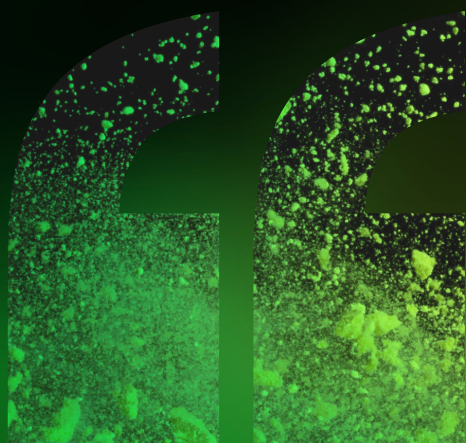
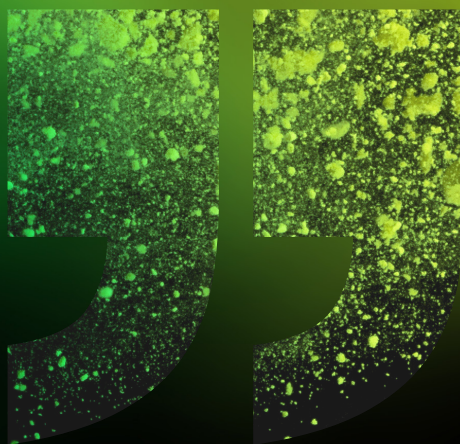


**C L I F F O R D**  
**C H A N C E**



**FINTECH IN THE  
MIDDLE EAST –  
AN OVERVIEW**



**– THOUGHT LEADERSHIP**

OCTOBER 2017



## FINTECH IN THE MIDDLE EAST – AN OVERVIEW

Financial technology (fintech) is transforming the delivery of financial services across the Middle East. Fintech sandboxes and Government driven initiatives support a growing base of fintech startups. Regional and international banks are developing digital platforms and smart solutions and are coming together to create projects such as the Emirates Digital Wallet, which is expected to change the off-line payments landscape in the UAE.

Across the Middle East, fintech is driven both by technology-enabled innovation that improves existing financial services, but also provides routes for unbanked populations to access financial services.

Government support and tech developments, together with high smartphone penetration, have contributed to the development of startups in Middle East and the GCC in particular.

As of 2016, it has been reported that 84 per cent of all Middle East fintech startups are payments and crowdfunding-related and the UAE, Egypt Jordan and Lebanon account for 73 per cent of all MENA-based fintech startup with the majority being in the UAE (State of Fintech report 2016, Wamda Research Lab and Payfort).

Whilst the market is currently dominated by payments and crowdfunding and home-grown innovation/collaboration by financial institutions, we expect other areas to catch up quickly given the opportunities in the market and support from local governments, particularly in the UAE.

From a regulatory perspective, the development of Middle East startups is being accelerated through regulatory sandboxes in the UAE and Bahrain, which have permitted a bespoke, firm-specific licensing regime for a limited testing period. These sandboxes also allow governments to learn about new technologies and to shape regulations accordingly. There are currently three sandboxes across the Middle East: the Dubai International Financial Centre (DIFC), the Abu Dhabi Global Market (ADGM), and Bahrain. We set out a comparison of these initiatives on page 17.

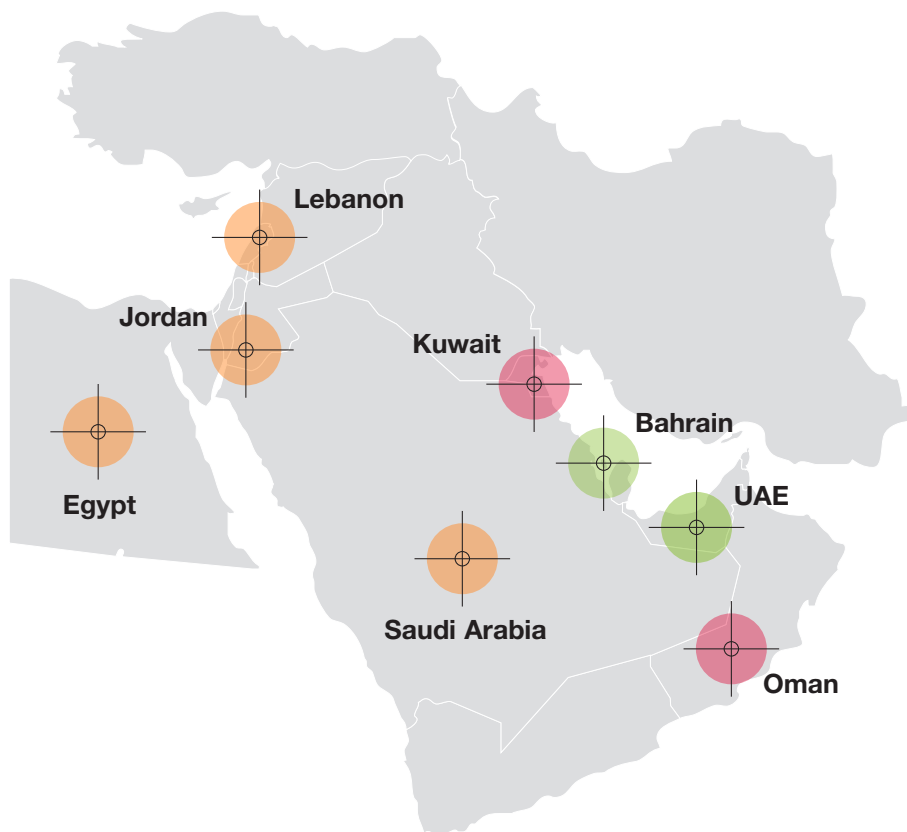
MENA governments and regulators are increasingly acknowledging the need for

legislative reforms to capitalise on fintech. The central banks of Egypt, Bahrain, UAE and Jordan have adopted specific initiatives to regulate digital payment services, while Lebanon, the DIFC and Bahrain have introduced crowdfunding regulations. Dialogue is underway between regulators in the region, especially amongst the GCC, regarding the challenges and opportunities presented by the evolution of fintech.

Across the Middle East, legislation is in place to recognise e-commerce and digital signatures, with more recent e-commerce regulations covering electronic payments in certain jurisdictions, such as Kuwait. However, most e-commerce regulations still contain significant exclusions for certain types of transactions, limiting the use of e-contracts and electronic communications in these areas. The UAE's electronic communications laws, for example, exclude transactions in real estate, negotiable instruments and matters for which a notarisation is required, requiring wet ink signatures in respect of many transactions. This could constrain the ability to roll out blockchain-based smart contract solutions for certain sectors at a time when such initiatives are driving the next generation of fintech startups.

Despite the fintech developments taking place, Middle East fintech remains in its early stages, as of January 2017, having reportedly attracted only 1% of the US\$50 billion invested in fintech globally since 2010 (source: Accenture) and half of all MENA-based startups were founded after 2012.

