

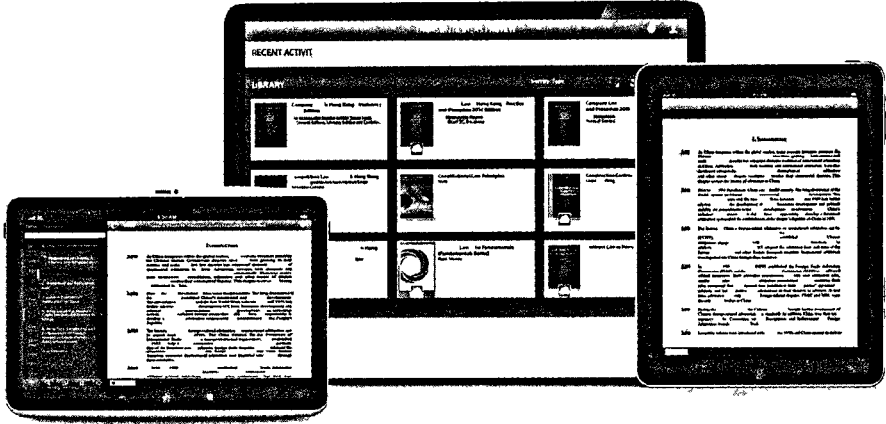
THE LIFE AND LAW OF **FINTECH**

Mohamed Ridza Mohamed Abdullah



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The Life and Law of FinTech

Dedicated to my parents

My father, late Hj Mohamed Abdulla bin Abdul Rahim

and


Mak, Puan Hjh Jamilah bte Dato A.S. Dawood

The Life and Law of FinTech

Mohamed Ridza Mohamed Abdullah

Jg. Berbahagia Tun Dr. Mahathir,

Semoga sentosa di dalam peliharaan
Allah s.w.t. . Terusakan perjuangan yang
masih belum selesai.


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Preface

A lot has been said about Financial Technology or FinTech recently. But did anyone realise that it actually began 65 years ago when credit cards were created in the 1950s followed by ATMs in the 1960s to replace bank tellers and branches? Then the internet flourished and the industry witnessed more sophisticated trade processing, as well as remittance systems and data analysis which many describe as something disruptive. Mobile wallets, payment apps, online lending and equity crowdfunding stormed the financial business and started to threaten the very existence of banks.

Is it disruptive? Not really. I see it as something which is changing the horizon of doing business. FinTech is not to replace banks but to create efficiency and innovation. As a practising lawyer and a board member of a bank and a listed technology company, I cannot but not ignore the advent of FinTech and the legal consequences arising from it which have culminated in the idea of writing this book.

I believe there are some references on FinTech generally but not a specific book on the law of FinTech covering not just Malaysia but other jurisdictions as well globally. I have combined the legal, business and operational aspects of FinTech covering several pieces of legislation from Malaysia, namely the Capital Markets and Services Act 2007, Securities Commission Malaysia guidelines, Central Bank legislation, Financial Services Act 2013, Islamic Financial Services Act 2013, Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001 (AMLA), Companies Act 2016 and Contracts Act 1950, and also legislation from Asia, Europe and the United States.

I begin the book on a history lesson of finance to where it is today with FinTech making inroads into the financial industry via technology in Chapter 1. In Chapters 2 and 3, I discuss at length the legal and operational aspects of banking and finance, and then move on to capital markets and issues relating to money laundering in Chapter 4.

Mergers and acquisitions and corporate law are tackled in Chapter 5 by providing instances of FinTech acquisitions coupled with a lesson on takeovers and due diligence. With my background in Islamic finance, I deal with takaful insurance, Islamic FinTech and e-waqf in Chapters 6, 8 and 9. The technical aspects of digital banking are discussed in Chapter 7. I then move on to cyber security in Chapter 10 and conclude the book with Chapter 11 on internet of things and smart contracts, analysing at length their legal implications and solutions moving forward.

The law is stated as at October 1, 2017.

Mohamed Ridza Mohamed Abdullah

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A big thank you to my teachers at St. Paul’s Institution Seremban, Sekolah Alam Shah Kuala Lumpur and the International Islamic University Malaysia, for giving me a first class education. To my friends and clients, thank you for your support throughout the years.

To my family, my dear wife, Rozen and my two children Akhlil and Farahida, you are my source of courage and inspiration. To Almighty Allah, thank you for all your blessings and for granting me and my sisters, Suhailah and Naseem, the best parents a child could hope for: my late father, Hj Mohamed Abdulla bin Abdul Rahim and my mother, Puan Hjh Jamilah bte Dato A.S. Dawood. This book is dedicated to both of them.

as the group legal adviser where he was instrumental in setting up the legal department of the Amcorp Group of Companies. Ridza left Arab Malaysian to become the General Legal Counsel of Technip Asia Pacific based in Kuala Lumpur and was at one time attached at Technip headquarters in Paris, France. Prior to setting up his own firm, Ridza was a partner and was head of his division at Zaid Ibrahim & Co.

Besides his extensive participation in local and international conferences involving corporate and finance matters, Ridza has also been involved in many groundbreaking and landmark transactions in Malaysia, Indonesia, Singapore, Brunei, Thailand, China, the Middle East and Europe.

He currently sits as an independent director on the board of an Islamic bank and as a senior independent director on the board of a listed technology company. He is a member of the Audit & Examination Committee of both companies.

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Financial technology (FinTech) is a marriage of sorts between the financial services and technology sectors. It leverages on technology to innovate the delivery of products and services traditionally offered by financial institutions. This book covers this nascent area with both local and international perspectives. As the law on this subject is still developing, the author approaches the subject in a unique way combining the legal, business and operational aspects of FinTech, providing readers with comprehensive knowledge of FinTech.

The author takes the reader on a journey through the realm of finance covering both Islamic and conventional banking with an explanation of its history and an analysis of the applicable legislation and guidelines of Malaysia and those of other jurisdictions.

Leaving no stone unturned, the book starts off with a history lesson of finance and proceeds to where it is today with FinTech making inroads into the financial industry via technology. It then discusses at length on the legal and operational aspects of banking and finance and moves on to capital markets and issues relating to money laundering. Mergers and acquisitions and corporate law are tackled by providing instances of FinTech acquisitions coupled with a lesson on takeovers and due diligence. The book also covers the technical aspects of digital banking in several jurisdictions. Leveraging on the author's deep experience of Islamic finance, the book provides useful explanation on takaful insurance, Islamic FinTech and e-Waqf. The thorny issue of cyber security is addressed through an analysis of several pieces of legislation relevant to it. The book ends with a chapter on the internet of things and smart contracts with a detailed analysis of its legal implications and solutions moving forward.

This book is suitable for stakeholders in the financial industry ranging from directors, bankers, business owners, technology providers, lawyers and company secretaries, as well as students of law, technology, finance and business studies. It is a must-read for those wanting to know about FinTech!



Mohamed Ridza Mohamed Abdullah is the Managing Partner of Mohamed Ridza & Co, a Legal 500 firm, and has been involved in many groundbreaking and landmark transactions in Malaysia and overseas. An avid writer with several publications to his name, Ridza has also participated extensively in local and international conferences involving corporate and finance matters. He currently sits as an independent director on the board of an Islamic bank and as a senior independent director on the board of a listed technology company. He is a member of the Audit & Examination Committee of both companies.

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