



Western Hemisphere Payments and Securities Settlement Forum

Foro de Liquidación de Pagos y Valores del Hemisferio Occidental



STEPS TOWARDS REGULATING PAYMENT INNOVATIONS in JAMAICA

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Discussion Points

- 1 Digitalization**
- 2 Regulatory Environment**
- 3 Steps towards Regulation**
 - a) General Approach*
 - b) BOJ's Approach*
 - c) Developing Guidelines - ERPS*
- 4 Regulation risks, Why might regulation fail?, What can be done?**

1. Digitalization

Different waves of technological developments used to enable and support banking and financial services that can affect economic activity and due to the speed of data transmission have the potential of reshaping how monetary policy is executed and the structure of the financial system.

WAVES OF TECHNOLOGICAL DEVELOPMENTS

1 1ST Wave

Cash and Cheques

2 2ND Wave

Payment Cards (credit, debit, prepaid cards)
Online Banking
E-Wallets (mobile wallets)

3 3RD Wave

Fintech Innovations (Virtual money :Bitcoin, cryptocurrency, block chain)

E-money is the dominant digital technological Innovation

ISSUES & CHALLENGES OF DIGITALIZATION

1. Governance arrangements

- Management structures, accountabilities and capital adequacy among others

2. Risks

- Systemic Risk, AML/CFT, Data Security & Privacy

3. Consumer Protection

4. Understanding business models (Online and 'borderless' nature)

- Determine if regulation, advisory , guidelines or policies are necessary.

5. Foregone Revenue

- Digital providers and their intermediaries may benefit from not being subject to payment costs imposed by regulators on payment systems.

2. Regulatory Environment

Regulations governing deposit taking institutions, payment service providers and Money Services Businesses are in place in the financial sector.

1 Licensed deposit taking financial institution, Commercial Banks and merchant Banks

- Banking Services Act (BSA)
- Subsidiary Legislation

2 Money Services Businesses

- Bank of Jamaica Act Part 4a and Part 4b
- Requirements for Licence to Operate a Cambio and Remittances in Jamaica
- Operating Directions for Cambios and Remittances

3 AML

- The Proceeds of Crime Act (2007, amended 2009 and 2013)
- POCA(Money Laundering Legislation) Regulation/Act,(2007, amended 2013)
- FATF Recommendation 18 which looks at internal control for AML/CFT compliance
- Guidance Notes On The Prevention Of Money Laundering And Countering The Financing Of Terrorism, Proliferation And Managing Related Risks (Finalised 2017 Gazzetted 2018)

4 Building Societies

- The Building Societies Act, 1897 (amended 1995, 2002, 2004)

5 Payments

- Bank of Jamaica Act Section 27
- Payment Clearing and Settlements Act (PCSA)
- ERPS2

Entities offering digital financial services are usually not specifically regulated and do not fit easily into existing regulatory framework and structures.

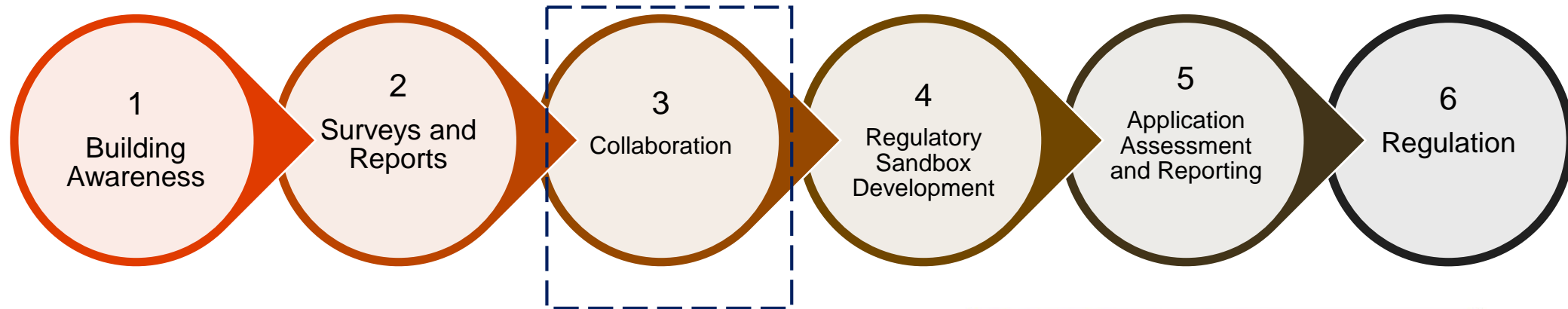
3. Steps towards Regulation (1/5)