In this report, we aim to show that the Middle East has great potential for future investment in fintech and that, despite challenges in the region, these are mitigated by significant development and modernisation happening across the region.



#### Score for regulatory environment:

1. Specific local regime
2. No specific local regime – some local guidance/regulatory policies
3. No specific local regime – legislation expected
4. No specific local regime now or anticipated in the near future

#### Level of current regulator activity

- Most Active
- Active
- Least Active

	 Blockchain-enabled financial services and crypto-currencies	 Payment Services/Mobile Wallets	 Crowdfunding	 Other
● UAE	2	1	1	1 (ADGM and DIFC sandboxes)
● OMAN	4	1	4	4
● JORDAN	4	1	3	3
● EGYPT	4	1	3	3
● LEBANON	2	1	1	4
● KUWAIT	4	1	4	4
● BAHRAIN	4	1	1	1 (CBB sandbox)
● SAUDI ARABIA	4	2	3	2

This report does not cover Qatar or Israel.

The following table sets out a number of common legal concerns for those considering investing in fintech in the Middle East. These concerns can be mitigated or even resolved by either more recent developments in the market or available structures.

Legal systems and enforcement	
<p><b>Uncertainty:</b> The Middle East has historically been slow to adapt to international standards or make modernising changes to legal systems, leaving some uncertainty regarding the enforcement of rights and obligations. In many cases, this can be due to linguistic or cultural approaches or through the necessity of prioritising core structural reforms to promote economic and social stability.</p> <p>In addition, Shari'a laws are applied to varying degrees across the Middle East (for example, Shari'a is considered to be a source of law in both the UAE and Egypt, but is applied as the law in Saudi Arabia). Such laws can provide restrictive penal provisions for wide-ranging matters relating to "decency", such as broad restrictions for online content considered offensive to public morals. This can restrict, or add uncertainty to, certain technological developments.</p>	<p><b>Mitigants/solutions:</b> There are many specific licensing regimes created in the Middle East which can counteract issues around uncertainty, such as the financial regulatory regimes in the UAE financial free zones. These free zones provide for an English common law approach in respect of their own court system, which allows for greater certainty in commercial transactions.</p> <p>Regarding Shari'a developments, Islamic finance is keeping pace with modern finance and could by analogy be extended to fintech. The market-leading Islamic Finance practice at Clifford Chance has been involved in some of the most innovative structures in recent years to provide equivalent finance and insurance products to consumers and investors seeking Islamic compliance. Our experience tells us that modern financial services solutions are recognised as necessary by Shari'a scholars for many reasons. The innovation we see across the Islamic finance world parallels the innovation taking place within fintech. One recent example is the issuance of a Shari'a standard on trading in gold by AAOIFI in November 2016, shortly followed by several gold-linked ICOs issued in the UAE.</p>
Financial services regulation	
<p><b>Limited specific regulations:</b> Only three out of the eight jurisdictions covered in this report have specific regulations in place which target fintech developments other than payment services. In addition, where such regulatory regimes are in place, such as the UAE financial free zones, attempts to scale an existing fintech business can be difficult as it is not possible to access new consumer markets (such as operations outside of the free zones in the UAE) without an additional local licence.</p> <p>In some jurisdictions, a lack of a specific licence for the relevant activity permits the fintech firm to operate unlicensed, but in others, it brings the spectre of a Central Bank requiring a banking licence for the relevant activity to ensure it falls within their purview.</p> <p>In some instances, the trust and legitimacy provided through having a financial services licence is required to access new markets and consumer bases.</p>	<p><b>Mitigants/solutions:</b> As noted above, the financial regulatory regimes in the UAE financial free zones have created specific licensing regimes for fintech firms to be provided with a testing licence following the "sandbox" models in other jurisdictions.</p> <p>In addition, certain regulatory hurdles are prevalent in most other jurisdictions; fintech startups will always face a long time period and extensive capital investment before obtaining a banking licence. However, partnership opportunities with existing banks are well-promoted in the Middle East and a recognised method of receiving regulatory support, such as in the UAE, with many banks offering digital platforms and supporting collaboration with fintech startups.</p> <p>Overseas licensing options also exist, including a recent example of a mobile wallet provider obtaining a licence in Singapore as a stored value facility, to support its access to Middle East markets.</p>
Governmental support	
<p><b>Difficulty of engagement:</b> Language barriers and limited resources have historically caused many firms to struggle in arranging the right audience to facilitate their introduction to markets in the Middle East.</p>	<p><b>Mitigants/solutions:</b> Governments and supporting departments, especially across the UAE, have been very responsive and quick to move with the times in their support of fintech. This is reflective of fintech falling within central principles of Government agendas for the future advancement of technology and innovation, and acknowledgement of the need to diversify from natural resources. The young demographic of the Middle East means that there is a ready acceptance of new technologies in the region. From our recent experience, Governmental authorities have committed resources to establishing networks and cooperations in the fintech space, and have been willing to work with prospective and incumbent participants.</p>

## Foreign ownership laws

**Barrier to foreign entrants:** Some jurisdictions, such as the UAE and Qatar, only permit a non-national (or non-GCC) shareholder to hold 49% of a company. As a result, investors may be unwilling to invest capital to establish a presence in the absence of a trusted local partner or network.

**Mitigants/solutions:** In several jurisdictions, such as Saudi Arabia, foreign investment is growing and restrictions have been lifted in a few areas, (most recently) engineering. However, in practice many investors still choose to invest with local partners for commercial reasons.

UAE free zone incorporation is also a solution in many circumstances. Challenges may come in subsequently operating outside of the free zone to visit and contract with customers, and a careful cross-border analysis is required in each case.

## Cyber and privacy laws

**Perceived heightened risk and sensitivities:** Cyber risks are “top of the agenda” items for the management of organisations across the globe as cyber events continue to make world news and cause significant disruption and reputational harm. There can be a heightened sense of concern in the Middle East due to geographical proximity to regional instability, and media reports have highlighted business across the region as susceptible. Linked to this, privacy laws are often intended to protect national security and can be limited in scope in certain jurisdictions. Moreover, terrorist financing is a particular concern in the region, and specific laws to combat this may inadvertently restrict the growth of the fintech sector.

**Mitigants/solutions:** Many regions across the Middle East have the tools to be well-equipped to protect themselves as well as any other jurisdiction. In addition, we see that local firms consistently use international data hosting services within the EU, such as Amazon Web Services. Therefore, we see this issue as a global threat which firms can mitigate through tools available across the world, rather than a region-specific issue.

The lack of comprehensive data protection regimes can assist with keeping compliance costs down on initial setup, whilst ensuring sufficient disclosures on uses of data are made to customers and counterparties. Firms should retain access to international solutions to ensure enhanced protections for the safekeeping and integrity of data to international standards.

