

FINANCE InFocus

A monthly publication of the
Ministry of Financial Services and Good Governance

Vision

Our vision is to transform Mauritius into a Centre of Excellence and promote wealth and good governance. We are driven by ethical behaviour, efficiency, honesty, trust, integrity and responsiveness in our quest for excellence within our operational and staff functions.

Ombudsperson for Financial Services on the way

The National Assembly has passed, with amendments, the Ombudsperson for Financial Services Bill that provides for the establishment of the Office of Ombudsperson and aims, first and foremost, to better protect consumers of banking and financial services, and to bring transparency and objectivity in the examination of complaints pertaining to the financial services sector.

The Bill was presented in the House by the Minister of Financial Services and Good Governance, Hon. Dharmendar Sesungrur. The underlying philosophy of this measure is to contribute to: social reform, protection of the rights of citizens, good governance, integrity and democratic values. It covers all licensees of the Bank of Mauritius (BoM), licensees of the Financial Services Commission (FSC), but excludes Global Business and Authorised companies as well as participants under the Securities (Central Depository, Clearing and Settlement) Act.

The current situation to find a solution to the various areas of concern is rather fragmented with different redress mechanisms in place for the banking and non-banking sectors. Moreover, there are many representations from consumers who have exhausted recourse to the financial institution concerned as well as the regulator. They are still aggrieved and are in limbo pending a verdict. In the event the consumers resort to civil proceedings, the process is a lengthy and costly one and the effectiveness of such dispute settlement by the Court may be hampered by the complexity and technicity of complaints. The Bill provides for



the Ombudsperson to deliver an award that shall be binding on the financial institution or the complainant. This mechanism is a clear indication that the Government is committed to bring a sustainable solution to this problem. Consequently, the introduction of the Office of the Ombudsperson will certainly

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help decongest our already over-burdened court system and will also relieve the burden placed on the regulators to investigate complaints and this will allow them to focus on other matters. Furthermore, many bankers and representatives of the financial sector have already supported the idea of creating this Office because a new fair system of dealing with consumer disputes will only contribute to the growth of the market.

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The functions of the Ombudsperson for Financial Services will be to:

- ◆ Inform and educate the general public on investments in financial services offered by financial institutions;
- ◆ Receive and deal with complaints made by consumers of financial services against financial institutions;
- ◆ Assist consumers of financial services and financial institutions in settling their disputes;
- ◆ Issue guidelines to financial institutions in order to avoid and minimise the risk of potential dispute which may arise;
- ◆ Share information, and where appropriate enter into a memorandum of understanding, with the relevant supervisory or regulatory authority or law enforcement agency.

African Peers review SOEs Corporate Governance



The African Network on Corporate Governance of State Owned Enterprises (SOEs) was hosted, for the first time, in Mauritius in collaboration with the Ministry of Financial Services and Good Governance and the Network Secretariat of The African Peer Review Mechanism (‘APRM’). The conference was held over a two-day session on 8 and 9 November 2018 at Hotel Le Meridien, Pointe aux Piments. Some 40 overseas delegates from 16 African countries and 86 local participants were present.

Hon. Dharmendar Sesungkur: “APRM: A Powerful Instrument for Compliance”



The Minister, Hon. Dharmendar Sesungkur, highlighted that SOEs have been playing a critical role for infrastructure development projects across African states. State-owned financial institutions have been called upon to provide the necessary financing for these projects. The conference therefore held discussions, shared thoughts and identified common challenges

relating to SOEs ownership and governance, evaluated current SOEs Corporate governance policy frameworks and practices, and benchmarked these against best international standards. The Minister welcomed the initiative of the Organization for Economic Co-operation and Development (OECD) to transfer the Network Secretariat to the APRM. Given the extraordinary importance and value of the Network in improving and promoting best practice of corporate governance of SOEs, this collaboration goes in the right direction towards mutual and long-term cooperation. Further, the Minister is convinced that the APRM, established in 2003 as part of an ambitious program of African institution-building in the new millennium, will be a powerful instrument for promoting good governance and compliance with African and global norms and standards.

