishment of an equity crowdfunding regime in Hong Kong. A crowdfunding regime would be particularly welcome in Hong Kong given that the Hong Kong Stock Exchange's proposal for a new third board for the listing of start-up and early stage technology and other innovative companies is not to be adopted.

**Belgium – KB** The supervision authority (FSMA) is quite reactive on the matter. Since 1st February 2017, new rules have come into effect for crowdfunding platforms. These platforms must be approved by the FSMA and comply with certain rules of conduct.

The FSMA issued a warning on ICOs on November 13, 2017 aimed at ICO issuers and consumers. After the 2008 financial crisis, supervisors became quite conservative. There was also little



Members pictured at the 2018 IR 'On the Road' Conference in Toronto

political support for deregulation and therefore, the FSMA now has a proactive but prudent approach.

Fintech companies are supposed to have basic knowledge of financial regulations and must make sure their projects have reached a certain level of maturity. There is no formal 'sandbox', but rather a 'soundbox' approach, referring to sound rules giving access to European passports, which gives them a firm footing from which to innovate and oversight that is proportional to their activities. A personalised contact with the supervisory authority is always available through the contact point and much appreciated by Fintech companies.

**UK – CB** The regulatory body for the Fintech sector in the UK is the Financial Conduct Authority ('FCA'). The FCA is actively encouraging Fintech businesses to engage with it, and has

consciously taken that message to the market. The FCA has actively pushed their engagement across the UK, outside of its London base – and the centre of Fintech activity in the UK. The message from the FCA is one of 'we are here to help', further reinforcing the ecosystem culture in the UK.

The FCA Regulatory Sandbox allows companies to test their innovative products out on consumers in a controlled environment. This initiative provides participants with a supported route to market, lowering their cost to entry and providing improved access to finance. Big players such as Barclays, HSBC and Lloyds Bank have participated but the mainstay 'cohorts' are private sector Fintech disruptors.

The Bank of England has got in on the act too with its Fintech Accelerator project which supports exploring

proof-of-concept where the technology supports the Bank's mission of clearer understanding of the Fintech industry.

Cryptocurrency does not enjoy the same regulatory understanding though. Regulators have failed to keep pace with a market that they seem unwilling to commit on. Continual monitoring and review is not serving to clear the confusion that reigns over the sector. Perhaps this is due to the uncertainty of markets and currencies, or perhaps because of the potential nightmare of policing either.

The widespread belief is that the lack of regulation is restricting the growth of the cryptocurrency sector across the UK and potentially globally. UK start-ups are actually chasing the regulators to ask 'How will regulation work?' This could be a major issue for the UK if it doesn't get its act together on regulating cryptocurrency as the global

interest shows no sign of slowing down despite market crashes and devaluation.

**Cyprus – SF** It is crucial that, while certain regulations are favourable to Fintech start-ups, as soon as risks increase, the need for regulatory action will also rise. More regulatory measures will need to be taken in Cyprus, especially with regard to amendment of existing legislations, the implementation of European regulations and directives and addressing some specific Fintech innovations.

To begin with, the Law on Electronic Money 81(I)/2012, has been enacted in Cyprus to regulate the issuance of electronic money in the Republic of Cyprus. It covers issuance in other EU/EEA Member States or third countries by a natural person residing in Cyprus, or a legal person incorporated in the Republic of Cyprus. It also covers the authorisation and prudential supervision of electronic money institutions.

Furthermore, the Cyprus Securities and Exchange Commission, as the supervisory authority for Cyprus Investment Firms, market operators and data reporting service providers, undertakes to authorise such firms and ensure they comply with the Law 87(I)/2017, enacted in January 2018 to implement MIFID II.

Regarding the regulation of e-commerce in Cyprus, the Law on Certain Legal Aspects of Information Society Services in Particular Electronic Commerce and Associated Matters 156(I)/2004, implementing Directive 200/31/EC, aims at ensuring the free movement of information society services between the Republic of Cyprus and the EU/EEA Member States and additionally regulates online information services, online advertising and marketing, online selling of products and services and online entertainment services.

It should also be mentioned that a bill has been drafted to replace the Law 138(I)/2001 on personal data, which will implement the General Data Protection Regulation Reg(EE)2016/679. This is a response to the Fintech evolution as the need to avoid risks and protect personal data becomes higher.

**USA – DS** There is a risk of over-regulation in areas such as cryptocurrency and tokenisation, because of the problems with scammers and fraud right now.

We are seeing the US Securities and Exchange Commission (SEC) and the Commodity Futures Trading Commission (CFTC) lining up with the individual US States on the issues of blockchain, smart contracts and cryptocurrency. This is a very hot button topic at present with several issues that need to be resolved, including the proper regulation of ICOs and the recognition of tokens and currencies as tangible real world assets subject to wider use and tax.

**Curaçao – LS** The local central banks of both Curaçao and Aruba are actively reviewing the current payments landscape and outlining the requirements for a future state payment system. In Aruba, for example, the ambition is to start with the implementation of a new payment infrastructure halfway through 2018, should show tangible progress next year, with the ambition to have a fully modernised payment infrastructure in place by 2020.

Other innovative approaches involving InfoCapital include working with partner companies like Earlybird Funding (EBF) who act as brokers on the Dutch Caribbean Securities Exchange (DCSX) platform.

EBF provides the tools necessary to empower its community of investors to manage their investments in Fintech companies effectively. EBF, together

with the DCSX, provides access to a regulated and transparent marketplace through its unique platform and model that enables funding and investment in Fintech start-up companies in exchange for shares.

The Curaçao Ministry of Economic Development has a number of initiatives to increase attention to new Fintech opportunities, including annual conferences and its innovation incubator CITI.

Crypto and blockchain enterprises and projects in Curaçao have made compliance their foundation and as such have met existing regulations well. We consider this a differentiator for the jurisdiction, as it means no new regulation and special sandbox is needed.

Foreign exchange bank account requirements need adjustment to allow for compliant crypto and blockchain business. This is not a standalone of course, as the correspondent bank issue remains a major challenge.

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