## Intellectual Property (IP) protection

**Undeveloped IP regime:** IP protection laws exist throughout the Middle East; and brand rights are well recognised. It is now possible to obtain patents that cover the whole of the GCC. However, the regime of examination and enforcement remains nascent in respect of copyright, industrial design and patents compared with some other jurisdictions. Fintech entrepreneurs may, as a result, be reluctant to invest capital for development in the Middle East.

Intellectual property is a particular concern for fintech engineers because of the prevalence of open source code, use of third-party developers, and the collaborative environment.

**Mitigants/solutions:** Entrepreneurs may consider obtaining patents in more developed jurisdictions (US, Europe, Japan) as well as in the GCC. This will give more effective protection against international infringement. In addition, innovators can use other means of protecting their intellectual property, such as protection of trade secrets and digital rights management technologies.

Regular confirmations of IP assignments from contractors and employees on termination is recommended and should be manageable for many firms.

## AML Regimes and Sanctions Risks

**Compliance costs:** Local operations can require significant costs in KYC/CDD checks and mitigating compliance risks.

**Migrants:** Many local fintech initiatives are being developed in the regtech space. Strategies of local Authorities to adopt technology, including the Dubai Blockchain Strategy, will enhance transparency and focus on the prevention of money laundering and other financial crime.



“As both a growing jurisdiction and a hub for the Middle East, there is a very active market in the UAE for fintech and many regulatory initiatives, especially from the financial free zones which have established regulatory sandboxes for startups.

However, entities established in the ADGM and the DIFC, must still be licensed in the jurisdictions in which they want to provide products and services. Fintech entrepreneurs will still have to navigate a number of different regulations ‘onshore’ in the UAE. These are issued by the UAE Central Bank for traditional banking and financing activities, the Emirates Securities and Commodities Authority (SCA) for securities and investment activities, and the UAE Insurance Authority for insurance (including insurance-based investment contracts commonly sold by IFAs in the UAE).”

## UAE

Fintech is a hot topic in the UAE, particularly in Dubai and Abu Dhabi. The Dubai International Finance Centre (DIFC) has set up FinTech Hive, while the Abu Dhabi Global Market (ADGM) has created the FinTech RegLab. With technology and entrepreneurialism taking centre stage and with large investments currently being made, the UAE can be expected to host the next generation of fintech solutions developed in the region. In this regard, the UAE can be considered both as an active fintech jurisdiction in itself and as a hub for the Middle East.

Fintech startups in the UAE began in the payments and crowdfunding sectors and have grown to service the wide entrepreneurial and SME base across the Middle East, which is eager to reach an increasingly mobile population. Blockchain and other money transfer technologies are now leading the way in a second wave of development supported by government initiatives such as the Dubai Blockchain Strategy, which will apply technology to pave the way for new electronic platforms to generate efficiencies across Dubai. Many banks have rolled out digital platforms and innovative electronic solutions, including the Emirates Digital Wallet initiative, which is being introduced by the UAE Banks Federation and is set to revolutionise payments across the country.

Other sectors also have the potential to thrive, including “robo” wealth advisory startups, which are responding to the demand for easy access investment options by UAE residents considering pension planning and advice on international options. Insurtech is also ripe for development, as the UAE hosts global and regional insurers backed by reinsurance in several markets across the world, such as the Lloyd’s platform in the DIFC, although there is a low insurance penetration in this area compared with nations with equivalent available wealth.

## Regulatory developments and future challenges

### Free zones

The table on page 17 compares the ADGM and DIFC financial free zones. Each of these financial free zones provides a

platform for entrepreneurs to test and develop financial products, as they have a bespoke licensing regime which applies to the relevant fintech operations, following the regulatory model.

The April 2017 interim report on global fintech hubs published by Deloitte, listed the ADGM RegLab high on its list of the world’s best fintech hubs, and stated it was the leading hub in MENA. However, at the time this report was published, the DIFC FinTech Hive was only listed as being planned, and was therefore not covered by the report.

The ADGM has an impressive set of links to other networks, including a fintech bridge with MAS in Singapore, and offers potentially greater benefits for sandbox participants through a dynamic free zone regulatory team. However, the DIFC currently has a broader base of international and regional financial institutions within the free zone and via the DFSA, has been the first to create a regulated activity for crowdfunding (beyond the sandbox testing licences).

### “Onshore” implications

Entities established in free zones, such as the ADGM and the DIFC, must still be licensed in the jurisdictions in which they want to provide products and services. The free zones do not currently provide a passport to any other jurisdiction. This means fintech entrepreneurs will still have to navigate a number of different regulations ‘onshore’ in the UAE, issued by the UAE Central Bank for traditional banking and financing activities, the Emirates Securities and Commodities Authority (SCA) for securities and investment activities, and the UAE Insurance Authority for insurance (including insurance-based investment contracts commonly sold by IFAs in the UAE).

Of these regulators, only the UAE Central Bank has published onshore regulations which target a particular sector of the fintech industry – namely, payment services. In January 2017, the UAE Central Bank established a new licensing framework for stored value facilities offering certain digital payment services, which is due to be implemented by 1 January 2018. Currently, the licensing scope is uncertain, as a number of

implementing rules are required. For example, it is not entirely clear if these regulations cover all payment services providers, such as website payment gateways (acting purely as intermediaries between merchants and regulated credit card acquirers), or only those offering stored value facilities, such as issuing e-credits. However, a number of payment markets participants are currently engaging with the Central Bank's payment services and policy team, who have been receptive to hearing presentations from firms and working with them in order to understand if, and to what extent, the regulations apply. This phase appears to offer a real opportunity for payment services firms to meet Central Bank regulation in a way which works for their business.

In January 2017, the SCA announced an initiative to support fintech by eventually introducing its own regulatory sandbox in a manner which may also compete with the free zone initiatives. The SCA intends to "bring together fintech companies, companies that offer innovative financial services, financial institutions, and telecommunications and internet companies to test and launch modern technological initiatives in the securities sector." It is currently receiving suggestions from market participants on how best to achieve this objective, and has asked participants to set out the support which would be needed from the SCA. We do not have any further information on the nature of and timing for these regulations yet, but it is expected they could cover fintech in the securities sector, including the provision of automated investment services (robo-advice) and automation within securities exchanges, such as clearing and settlement services (to complement the recent regulations on central clearing parties).

### Crowdfunding

The DFSA has recently issued a new set of rules which apply to crowdfunding platforms wishing to operate in or from the DIFC. These rules are relatively comprehensive, and impose a significant set of requirements on crowdfunding operators in the DIFC. Under new "COB" rules, operators must include detailed disclosures of risks (such as expected failure rates) and 18 other core disclosures

on the platform, covering fitness and propriety tests for investments and analysis of business proposals for investment opportunities. Operators must also conduct pre and post-fundraising monitoring for material changes to business, and take steps to stop companies raising funds from other crowdfunders. There must also be no regulated and unregulated crowdfunding services by the same entity (which could limit the ability for campaigns to include non-equity benefits, such as first offerings of products). Business continuity plans are also needed and operators must ensure, on the debt side, loan agreements are legally enforceable. In addition, a separate retail endorsement is needed to offer the platform to non-institutional investors. There are also detailed provisions regarding disclosure requirements for companies raising funds.