Dhanunjaye Gaoneadry: “Inspiring to see so many countries working together”

The Permanent Secretary of the Ministry, Dhanunjaye Gaoneadry, addressed the closing session of the event. He stated that it was inspiring to see 37 countries working together with a similar goal of devising appropriate and sustainable ways to improve Corporate Governance in SOEs. “Mauritius is honoured to have been chosen to host this first network event. This meeting has enabled policy makers, practitioners, non-governmental stakeholders and experts from Africa to identify common challenges and come up with solutions. It was noted from the presentations and various discussions held that the main challenges are lack of execution of ownership powers, ineffective monitoring and access to key information, lack of oversight ability, ineffective communication and information sharing, complex reporting and government structure. However, in spite of those challenges, experts have shared their insight and indicated several ways for SOEs to balance the social



and profit generating goals.” he said. Mr Gaoneadry was convinced that the Conference had successfully met the objective of the Network in raising awareness on the importance and challenges relating to Good Governance of the SOEs.

DAY 1: Trends and Challenges under Scrutiny

After a brief session on the background, objectives and processes of the APRM, an overview of Mauritius on the recent developments and ongoing SOEs reforms was presented by high-level officials. The presentations highlighted that SOEs are among the growth sectors and act as catalyst for value creation in Mauritius. There are around 135 SOEs under the Statutory Bodies Act operating in Mauritius. After the World Bank Fund report on standards and codes on Corporate Governance on Mauritius in 2010, the National Code of Corporate Governance was reviewed and launched on 13 Feb 2017. The new Code uses the ‘Apply and Explain’ methodology. All entities are required to report on corporate governance, apply all the 8 Principles of the Code and explain in their annual reports how these principles have been applied. The main challenges of SOEs are to establish that their boards are independent and qualified with diversity; securing political commitment to maintain reforms; and instil an organisational culture of transparency for



reporting with integrity. Moreover, an overview of the OECD Guidelines on Corporate Governance of State-Owned Enterprises was made. The session began by a presentation from Sara Sultan, Policy Analyst of the OECD. She mentioned that the main trends on Corporate Governance for SOEs concern the publication of ownership policies where countries are moving towards centralized and coordinated ownership; companies are adopting aggregated annual reporting and SOEs are undertaking private agencies’ internal audit procedures. Following Sara Sultan’s presentation, countries were invited to share their experiences in recent SOEs reforms. Hon Leon Jooste, Minister of Public Enterprises from Namibia, explained how the lack of execution of ownership powers,



L to R: Ambassador Sefue, Minister Matipa, Minister Jooste, Minister Sesungkur and Dr Janneh

ineffective monitoring and access to key financial information, lack of oversight abilities, ineffective communication and information sharing, complex reporting and governance structure have affected the realization of SOEs mandate. To address these challenges, Namibia had developed a centralized governance and hybrid model. Mr. Eric from Congo Brazzaville also elaborated on the matter, which included the kind and number of SOEs in Congo, the governance structure of the SOEs, the governance policy of SOEs, Transparency and Disclosure, Ethics and Boards. Mr. Gilberto Luther from Angola presented the main challenges in the Corporate Governance of SOEs, namely corruption, lack of professional management of SOEs, political interference and lack of compliance.



Hon. D. Sesungkur welcomes Minister Jooste from Namibia

The last session of the day was a thematic discussion on Positioning SOEs to deliver on the Developmental Mandate. The session looked at how SOEs can strike the balance with respect to development goals and profit generation. Prof. William Gumede from Wits School of Governance indicated various ways of SOEs balancing the social goal and the profit generation goal. He also mentioned that the SOEs developmental objectives are compromised due to poor governance. To position SOEs to deliver on their developmental mandate, he suggested that Governments should clearly determine a scorecard for SOEs with balanced objectives; SOEs must be complying to provide reasonable return on investments and explain the rationale if they don’t comply; SOEs should introduce a system of using economic value added as the key performance indicator; and Government must bring more transparency into the operations of SOEs.

