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CHALLENGES OF CORPORATE GOVERNANCE FOR FINTECH COMPANIES IN A PANDEMIC PERIOD

Abstract. *This paper outlines the key challenges of corporate governance for Fintech companies in a pandemic period based on the modern trends of market development and the existing opportunities for private investors to set-up this kind of company internationally. Due to divergences across jurisdictions in the governance regulation author identified the main criteria for comparison offshore jurisdictions to set-up Fintech companies by international investors.*
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Nowadays pandemic challenges are performed financial situation globally. The COVID-19 outbreak has prompted payment market to move with lightning speed toward digital planforms and with that move comes pressing enhanced compliance considerations. According to the Association of Chartered Certified Accountants (ACCA), a thriving global community of professional accountants across 179 countries, financial crime costs the world USD 3,5 trillion per year [1]. It's a hefty sum to pay against the flourishing backdrop of a highly competitive, increasingly digitized financial services world. With new-age disruptive technologies permeating the business of finance, financial corporations are witnessing an all-time high in financial crime, cyber fraud and vulnerabilities. There is increasing pressure on them to maintain low-risk business activity amidst the unrelenting COVID-19 pandemic.

In such a double-edged sword scenario, financial companies have no choice but to go digital to sustain their existing business models. At the same time, innovation is having a transformative effect on financial services. Companies are innovating faster in an effort to transform the customer experience and improve efficiency and effectiveness. As experts mentioned, technological advancements continue to build on each other and are available to a broader audience to address increasingly complicated problems. In addition, increased interactions with innovative technologies have desensitized customers and workers to sound data security practices [2, p. 5].

Modern conditions of remote customer service by fintech companies define new areas of investment in payment infrastructure and increased compliance risks, such as:

– Fintech companies' capacity building, which includes payments, wealth advice, alternative data, lending platforms, and account creation;

– increasing competition between Fintechs in digital services;

– growth of the scale of client bases of digital payments;

– high level of return on investment in digital channels;

– increasing compliance risks and AML expences in the activities of fintech companies.

Research shows that fintech business is the most attractive for investors during a pandemic, as it provides a high level of return on investment and allows payments, transfers and purchases of goods or services remotely. Thus, international investors and High-Net-Worth Indicirduals (HNWI) are actively looking for ways to make such kind of investments.

Current trends in the development of digital payments are a trend not only of private investors and existing fintech companies, but also for regulatory authorities of many countries. As with all business and operational developments, financial services firms need to consider the wide range of risks arising from the use of fintech and ensure that these risks are properly captured within a firm’s risk governance structure and procedures. Of course, these are serious challenges for new investments in this industry. That is why corporate governance remains a key concern for many private investors and beneficiaries in this market.

Notably, that a lot of Fintech companies has a global customer base, requiring them to meet regulatory obligations across multiple jurisdictions. Some private firms in payment industry may feel corporate governance is a barrier to growth. As a result, setting-up a new company that adopt innovative payment technology may face different types of regulation. This is a key step in choosing the jurisdiction to register a fintech company and saving investors time, money and energy to support the business. At the same time, a number on offshore jurisdictions offer favourable conditions for capital raising in the financial and payment sector and low levels of taxation for carrying business. Fintech firms must therefore map the growth of their business and introduce crucial governance roles at the right time. Hiring risk, compliance, legal, audit and cyber security professionals will ensure a company's rapid growth is underpinned by strong processes and controls.

The following are some of the specific challenges Fintech payment companies face that would require bringing in heads of core governance arrangements [3-4]:

1) The level of requirements to set-up the company and right choice of the jurisdiction with minimum shareholders' obligations. Divergences across jurisdictions in the regulation of fintech activities are an important consideration for companies in deciding where to locate these activities. This could result in regulatory arbitrage where companies are attracted by lower regulatory requirements;

2) Regulatory focus on business model for carrying business as regulators and authorities are redrawing the prudential perimeter to take account of new or changing products and services emerging as a result of fintech solutions and innovative technologies;

3) Compliance with Anti-money laundering Laws and recommendations (Anti-bribery and corruption; AML, KYC procedures, Regulatory policies (PSD2, MiFID II, SMCR));

4) Data protection and privacy because of companies are expected to meet existing data protection requirements, they also need to take a proactive approach

to the possibility that fintech developments may lead to a fundamental re-thinking of data privacy, security and protection by financial services regulators;

5) Risk-management governance because of strict regulatory requirements to the Boards and senior management of Fintech companies to understand, oversee and manage effectively the risks arising from the development and adoption of emerging technologies;

6) Cyber security risk protection for improving high level of defence clients accounts and safeguard money, tengible and intengible assets and systems. This approach is required by regulators because the financial services system faces three main challenges in protecting customer data from innovation-driven cyber-risk - innovation is increasing cyber-risk to customer data, payment services companies face specific challenges in managing cyber-risk, and innovative, multi stakeholder solutions are needed to address fast-changing cyber-threats.