Therefore, it remains to be seen if firms with limited resources and a small, albeit increasing, target market, will be able to comply with these requirements in a cost-effective way. One firm, Beehive, has already become regulated to operate a crowd-funding platform, with certain regulatory waivers granted by the DFSA.

While regulated status will certainly enhance the profiles of operators such as Beehive and their ability to attract fundraisers and investors, the alternative is a limited licensing regime onshore, where firms currently continue to operate largely unregulated. Certain crowdfunding activities could fall within the remit of the Central Bank and/or the SCA, and issuers of credit and securities using the platform will be subject to regulation (for example, the prohibition on UAE LLCs issuing shares to the public). 2017 regulations from the SCA restricting promotion and introducing activities in respect of securities could severely affect a number of operations. However, we have not seen evidence of prominent crowdfunding operations with licences from either the Central Bank or SCA. The lack of specific regulations/policy and gaps in the UAE regulatory perimeter (such as the Central bank not specifically regulating the intermediation, rather than the issuance, of credit/loans) could provide some comfort around a "tolerated practice", but rules may be tightened in the future. Rewards and charity-based fundraising could also

“The UAE Central Bank has created a new licensing regime for payment services and the DFSA has, in the DIFC, issued a comprehensive set of rules for operators of debt and equity crowd-funding platforms.”

“Both the DFSA and ADGM FRSA have issued statements on ICOs and we expect extensive scrutiny for firms seeking to use such methods of engaging investors in the financial free zones. Most recently, the Governor of the UAE Central Bank has warned investors of the risks of investing in unregulated virtual currencies ahead of expected new regulations.”

“Initial Coin Offerings (ICOs) are not specifically regulated “onshore” in the UAE, but are subject to certain licensing requirements where the units offer a right in an underlying commodity (in which trading does require a licence (gold has been an example applied to date in the UAE)).”

be restricted by laws regulating the raising of donations in the UAE.

## Payments

### Gateways and local banking partners

Partnership with local banks is a common platform for fintech firms in the Middle East, including the UAE, because of the limited number of credit card acquiring banks and the desire for local banks to digitise quickly and establish new channels to reach customers.

Depending on the result of regulatory engagement, partnering with a local bank can be an effective way to seek regulatory clarity by engaging in services which, as may be confirmed by the relevant regulator, rely upon the bank's licence for the relevant parts of the payments transaction chain and leave other aspects within the fintech firm's responsibility. For example, in most jurisdictions in the Middle East, the mere provision of software to enable an online payment gateway to operate between a merchant and acquiring bank would not be within the regulatory perimeter of the relevant central bank.

The Emirates Digital Wallet initiative, along with the introduction of ApplePay in the UAE, is also likely to drive the UAE further towards a cashless society for off-line payments.

## Stored value facilities

Certain firms have found the need to seek a licence in a relevant jurisdiction outside the Middle East to provide legitimacy for their operations and pave the way to obtaining local regulatory comfort through assurance on the standards applied.

One prominent example is CASHU, which provides stored value cards across the Middle East for those without a credit card and enables them to make online transactions. In 2016, CASHU became regulated under the stored value facilities licensing regime of the Monetary Authority of Singapore (MAS). This licence commits CASHU to creating a safer, more secure prepaid services market as a result of the adoption of new standards. The MAS regulatory framework also provides CASHU with the flexibility to work with local regulators across different territories.

However, other stored value providers have sought to structure around the regulatory hurdles. For example, using Beam Wallet, a mobile wallet app in the UAE, for certain transactions, users pay for “Beam Credits” at the point of sale, generated specifically for that purchase. This type of structure could permit Beam to avoid any stricter regulations which could apply to the issue of credit, by providing a service similar to selling a gift card for a specific merchant, as is common amongst retailers.

### AML considerations

Any payment services operation needs to be alert to the fact that, while a licence may not be required for operations, their activities remain financial in nature and require customer due diligence/KYC and oversight, from an anti-money laundering and counter-terrorism financing perspective, in many jurisdictions across the Middle East.

### Blockchain and crypto-currencies

Initial Coin Offerings (ICOs) are not specifically regulated “onshore” in the UAE, but are subject to certain licensing requirements where the units offer a right in an underlying commodity (in which trading does require a licence (gold has been an example applied to date in the UAE)). However, there has been some uncertainty as to whether the UAE Central Bank intends to regulate “virtual currencies” and specific regulations covering crypto-currencies are expected in the near future from the Central Bank, perhaps as part of implementing measures for the 2017 licensing framework expected later this year. The Central Bank may grapple with the same issues faced globally on the practicalities of trying to regulate crypto-currencies because of their dynamic and uncertain legal form, although it may instead focus on ICO elements which will fit within existing supervisory frameworks, such as the operation of an exchange.

In November 2016, the Supreme Legislation Committee for the Government of Dubai announced discussions on future legislation on crypto-currencies in cooperation with the Dubai Electronic Security Centre, which could result in there being specific Dubai



regulations in addition to those issued by the UAE Central Bank.

In the financial free zones, the DFSA has issued a warning statement to investors in respect of ICOs that such crypto-currency investments should be treated as high risk and with unique risks which may be difficult to identify. The DFSA clarified that, per onshore UAE regulations, it does not regulate ICOs and also that it would not license firms undertaking such activities.

In the ADGM, the FRSA has gone further and issued regulatory guidance to clarify for investors that whilst ICOs (or crypto-currencies) would not be regulated in themselves, elements of certain ICO offerings, which can include activities of operating an exchange, offering securities or units in a fund and dealing in derivatives, can fall within the regulatory perimeter. In such case, the activities would be regulated in the usual way. The FRSA also confirmed that many aspects of ICOs, including spot transactions in virtual currencies, may not be regulated activities and investors must be aware of the lack of regulatory oversight.

Most recently, the Governor of the UAE Central Bank has been reported in the local press to have said the Central Bank considers digital currencies pose high risks to investors and present money laundering risks. The comments may have sought to clarify that the Central Bank is not regulating a number of digital currency exchanges and ICOs marketed in the UAE.

### **Blockchain and smart contracts**

Dubai has embraced blockchain as a core element of the Smart City Initiative, both through the Dubai Blockchain Strategy and its support of the Global Blockchain Council. In common with approaches internationally, the use of blockchain in fintech is likely to be rolled out in a controlled environment initially.