Step 1: General Approach

| | |
|--|---|
| 1 Building Awareness | Public warnings Investor/buyer information Research papers |
| 2 Regulation of specific entities | Limited set of regulations for specific types of entity. AML/TF - Examples: United States, France, Canada, Singapore, Sweden |
| 3 Interpretation of existing Regulation | Application of regulation based on “interpretation” of how existing framework (e.g. tax law treatment) may be applied to digital currencies or intermediaries |
| 4 Overall Regulation | Dedicated regulation covering consumer protection, prudential/organizational rules for stakeholders, and specific operating rules as payment systems |
| 5 Prohibition | Ban on digital currency acceptance by retailers and digital currency-based financial instruments (Example: China & Belgium); Ban on digital currency exchangers; Ban on Bitcoin transactions between banks (Example: China & Mexico). |

3. Steps towards Regulation (2/5)

Step 2: Bank of Jamaica's Approach to FinTech



Bank of Jamaica's public awareness statement advises the public:

- Virtual currencies are not legal tender in Jamaica;
- Bank of Jamaica does not regulate or supervise virtual currencies;
- Bank of Jamaica has not authorized any entity to operate a virtual currency platform.

11 FinTech investment apps to digital cash inquiries :
Commercial banks | Law practices | Overseas and
local based FinTech companies



05 February 2018

BANK OF JAMAICA CAUTIONS USERS OF VIRTUAL CURRENCIES

Bank of Jamaica is aware of reports of investments in virtual currencies and the use of these types of instruments for the settlement of economic transactions. In light of these reports, the Bank is advising the public to exercise caution in the use of virtual currencies (cryptocurrencies) given the associated risks and the absence of appropriate governance and consumer protection arrangements.

The Bank is committed to the process of facilitating the enhanced use of technology in the provision of financial services, while preserving financial and payment system stability. In this regard, although virtual currencies with blockchain as the underlying technology may have benefits, such as the potential to promote financial inclusion, the following risks need to be taken into consideration:

1. Virtual currencies are not legal tender in Jamaica.
2. Bank of Jamaica neither issues nor backs virtual currencies.
3. Virtual currencies are not foreign currencies as there is no monetary authority that issues or backs them.
4. Bank of Jamaica does not regulate or supervise virtual currencies.
5. Bank of Jamaica has not authorized any entity to operate a virtual currency platform.
6. Transactions in virtual currencies, such as bitcoin, are susceptible to abuse by criminals and may facilitate money laundering and the financing of terrorism.

In light of the above, Bank of Jamaica, while committed to supporting financial innovation, will continue to closely monitor the evolution and potential implications of virtual currencies. Regulatory strategies will be pursued where appropriate and the requisite advisories will be issued if deemed necessary.

Please be advised that there are no legislation arrangements under the purview of Bank of Jamaica that provide protection for loss arising from the use of virtual currencies.

3. Steps towards Regulation: Collaboration (3/5)

Step 2: Bank of Jamaica's Approach to FinTech

1.

CEMLA Fintech Data Gaps and CBDC Work Group

Provides a platform to discuss new initiatives relating to digital currencies, the main implications for central banks and Fintech Data Challenges

2

CARICOM FinTech Work Group (CFTWG)

Expand awareness of digital currency and mobile money in payment landscape

Achievements

Reports

Surveys

Awareness
Statements

Concept Notes

Information Sharing
with Central Bank
Publication

Guidelines on
Treatment of
Digital Currency

Status of Digital
Currency in
Caribbean
countries

Legal Review Survey on the
status of Digital currencies in
8 Caribbean countries

Reducing Currency in
Circulation by 50% in
5 years

Cross-Border
Transactions

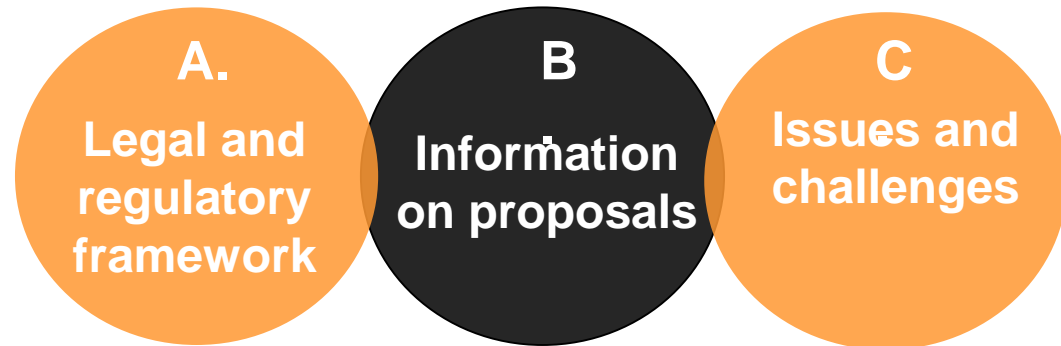
3. Steps towards Regulation: Survey & Reports (4/5)

1 Status of Digital Currency in Caribbean countries

The purpose of the survey was to :

- capture data on the level of development and use of digital currency;
- to identify areas of common interest; and
- opportunities to synchronize developments and regulators' activities across the region.