DAY 2: Nations Present Updates on Progress

On the second day of the Conference, delegates from participating countries were invited to provide updates on the SOEs in their respective countries in order to track progress and challenges in SOE governance reform related to corporate governance, accountability, transparency and disclosure in relation to material information on the SOEs, such as reports on material financial and non-financial information on the enterprise in line with high quality internationally recognised standards of corporate disclosure. This session saw the participation of representatives from various countries such as Turkey and the Kingdom of Eswatini who deliberated on governance matters relating to SOEs.



The second topic was on the impact of SOEs disclosure and transparency environment which saw contributions from Dr. Mehmet Kaya from Turkey. He emphasised on two aspects: the economic magnitude of SOEs in the Turkish Economy as well as Disclosure and Transparency. Mr. Sobhanund Seeparsad, Adviser on Governance Matters, mentioned Enron and Parmalat as vivid examples of how lack of integrity and disclosure practices dragged the global economy into a financial crisis. Coupled with transparency and disclosure, the element of accountability is key to good governance. Mr M. Roopchand from the Independent Commission Against Corruption (ICAC) made his presentation on the theme “Reinforcing Transparency, Accountability and Integrity as key pillars of



good governance in State-Owned Enterprises”. Good practices for aggregate reporting was another major topic of discussion. Aggregate reporting by the government on the activities and performance of the state-owned enterprise sector can encourage a culture of transparency and increase the state’s accountability for ensuring that the enterprises under its purview create value. Aggregate reporting on SOEs is not a widespread practice, but it is increasingly used in many countries around the world. This session provided an opportunity to participants to take stock of national practices in this domain, to isolate elements of good practice from countries with recent experience in aggregate reporting and



to discuss emerging trends, such as the use of online portals to promote accessibility of information. A proposal of the Term of Reference (TOR) of African Network on Corporate Governance of State-Owned Enterprises was presented to the forum and was open to suggestions, recommendations and amendments to the TOR. All points raised by the Member States were noted down by the APRM and amendments will be made to the TOR. The TOR will be further circulated to the Member States both in English and French version before it is finalised.

Dr Abdoulie Janneh: “Corrective steps needed to address deficiencies”



Minister Sesungkur welcomes Dr Janneh of Mo Ibrahim Foundation

The Executive Secretary of the Mo Ibrahim foundation, Dr Abdoulie Janneh, paid a courtesy call on Hon. Dharmendar Sesungkur on 7 November 2018. He congratulated the Minister on the performance of Mauritius in the Ibrahim Index of African Governance but affirmed that there were still challenges ahead since there was no perfect score. Dr Abdoulie Janneh also emphasised that countries should not only focus on the ranking in the Mo Ibrahim index. Due consideration should be given to the findings in the report and corrective measures taken to

address the deficiencies identified. He also elaborated on the methodology used to compute the Mo Ibrahim index and emphasised that it is tailored to the African context as it captures the sensibilities in African culture. In the Mo Ibrahim index, good governance is measured in terms of 4 pillars, namely security, human rights, sustainable economy and human development. Moreover, the data used to compute the index comes from the African Development Bank and the World Bank, among others.

The Hon. Minister explained that Mauritius is on a transformative journey, with major changes in the economic structure and institutional framework. He emphasised on the importance attached to good governance at all levels and even requested technical support from Dr Janneh to enable Mauritius to reach higher levels of governance. The latter was apprised of the fact that Mauritius would set up a National Office of Good Governance (NOGG) which would coordinate the implementation of good governance policies and practices in all social, political and economic institutions in the country. In this respect, a request was made to the Executive Secretary for the training of officers to work in the NOGG, to which he politely agreed to look into.