Specific regulations covering crypto-currencies are expected in the near future from the Central Bank, perhaps as part of implementing measures for the 2017 licensing framework expected later this year. Such as those found in certain cross-border trade and settlement arrangements. From

a regulatory perspective, such matters will fall within existing systems and control requirements for financial institutions. The SCA-driven automation across exchange institutions in the UAE, through processes such as clearing and settlement, also has the potential to introduce this technology broadly across the industry.

We expect there to be a proliferation of smart contract opportunities in the near future through international developments, such as the R3 initiative in the derivatives space. Automated processes for contract formation and performance, through the electronic implication of standard terms and systems for operating standard processes being run on blockchain, may be taken up by international banks in their operations in the UAE, and by local banks that may be equally keen to optimise and adopt international approaches.

Automation in contracts will bring new challenges for UAE laws and regulations, particularly with regard to notarisation or Arabic translation requirements. Extensive testing will need to be built into the operation of such processes to ensure certainty in contractual engagement. The first generation of smart contracts is expected to largely involve contractual wrappers around automated systems rather than incorporating code into or as the contract terms. The UAE Law of Electronic Commerce and Transactions may be particularly helpful in matters such as execution and enforcement. There are provisions providing for the recognition of electronic contractual engagement, and which expressly recognise the ability of automated systems to create contractually binding engagements between each other. However, the exclusions within the Electronic Transactions Law may also present challenges. Currently, transactions for land, negotiable instruments and other matters which require legal notarisation (amongst others) are excluded from the operation of the law. Therefore, a broad class of transactions still require wet ink signature, contrary to the intentions behind many smart contract initiatives.

“Dubai has recently created emCash, the crypto-currency to be adopted by the Government of Dubai to permit fast and cheap digital transactions. This development reinforces the strong focus of Dubai on adopting technology and becoming the world’s “smartest” city.”

“ The Central Bank of Bahrain (CBB), the regulator for the financial sector, has launched a regulatory sandbox to test fintech solutions and is working with local players to develop innovative retail payment systems.

This enables both CBB-licensed financial institutions and other firms to test their products and services.”

## BAHRAIN

Bahrain is actively developing a fintech industry involving different governmental authorities. The Central Bank of Bahrain (CBB), the regulator for the financial sector, has launched a regulatory sandbox to test fintech solutions and is working with local players to develop innovative retail payment systems. Bahrain's Economic Development Board is focusing on attracting foreign investments in this sector.

### Regulatory sandbox

Following a public consultation process, the CBB launched a regulatory sandbox for fintech companies in Bahrain in June 2017, which was subsequently amended in August 2017. This enables both CBB-licensed financial institutions and other firms to test their products and services. The sandbox application process is open to existing CBB licensees (financial institutions with technologically innovative initiatives) and other companies, whether Bahraini or foreign. The latter may include financial sector companies as well as technology and telecom companies intending to test an innovative product or service; professional service firms which partner with, or service, financial institutions; or any other type of applicant working within the financial services industry deemed acceptable by the CBB. This sandbox is similar to initiatives in the UAE (see the chart on page 17).

### E-wallet initiative

The Benefit Company, a Bahraini provider of payment settlement services, has launched the National Mobile Electronic Wallet (BenefitPay), in a joint initiative with the CBB. This allows customers to use their smartphones to make or receive

payments without the use of credit or debit cards or cash. The system is still at an early stage of implementation; the intention is for it to be integrated with other payment infrastructures handling retail payments in Bahrain.

### Crowdfunding

Bahrain recently adopted an ad hoc regulatory framework for crowdfunding for conventional and Shari'a compliant markets. Requirements include:

- The operator of the crowdfunding platform must have minimum capital of BD50,000.
- Only small and medium-sized businesses with paid-up capital not exceeding BD250,000 can raise funds through the crowdfunding platform.
- Only expert and accredited investors (as defined in the relevant regulations) are allowed to provide financing through this platform. It is unavailable to retail investors, in light of the higher risks implicit in the activity.
- Quantitative limitations are also in place for, amongst other things, the maximum amount which can be borrowed by each borrower and the maximum exposure that each lender might have in relation to a single borrower.

The CBB has also put into public consultation proposed regulations for equity-based crowdfunding. In particular, the CBB is considering a regime of licensing offers for equity-based crowdfunding made through a registered crowdfunding platform as an alternative to equity offerings generally contemplated in securities regulations.

## EGYPT

There is a growing number of fintech startups in Egypt, driven by the Egyptian Government and the Central Bank of Egypt's (CBE) intention to upgrade payment systems and move towards a cashless economy. The most mature sector is the provision of payment services, mobile cash and smart wallets.

### Mobile wallets

In 2016, the CBE issued new regulations for cashless payments using smartphones. Only licensed banks can apply to provide mobile wallets and to act as an issuing bank to take cash deposits in exchange for issuing electronic money, but fintech startups can work in partnership with the banks to provide the necessary infrastructure and technology. These services are available to banked and unbanked customers and can be used to transfer money, pay telephone and other utility bills, and make donations. Mobile wallets are regarded as consumer-friendly and easily accessible.

### Payment services

Egypt has seen widespread growth in online payment gateway services as fintech companies act as payment

service providers for merchants. They facilitate cashless financial transactions between merchants and end-users/consumers and enable merchants to send, receive and manage financial data and send it to banks. Some of the online payment gateway providers offer card payment instalment plans to card users/holders on behalf of a bank which enable merchants to track and settle all transactions.

### Looking ahead

The Egyptian Government and the CBE are working closely with ministries and other governmental authorities to develop and encourage fintech companies to integrate into the financial system. In February 2017, the President issued legislation setting up the National Council for Payment. Its members include the President, the head of the CBE and the head of the Financial Supervisory Authority. Its role is to promote the move towards cashless payments. An e-commerce law has been under discussion, and a wave of financial regulatory reform to respond to the growth in digital credit lending and crowdfunding is expected to be introduced.

“The Egyptian Government and the Central Bank of Egypt are working closely with ministries and other governmental authorities to develop and encourage fintech companies to integrate into the financial system.”

“The Central Bank of Jordan is embedding fintech products into governmental services and the banking sector. This creates many opportunities for fintech companies to set up in the country.”

## JORDAN

Fintech in Jordan is in its infancy, but is slowly growing. Local firms are implementing systems to settle bills electronically and make payments through smartphones. Meanwhile, the Jordanian Government is seeking to reduce the amount of cash in circulation by digitising Jordanian money. It is actively encouraging the introduction of fintech in various public and private sectors in Jordan, and is pushing public and private entities to implement and apply fintech in their day-to-day services. The Central Bank of Jordan (CBJ) is embedding fintech products into governmental services and the banking sector. This creates many opportunities for fintech companies to set up in the country.

### Regulation

Under the Electronic Transactions Law 4, introduced in 2015, e-payment is an acceptable method of payment and electronic signatures are an acceptable means of concluding commercial transactions. The CBJ regulates e-payment and other forms of online payment services.