The **three (3) sections** of the survey were:



2 Guidelines on Treatment of Digital Currency

The purpose of the guidelines is:

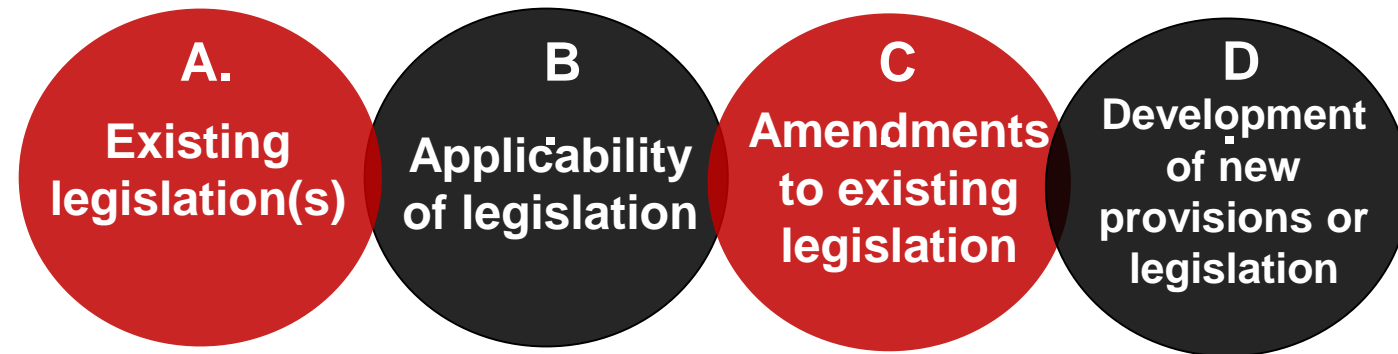
- to provide appropriate guidelines or regulations to protect Central banks in the region from digital currency risks.

3 Legal Review Survey on the status of Digital currencies in 8 Caribbean countries

The purpose of the survey was to capture and access data on:

- the status of developments in **legal and regulatory framework** for **digital currency**; and
- to identify **common areas** of work

The **four (4) sections** of the survey were:



Step 2: Bank of Jamaica's Approach to FinTech

3. Steps towards Regulation: ERPS (5/5)

Step 3: Developing guidelines

1. ERPS Guidelines were **published on 1st February 2013** to facilitate:
 - i. the structured introduction of additional electronic retail payment systems
2. Objectives of ERPS Guidelines:
 - a) define **authorisation requirements** that will be applied by the Bank;
 - b) outline the **standards** to be observed by Payment Service Providers (PSPs);
 - c) foster and maintain **public trust and confidence** in authorised retail payment systems;
 - d) promote **financial inclusion**; and
 - e) promote **competition** in the retail payment services sector.

3. Covers **3 Key Areas**



4. ERPS 2 **took effect on 1st February 2019** which took advantage of available technology, to provide more efficient payment services in a safe, secure and competitive environment.
5. Currently **working on converting ERPS 2 Guidelines to regulations.**

4. Regulation risks

1. Regulation can be ineffective at preventing risks
2. Regulation is the risk
 - Suppress innovation
 - Deny access
 - Stifle competition
 - Distort Markets

Why might regulation fail?

1. **Poor Regulatory Structure**
 - Forcing square pegs into round holes
 - Not the right type of authority
2. **Regulation Lagging innovation**
 - Takes a while to pass laws/promulgate regulations
 - Need to assess the issue before government acts
 - Compounding innovation
 - Innovation responds to regulatory impediments (Life finds a way)
3. **Lack of Expertise or Resources**
 - Different skill sets/tools needed
 - Cost to stay up to date
 - It isn't your only job
4. **Bureaucracy**
 - Bureaucracy moves slowly
 - Special interest and regulatory capture

What Can Be Done?

1. Collaboration
2. Experimentation
3. Reevaluation of current regulation/regulatory structure
4. Revisiting regulation over time

CRYPTOCURRENCY PAYMENTS MONEY
ECONOMY
FINANCIAL STABILITY BITCOIN GUIDELINES
REGULATIONS
FINTECH DIGITAL
FRAMEWORK AML / CFT CONSUMER PROTECTION

THANK YOU

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