Congo Minister seeks greater collaboration with Mauritius

The Minister of State Owned Enterprises (SOEs) of the Democratic Republic of Congo (DRC), Hon. Wivine Mumba Matipa, called for greater collaboration between her country and Mauritius. She expressed her wishes during a courtesy call on Minister Dharmendar Sesungkur. Minister Matipa gave a brief overview of the Democratic Republic of Congo, the profile of its people, the culture and its macroeconomic implications. Furthermore, Hon. Wivine Mumba Matipa stressed that the country is underpopulated and its vulnerability to epidemics has been a real challenge for the government. However, she laid emphasis on the current President of the DRC’s adherence to the rule of law and firm engagement to the development of the country.

After expressing his concerns, Minister Dharmendar Sesungkur added that all countries have their challenges to overcome in view of globalisation and external pressures. He affirmed that it was an honour to share the Mauritian experience with other African countries in the context of the APRM meeting. “Ethics and good governance are not values to be imbibed overnight. You are most welcome to initiate further bilateral collaborations so that Mauritius can help DRC in enhancing their good governance agenda.” explained Minister Dharmendar Sesungkur. The Minister of Congo thanked Hon. Dharmendar



Minister Sesungkur welcomes Minister Matipa in his office

Sesungkur for his propositions and added that in order to promote efficiency and good governance, public entities have been transformed into commercial private enterprises. “Moreover, the collaboration of the World Bank has been widely sought for the transformation of the economy. Importance is also being laid on developing the proper guidelines and laws to build the framework for growth.” She said. The two Ministers concluded their visit by expressing their best wishes and openness to further collaborations between the two countries.

All eyes on UK and Brexit

On 14 November 2018, a Draft Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union (EU) and the European Atomic Energy Community was released by the European Commission. Broadly, the Withdrawal Agreement covers the common provisions setting out standard clauses for the proper understanding and operation of the agreement.

It also addresses citizens' rights, protecting the life choices of over 3 million EU citizens in the UK, and over 1 million UK nationals in EU countries, safeguarding their right to stay and ensuring that they can continue to contribute to their communities. Mention has been made of a transition period ending on 31 December 2020, during which the EU will treat the UK as if it were a Member State, with the exception of participation in the EU institutions and governance structures.

The transition period will help in particular administrations, businesses and citizens to adapt to the withdrawal of the United Kingdom.

Separation issues have equally been tackled with a view of ensuring a smooth winding-down of current arrangements and providing for an orderly withdrawal (for example, to allow for goods placed on the market before the end of the transition to continue to their destination, for the protection of existing intellectual property rights including geographical indications, the winding down of ongoing police and judicial cooperation in criminal matters and other administrative and judicial procedures, the use of data and information exchanged before the end of the transition period, and other matters).

Competition Panel revisits regulatory framework

The Competition Commission of Mauritius (CCM), with the assistance of the COMESA Competition Commission, has since March 2018 initiated a process to review and amend its regulatory framework. The ultimate objectives of the CCM's Law Review Project (LRP) are thus to reinforce the legal provisions and enable the CCM to effectively deliver its mandate in fast-evolving markets. Building on the enforcement experience gathered by the CCM over these last years, certain shortcomings have been identified in the law, which are believed to impinge on the effectiveness of the CCM's enforcement work and efficacy of its legislation. The importance of an effective competition law regime and enforcement cannot be understated given its manifold benefits in bringing down trade barriers, promoting our economy's regional competitiveness, increasing investors' confidence in our jurisdiction's resilience to act against anticompetitive conduct whether originating from within our borders or across. Following a procurement exercise for consultancy services, the Commission has appointed Ms Hilary Jennings, a competition expert, as Consultant for this Project. Between 1st and 5th October 2018, the CCM organised a round of consultative meetings between its Consultant and representatives of key public and private



Concerns have been raised as to whether the UK's position as one of the world's biggest financial centres would come under threat if it is no longer seen as a gateway to the EU. The risk is that inward investment could slow in light of the uncertain consequences of Brexit. On the positive side, the UK would save its annual payments to the EU budget. It is yet to be observed as to whether these savings would compensate the reduction in real GDP due to less trade activities. Given that the UK is one of Mauritius' major trading partners, Brexit will undoubtedly have an impact on the Mauritian economy. Most importantly, the depreciation of the pound sterling is likely to affect companies that have a high to average dependence on exports to the UK. There are also the prospects of a reduced export demand should output and growth in the UK be affected. Greater volatility in the financial markets would influence currencies, the stock market and interest rates. These could have adverse consequences for Mauritius in terms of currency exposure, portfolio investment and debt servicing.