In anticipation of the rise of fintech in Jordan, the CBJ has gradually issued regulations and instructions for fintech providers and the use of fintech, particularly by local banks and financial services providers. A new regulation, which aims to regulate third-party payment processors, is due to be issued this year.

### Madfoo'atcom

To encourage Jordanians to start using electronic payments, the CBJ partnered with fintech company Madfoo'atcom and

launched eFAWATEER.com in 2015. This is an electronic bill presentation and payment system (EBPP). It is owned by the CBJ and managed and operated by Madfoo'atcom. It enables consumers to view and pay all types of bills electronically through local banking channels, including internet banking, ATMs and mobile banking.

The CBJ is overseeing the application of this system to ensure that all relevant parties are complying with its regulations. It requires all banks to use eFAWATEER.com as the only electronic means of allowing customers to view and pay their bills from their bank accounts.

The Jordanian Government wants all payments of governmental bills (including water, electricity, gas, fines and taxes) to be made through Madfoo'atcom by the end of 2017 as part of its vision to digitise Jordanian money.

### Mobile wallets

The majority of Jordanians do not have bank accounts and use cash to settle their bills and make payments. However, the CBJ aims to provide the “unbanked” with access to financial services, and has introduced an electronic mobile wallet that enables people to make payments from their mobile wallets to any other person with a mobile wallet. Mobile wallets can also be used to withdraw money from ATMs, pay bills and make person-to-person or person-to-merchant transfers. Customers do not need a smartphone or a bank account, and can open a mobile wallet at any local telecoms operator or its licensed agents.

## LEBANON

Fintech has had a significant impact on the Lebanese financial sector as local banks have introduced mobile and online banking, payment and deposit platforms and money transfer platforms.

The Banque du Liban (BDL) regulates electronic banking while the Capital Markets Authority (CMA) regulates crowdfunding. The Lebanese authorities are keen to develop fintech activity while ensuring financial security and stability, a balance which is not easy to maintain in the jurisdiction.

### Regulation

Specific BDL regulations from 2000 (Circular 69) cover all the operations and activities concluded, performed or promoted through electronic means by banks and other financial institutions; these require a specific licence. Circular 69 prohibits the issuance or use of “electronic money” by any party.

Circular 69 also prohibits the performance of banking operations via mobile and fixed electronic devices amongst customers of different banks, unless these operations are limited to the receipt of transfer requests from the customer, and provided that the operations are not instantly performed through the application or software used by the customer’s devices but in the usual and conventional way (i.e. through the SWIFT system adopted amongst banks).

Non-banking institutions can obtain a licence for electronic fund transfer operations. The requirements permit close and continuous monitoring by BDL of the ownership of the licensed institutions. BDL also requires that the institution be in possession of an efficient internal control system to face current and prospective risks, as well as an accounting system linked to the approved electronic transfer system (in a way that permits the electronic retrieval of all incoming and outgoing transfers).

BDL requires that, for the admission of an electronic signature of the client, the client

enters into an agreement with the institution which includes the likely risks associated with the e-signature and procedures to be followed to ensure safety.

### Crowdfunding

The CMA regulates crowdfunding as “any activity directed towards the general public aimed at funding [SME] or startup companies through public investments in various equities or shares in these companies.”

In order to obtain a crowdfunding licence, the CMA will conduct “Know Your Customer” verification and investigate relations between the crowdfunding operation (the institution) and the underlying companies. The institution must also demonstrate compliance with several systems and control requirements and provide documents on technical rules for its electronic systems.

Limiting the institution’s role to facilitating the process of securing the necessary crowdfunding for investment, the CMA prohibits it from providing advice of any kind to the investors or the company; receive deposits of any kind whatsoever; use the electronic platform to offer any financial products or derivatives to the public, other than equities and shares; or to trade, directly or indirectly, in equities and shares on the electronic platform designed to provide the crowdfunding service.

Before granting a company access to its electronic platform, the institution must ensure that the fundraising company submits corporate identification documents, audited financial statements, a feasibility study covering the period of the next three years, a term sheet to be presented to the investor identifying the basic terms of the investment, and an investment agreement to be signed with the investor. Placements shall be deposited in an escrow account to be released upon reaching the targeted capital, or otherwise returned to the investors with the accrued interest.

“Fintech has had a significant impact on the Lebanese financial sector as local banks have introduced mobile and online banking, payment and deposit platforms and money transfer platforms.”



“ To address the legal challenges and new opportunities created by the digital revolution, the Kuwaiti national assembly issued Law No. 20 of 2014 (Regarding Electronic Transactions) (the ET Law) in January 2015. ”

## KUWAIT

A small number of fintech startups are operating in Kuwait, mainly in the payments sector; to date, there have been limited regulatory developments. However, to address the legal challenges and new opportunities created by the digital revolution, the Kuwaiti national assembly issued Law No. 20 of 2014 (Regarding Electronic Transactions) (the ET Law) in January 2015.

The aim is to emulate traditional paper-based transaction processes in a regulated, efficient and secure digitised system. The ET Law governs electronic contractual agreements and electronic signatures, and covers electronic payments. Under the ET Law, no person is obligated to accept or approve electronic transactions without their consent. Consent may, in certain instances, be implied by the actions of individuals. However, consent and approval of electronic transactions must be explicit and unequivocal with regard to governmental entities and authorities.

### Electronic payments

Electronic payment is an acceptable payment method so long as it complies with the ET Law and the provisions set out by the Central Bank of Kuwait (CBK) in Law No. 32 of 1968 (the Banking Law). The ET Law also states that financial institutions carrying out electronic payments must ensure the safety and security of customer services and maintain banking confidentiality. The CBK is given the authority to issue instructions to banking and financial institutions under its jurisdiction in relation to the regulation of electronic payments.

### Electronic signatures

Under the ET Law, an electronic signature is binding and admissible as evidence if it complies with the provisions of Law Decree No. 39 of 1980 on Evidence in Civil and Commercial Matters, and is certified by an electronic certification entity approved by the local authority. The relevant authority will specify the standards required and set the technical specifications.

### Privacy and data protection

Personal data must be protected by both governmental authorities and non-governmental bodies, which are also required to take certain steps to ensure the confidentiality of such information. The ET Law also imposes responsibilities on entities that collect personal data. They may not disclose any personal data or information which is kept or documented on electronic data processing systems related to a person (including financial status) without the approval of the person to whom the data relates, or after obtaining a court order granting permission to disclose the information. On obtaining consent, entities responsible for the collection of personal data must ensure that the data is used for the purpose for which it has been collected, is correct and updated regularly, and is sufficiently protected from loss or disclosure. It is unclear, at this stage, whether “personal data” relates to individuals only or also extends to corporate entities.