Importantly, that international investors are looking for safeguarding their money and keeping a lot of other advantages of offshore financial company ownership. According to the professional's expertise, the main of these advantages include [5]:

– profits – owners of private international financial companies not only raise money from depositors, but makes profit from the possibility of handling e-money operations across the world;

– privacy – strict regulation related to payment sector in host countries protect the interests of financial institutions from unauthorised investigation of state and tax authorities, persons with legal claims or aggressive corporate competitors;

– tax protection – international finance centres has gained the reputation of legitimate tax heavens;

– ownership – ownership of offshore Fintech company is burdened by minimum bureaucratic requirements. Such kind of company can be owned by a surprisingly low price and the owner does not need a number of financial licenses, like in continental onshore jurisdictions;

– assets protection – assets deposited in private Fintech company are immune against all judgment and judicial decisions connected with the confiscation of property or decisions issued in home country;

– image – the ownership of offshore company may help to enter into the world of private international bankers and create very valued connections and relationships;

– diversification of assets – the best way to ensure and protect the assets is its geographical distribution and diversification;

– integration – the vast majority of offshore Fintechs currently offer the most modern means of communication and account management, such as internet banking, online payment service, e-commerce, crypto-trading and many other services which are available worldwide and 24 hours a day, 7 days a week;

– regulatory obstacles – offshore Fintech companies are able to avoid a large number of smaller and even expensive regulatory obstacles that apply to domestic onshore financial companies;

– new technologies – a number of jurisdictions lacks technological advantages and demand for modern services. There are still many jurisdictions where the domestic financial companies cannot provide e-commerce, internet payment systems in a mode of B2B and B2C. These restrictions does not apply to the vast majority of offshore financial firms.

That is why significant criteria for investors are high level of financial secrecy index, missing international AML sanctions for target jurisdiction, no nessecary to travel for business place, minimum number of local employees, low level of reporting framework and burocracy procedures for carrying financial business, speed time to register company and obtain the payment licence, no requirements on resident shareholders and/or directors there, minimum number of initial capital and safeguarding requirements to protect clients' money. At the same time regulators have to protect state and public interests in any country and protect consumer's risks. Thus, finding optimal decision to satefy governance requirements and intestors' expectation is a key to initiate Fintech payment company.

According to the regulatory divergences across different jurisdictions in the governance obligations the main criteria to set-up payment (money transmitter) companies is presented below *(table 1).*

Table 1

Criteria for comparison jurisdictions to set-up Fintech companies by international investors

Region	*Best option*	Indian Ocean	Americas Caribbean	Caribbean	Americas Caribbean	Americas Central	Oceania	Oceania
Country		**Seychelles**	**Saint Lucia**	**Saint Vincent**	**Dominica**	**Belize**	**Marshall Islands**	**Vanuatu**
Apostille - Hague Treaty Convention	*Yes*	Yes	Yes	Yes	Yes	Yes	Yes	Yes
GDP per capita, 2020	*High*	USD 2.9 billion	USD 2.1 billion	USD 1.3 billion	USD 0.7 billion	USD 3.4 billion	USD 3.7 billion	USD 0.8 billion
Financial Secrecy Index*	*High*	70	71	66	74	Not Ranked	70	76
International Sanctions	*No*	No	No	No	No	No	No	No
Corporate Vehicles	*LLC***	LLC	LLC	LLC	LLC	LLC	LLC	LLC
Travelling	*No*	Personal presence is required	Personal presence is not required	Personal presence is not required	Personal presence is not required	Personal presence is not required	Personal presence is not required	Personal presence is not required
Timeline to set-up a company	*Low*	3-5 business days	2-3 business days	24 hours	2 business days	24 hours	1 week	2-3 business days
Local Staff	*No*	Not required	Not required	Not required	Not required	Not required	Not required	Secretary is required
Registered Office	*No*	Virtual office	Required	Required	Required	Not required	Not required	Required
Reporting Framework	*Low*	No Requirement to file annual return	No Requirement to file annual return	No Requirement to file annual return	No Requirement to file annual return	Yes, have to submit financial statements annually	No Requirement to file annual return	Financial records may be held anywhere in the world
Minimum Paid-up capital	*Low*	USD 250,000	Prescribed by Minister	No info	No info	USD 75,000	No info	USD 500,000
Resident shareholder	*No*	Not required	Not required	Not required	Not required	Not required	Not required	Not required
Resident director	*No*	Not required	Not required	Not required	Not required	Not required	Not required	Not required

* **Financial Secrecy Index (Scope):** *The database covers information on the legal, administrative, regulatory, and tax structures of the secrecy jurisdictions. The main data sources were official and public reports published by the Organisation for Economic Co-operation and Development, the associated Global Forum on Transparency and Exchange of Information for Tax Purposes, the Financial Action Task Force and International Monetary Fund [6].*
** **LLC – Limited Liability Company**/or International Business Company
Source: *created by author based on the searching regulatory requirements and database for listed countries*

The jurisdictions selected for analysis are offshore, as they met the eligibility criteria for investing in the company's fintech at the request of investors to consulting companies during 2018-2020. Respectively, these jurisdictions ensure a high level of privacy of investments and it's protection, the optimal level of regulatory requirements and income taxation, the high speed of company registration and obtaining money transmitter or payment institution licenses, as well as the ability to carry business across the globe.

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