stakeholders including from the business and legal communities to hear their preliminary views on the LRP, expectations thereon, any previous experience with the workings of CCM and law enforcement, and policy interactions and implications. The Competition Commission of Mauritius (CCM), established under the Competition Act No. 25 of 2007 (the 'Act') has been operational since November 2009. For nearly a decade now, the CCM has been enforcing the Act across diverse economic markets with the aim of promoting competition in the interest of consumers, the business community and the Mauritian economy at all.

Introducing Mauritius to Digital Assets and Cryptocurrency

The Financial Services Commission (FSC) Mauritius, has recently released for consultation a new regulatory framework for Custodian Services (digital asset). The document covers proposed requirements and operational and governance standards that would apply to the potential license holders. Feedbacks from the industry itself, stakeholders and the public at large, were invited until 30 November 2018. This initiative follows the Government's vision and ambition to transform Mauritius into a Fintech hub. The present regulatory framework currently caters only for securities and physical assets. It is therefore not well suited for the safekeeping of digital assets.

This proposed paper seeks to eliminate gaps in our existing regulatory framework applicable to two custodian licences and provide solutions for the custody of Digital Asset to Fintech ecosystem.

Under the Custodian Services (Digital Asset) Licence, an entity will be licensed to hold the digital assets of its clients for safekeeping. As laid out in this first preliminary paper, the FSC will assess the application for licence based on three core areas of activity: Operational and Governance Protocols, Safekeeping of Digital Assets, and Transaction Management. According to the paper, Digital licences will be issued under section 14 of the FSA and will be regarded as financial institutions under the Financial Intelligence and Anti-Money Laundering Act, which was adopted in 2002.

The companies will be required to adhere to other laws and regulations dealing with anti-money laundering and counterterrorism financing matters. These include the FSC Code on the Prevention of Money Laundering and Terrorist Financing, as well as other applicable subordinate statutory instruments. To be granted a license, the custodian must meet a number of requirements.



The custodian would be required to maintain a minimum stated unimpaired capital of not less than MUR 500,000, a board of directors composed of at least 3 directors with at least one who is a resident in Mauritius, and maintains an office on the island. In addition, under the new license, companies would be expected to ensure they are adequately staffed to perform all duties regarding the safekeeping of cryptoassets, transaction management and other relevant operations.

Additionally, the providers of custodial services will have to subscribe to insurance protection for the assets that are kept in custody. During the application process they must submit evidence of such arrangements to the FSC. The businesses must have systems in place to ensure compliance with all reporting requirements under Mauritian law as well.

To note, FSC has recently granted an in-principal investment banking license to Fincross International (incorporated as RUBIX Financial Group Ltd), which intends to integrate the crypto financial system into the investment banking world as from next year.

Three firms partner to create first Blockchain Exchange

Three international organisations, Mindex, GMEX Group and Hybrid Stock Exchange Corporation Limited (HYBSE) have partnered to create the first blockchain securities exchange in Mauritius. Their decision follows the interest of Mauritius to open its financial services sector to digital assets. The exchange will be dubbed HYBSE International Marketplace. Reports indicate that the exchange will integrate blockchain solutions and technology with traditional financial industries providing an ecosystem that digitalises assets onto the blockchain. Asset classes that will be facilitated for trade will include cryptonised shares, cryptonised currencies, commodities, indices, forex, ETCs (exchange-traded commodities), ETFs (exchange-traded funds), and CETFs (crypto exchange-traded funds). The exchange is expected to provide an important platform through which SMEs can access capital. Hence, the SMEs will have the option of launching an Initial Blockshare Offering (IBO) to raise capital. Reports also indicate that the exchange will offer tokenized assets with real value, including tokenized shares, tokenized currencies, tokenized commodities, and a range of exchange-traded funds (ETFs).