## OMAN

The fintech sector continues to develop in the Sultanate of Oman. In line with consumer demand, financial institutions have taken a cautious but optimistic view towards fintech. While fintech has the potential to alter and grow the financial services sector in Oman, progress has been slow due to a lack of consumer awareness and confidence.

### Regulation

In the absence of specific fintech laws, existing legislation is applicable. This includes the Commercial Code of Oman, the Civil Transactions Law of Oman, Omani Banking Law, the Electronics Transactions Law (ETL), the Anti-Money Laundering and Terrorism Law (AML Law) and the Consumer Protection Law. Notwithstanding the possible application of these laws to fintech transactions, there is as yet no clear case law that provides clarity in terms of how a particular fintech transaction may be considered, as it is not expressly covered under the existing laws.

All fintech transactions are subject to the ETL, which governs all forms of electronic transaction. Any act or contract drawn up, fully or partially, using electronic information communicated via electronic means is an "electronic transaction" under the ETL.

This, therefore, means that fintech transactions such as payments made through the use of apps or e-wallets, would be subject to the ETL. The ETL requires all electronic transactions to follow certain evidentiary and authentication standards and security measures. It also places a requirement on the Information Technology Authority, in collaboration with the Central Bank of Oman, to issue procedures and systems for organising electronic payments.

The AML Law also has implications for fintech institutions in that it sets out certain procedures which must be followed by financial institutions in all their transactions (including fintech transactions) to prevent money laundering and terrorism financing.

Finally, any services provided by financial institutions (including transactions implemented using fintech) will also be subject to the Consumer Protection Law, which sets down rules designed to balance the respective rights and obligations of consumers and their suppliers with an appropriate allocation of any risks. While aspects of fintech are regulated by these general laws, there is a need for a comprehensive regime which governs fintech in Oman. There is no indication that a regulatory initiative for the fintech sector is on the horizon.

“Any services provided by financial institutions (including transactions implemented using fintech) will also be subject to the Consumer Protection Law, which sets down rules designed to balance the respective rights and obligations of consumers and their suppliers with an appropriate allocation of any risks.”

“Based on economics and demographics, Saudi Arabia has the potential to be a future fintech hub. Saudi Arabia is the largest economy in the MENA region and has a large, young population (about half are under the age of 24) and one of the highest penetrations of smartphones in the world (65 per cent).”

## SAUDI ARABIA

Based on economics and demographics, Saudi Arabia has the potential to be a future fintech hub. Saudi Arabia is the largest economy in the MENA region and has a large, young population (about half are under the age of 24) and one of the highest penetrations of smartphones in the world (65 per cent). It is also generally accepting of new technologies and innovative ways of doing business. Saudi Arabia's "Vision 2030" and the National Transformation Program 2020 were launched in 2016, and are intended to set out the blueprint for the development of the Kingdom over the next decade. One of the key aims of Vision 2030 and the National Transformation Program 2020 is to reduce Saudi Arabia's reliance on oil by developing other sectors of its economy. Technology is at the heart of this strategy.

### Sadad

The Saudi Arabian Monetary Agency (SAMA) is very conscious of the need to adopt fintech initiatives. "Sadad" – the national (and widely used) Electronic Bill Presentment and Payment (EBPP) system – was established by SAMA in 2004. It aims to facilitate and streamline bill payment transactions between consumers and merchants, and between consumers.

### Global ambitions

One important element of Saudi Arabia's fintech ambitions is its willingness to invest in fintech ventures throughout the world. The principal vehicle for these investments is the Public Investment Fund (PIF), which was relaunched as part of Vision 2030 as the world's largest sovereign wealth fund. One of the PIF's flagship investments was its 2017 investment in the US\$100 billion "Softbank Vision Fund" established by Softbank. This Fund is likely to be a key

investor in the fintech space for years to come, as typified by Softbank's US\$1 billion investment in US financial technology startup SoFi in 2015 and its US\$1.4 billion investment in Indian fintech company PayTM in 2017.

### Future initiatives

Vision 2030 recognises that small and medium-sized businesses are key to the development of the fintech sector. In 2016, the Small and Medium Enterprises Authority was set up with the aim of encouraging young entrepreneurs through business-friendly regulations, easier access to funding, international partnerships and a greater share of national procurement and government bids.

Another important element of Saudi Arabia's fintech ambitions is the King Abdullah Financial District, a massive new business area in the heart of Riyadh which is almost complete. It is expected that fintech will be at the heart of the new district, as is the case in its regional competitors, Dubai's DIFC and Abu Dhabi's ADGM.

It is also expected that there will be regulatory initiatives in the fintech sector that will enable and encourage further developments. We understand there are plans in discussion between SAMA and The Saudi Capital Markets Authority (the CMA) to create a regulatory sandbox, initially for incumbent firms, to promote fintech innovation in Saudi Arabia in the coming years.

It is therefore clear that there is a willingness and ambition to embrace the fintech sector, as well as the economic and social fundamentals to facilitate its expansion.

As noted above, the following table provides some background and comparisons on what the three formal fintech sandboxes in the Middle East are, and their features.

Middle East fintech sandbox comparisons			
	ADGM Free Zone	DIFC Free Zone	Bahrain
<b>Fintech initiative</b>	<p>The RegLab, created in 2016, applies a bespoke regulatory regime to each applicant agreed with the ADGM Financial Services Regulatory Authority (FSRA). The FSRA reviews applications and determines, in conjunction with the applicant, which existing rules apply and which are waived and/or modified in relation to that particular applicant. The FSRA also imposes a set of restrictions or conditions specific to the applicant's proposed activity. The RegLab offers a 'Developing Financial Technology Services' (DFTS) licence to fintech startups for a limited time, after which they either need to upgrade to a full licence or wind down their activities.</p>	<p>The DIFC announced its FinTech Hive initiative in January 2017. The DFSA offers an Innovation Testing Licence (ITL) which is similar to ADGM's RegLab, as a licensee is allowed to test its fintech product within a sandbox environment subject to a bespoke regulatory regime for a period of six to 12 months.</p> <p>Both the ADGM RegLab and the FinTech Hive follow an incubator model, which provides fintech entrepreneurs with sufficient freedom to develop and test fintech projects while balancing the risk they pose to the financial system.</p>	<p>Following a public consultation process, the CBB launched a regulatory sandbox for fintech companies in Bahrain in June 2017. This enables both CBB-licensed financial institutions and other firms to test their products and services. Certain regulatory requirements would be relaxed during the testing period (not including matters such as AML rules).</p> <p>Following admission to the sandbox, testing the technology in a controlled environment can begin. The testing may be limited in terms of the number of volunteer customers and/or the net value amount of transactions (to be decided by the CBB on a case-by-case basis).</p>
<b>Support available</b>	<p>Access to co-working space, established financial institutions and investors through the network of collaborators, (see below), and a bench of mentors to support the Abu Dhabi fintech ecosystem, who are drawn from various stakeholders including professional services firms in the UAE.</p>	<p>A similar support network to the ADGM would be provided, including mentorship from its network with insider knowledge and feedback from targeted user groups in the DIFC, workshops and panel discussions, and profile-raising opportunities with potential partners and investors. A workspace in the DIFC for two employees is provided throughout the programme.</p>	<p>Access to the virtual working space. Assignment by the CBB of a contact person to each of the Applicants to guide them through the application and testing process. Government agencies such as Tamkeen facilitate the setting up of businesses, with technical back-up, fully-funded training and salary subsidies.</p>
<b>Licensing period</b>	<p>Up to two years (extendable).</p>	<p>Six to 12 months (extendable).</p>	<p>The sandbox trial lasts for nine months with a maximum extension of three months.</p>
<b>Current activity</b>	<p>In May 2017, the ADGM announced the admission of the first cohort of five applicants to its RegLab, including two local UAE companies providing mobile banking technology for low-income migrant workers, an automated escrow service to cater to small businesses, and a US robo-advisory platform. Applications for the second round of firms closed on 14 August 2017. Currently, 22 fintech startups are being reviewed.</p>	<p>The FinTech Hive accepted applicants from 17 April 2017 until 28 May 2017, and on 21 August announced 11 finalists from the UAE and across the world selected for the programme, covering a broad range of sectors from payments and crowdfunding to regtech and robo-advisory platforms. The programme will culminate in a demonstrations day in November 2017, where finalists will present their solutions to an audience of venture capitalists and financial industry executives.</p>	<p>On September 7, 2017 the CBB announced the first two entrants into its fintech regulatory sandbox: a London-based foreign exchange cash management solution for businesses; and a Dubai-based account and remittance service for low-income workers in the Gulf Cooperation Council countries.</p>

Middle East fintech sandbox comparisons			
	ADGM Free Zone	DIFC Free Zone	Bahrain
<b>Applicants</b>	To be licensed, firms must be ready for either a live test or an enhancement of an existing operation. Established fintech startups cannot apply.	Applicants must have a business model, product or service that uses new, emerging or existing technology in an innovative way, and brings new benefits to consumers or industry. DFSA-licensed firms can apply for modifications and waivers of their licence to conduct the testing of new fintech products and services. Applicants must have a well-defined prototype or service implemented in at least one market, and be looking to grow in the MEASA region.	The sandbox application process is open to existing CBB licensees (financial institutions with technologically innovative initiatives) and other companies, whether Bahraini or foreign. The latter may include financial sector companies as well as technology and telecom companies intending to test an innovative product or service; professional service firms which partner with, or service, financial institutions; or any other type of applicant working within the financial services industry deemed acceptable by the CBB.
<b>Application Requirements</b>	<p>Prospective applicants would first meet with the ADGM RegLab Team to explain the proposal and seek guidance for the application process. A detailed application form would then be required including information on the Applicant's resources, experience and track record, a fit and proper questionnaire, details of the fintech proposal, CVs, and structure and organisational charts.</p> <p>The ADGM notes its RegLab as a "onestop shop" for applications, linking into its FRSA.</p> <p>DFTS applicants also must establish a commercial presence in the ADGM, pass certain fitness and propriety tests, and sign up to milestones and a reporting schedule over a two-year period (after which applicants are expected to either apply for a full FRSA licence or wind down).</p> <p>A standard application template is available.</p>	<p>The application process would be broadly similar to the ADGM. However, applicants may experience a process of engaging with the DIFC fintech team and separate engagement with the DFSA.</p> <p>The FinTech Hive notes applicants should have a minimum alpha or beta product to demonstrate and are prepared to share access to programme partners under a confidentiality agreement.</p> <p>The applicant's senior management team and developer would commit to being based in Dubai throughout the 12-week programme.</p> <p>Applications for the 2017 programme are now closed.</p>	<p>The application shall include, amongst others, the following content:</p> <ul style="list-style-type: none"> <li>• A brief description of the applicant organisation, including its financial standing, technical and business domain expertise.</li> <li>• A brief description of the financial service to be experimented on in the sandbox.</li> <li>• A description of how the applicant has met the eligibility criteria, relating to innovation, customer benefit and technical soundness, with supporting evidence.</li> <li>• A disclosure of the boundary conditions for the sandbox such as start and end dates, target customer types, customer limits, transaction thresholds, cash holding limits, and so on.</li> </ul> <p>A standard application template is available.</p>



Middle East fintech sandbox comparisons			
	ADGM Free Zone	DIFC Free Zone	Bahrain
<b>Fintech collaborations</b>	<p>The ADGM has been quick to set up several networks for international resources and cooperation to ensure it is providing the know-how, talent and capability necessary to support the entrepreneurs and developers within its RegLab. For example, in March 2017 it signed an MoU with MAS in Singapore to work together on fintech initiatives; in May 2017 joined the R3 consortium on distributed ledger technology (blockchain); in June 2017 signed an MoU with Techpreneur Africa to accelerate the development of fintech across the Middle East and Africa; in July 2017 announced an MoU with the Qianhai Authority in Hong Kong for the promotion of investment and cooperation in fintech, and in August 2017 announced a fintech cooperation agreement with the Australian Securities and Investments Commission. There are many others.</p>	<p>As well as establishing its own international cooperation agreements, such as with the SFC in Hong Kong in August and, most recently, the Malaysian Securities Commission, the DIFC will be able to leverage its existing network of international MoUs and DFSA-licensed financial institutions. In particular, it has announced a fintech partnership network which “brings together local, regional and international financial experts and institutions, to help identify the needs and opportunities of the financial services sector”.</p> <p>The international banks directly involved in the FinTech Hive include Citi, HSBC and Standard Chartered, and UAE banks Emirates NBD, RAKBANK and Mashreq. The DIFC has also joined various international associations, such as the Global Blockchain Council, and sought to cross-integrate with other initiatives such as its support of Islamic finance.</p>	<p>The Bahrain Economic Development Board (EDB), fintech incubator and ecosystem builder Singapore Fintech Consortium (SFC) and a Dubai-based asset management and advisory firm have partnered to develop a fintech (financial technology) ecosystem and regulatory framework for Bahrain. The framework role is part of a wider partnership collaboration that aims to transform Bahrain into the region’s fintech powerhouse.</p> <p>The agreement has been announced as including support in developing related commercial and legal infrastructure required to initiate, nurture and sustain Bahrain’s fintech ecosystem. It aims to pave the way for increased interaction between fintech firms in the Middle East via Bahrain, and those in Asia via Singapore, and to facilitate the entry of Singaporean fintech companies into the Kingdom.</p> <p>Other initiatives under consideration include a dedicated fintech hub, an incubator/accelerator platform, and fintech-focused venture capital.</p>

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