World Bank assists Mauritius in completing NRA exercise



A National Risk Assessment (NRA) refresher workshop was held on 13 November 2018. It was a collaboration between this Ministry and the Financial Intelligence Unit, facilitated by experts from the World Bank. Representatives of several local entities dealing in AML/CFT attended the event. The Financial Action Task Force (FATF) Recommendations set out a comprehensive framework of measures which countries should adopt for combating money laundering and the financing of terrorism. States are to implement the international standards laid down by the FATF and adapt them to their particular circumstances based on the level of money laundering and terrorism financing risks identified. It is therefore, important for Mauritius to identify and understand its money laundering and terrorism financing risks at

national level. The NRA will assist Mauritius in adopting and implementing a risk based approach to combat money laundering and terrorism financing more effectively. The National Risk Assessment report will be made public and will assist financial institutions and Designated Non-Financial Businesses and Professions (DNFBPs) in the formulation of their institutional AML/CFT risk based model. The NRA was launched in January 2017 and is currently ongoing. It is expected that this exercise will be completed by the end of the first quarter of 2019. The NRA exercise is being conducted by using the methodology of the World Bank which uses a specific tool kit to determine the money laundering and terrorism financing risks of a country.

Eight teams have been set up for the purposes of this exercise: Threat Assessment, National Vulnerability, Insurance, Securities, Banking, Other Financial Institutions, DNFBP and Trust and Company Service Providers (TCSP). Each team has to gather relevant data and feed the World Bank tool which will generate a preliminary set of results indicating the level of risk worthiness in a particular area. It has to be highlighted that the Financial Intelligence and Anti-Money Laundering Act requires that the National Risk Assessment should be reviewed every three years.

Spotlight on Risk-Based Supervision



As part of its capacity building program and regional cooperation, the Financial Services Commission of Mauritius hosted the Regional Risk-Based Supervision (RBS) Workshop with the collaboration of the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG) from 19 to 22 November 2018 at the Holiday Inn hotel in Mauritius. The RBS workshop focused on AML/CFT and targeted the insurance, pension and securities sectors in particular. Around 60 participants were present from 18 different countries.

The 4-day workshop was jointly animated by the ESAAMLG Secretariat and resource persons from the Centre for Financial Regulation and Inclusion (CENFRI). The process of regional integration calls for greater harmonisation of supervisory practice in Africa. However, it is worth mentioning that there is no “one size fits all” procedure. The Minister of Financial Services and Good Governance, Hon. Dharmendar Sesungkur, pointed out during his speech for the opening ceremony that

“the strength of any financial institution lies not only in its robust and prudential framework but also in the effectiveness, capacity and skills of its Supervisor.” The workshop aimed to assist supervisors of insurance, securities and pension sectors in enhancing their understanding and application of risk-based supervision for AML/CFT in line with the Financial Action Task Force (‘FATF’) requirements and apply a focused supervision strategy. The sessions also focused at improving the supervisors’ skills in risk identification, prioritization, development of risk based supervision frameworks and resource allocation. In setting up the country’s risk-based supervision framework, the supervisors should be able to take in account global standards, FATF RBS guidance notes, regulatory requirements and the relevant sector’s response.

The ESAAMLG representatives explained that the supervision process should kick start with the identification of ML/TF risk factors. Using the appropriate methodology, the supervisors should then allocate priority resources to areas that are perceived to present higher risk and ensure that actions taken are targeted, informed as well as cost effective. Hence, emphasis was made on the key aspects of an AML/CFT risk-based approach that should be in place at the country and institutional levels. Financial inclusion and financial exclusion risk have also been discussed at length. It has been noted that FinTech developments, illicit wildlife trade and illicit cross-border flows can pose high risk to the supervisory framework.

The Editorial Team wishes to all readers a Merry Christmas and a Happy New Year 2019 on behalf of the Ministry of Financial Services and Good Governance

