

AGENDA



SUBJECT
T **E-Commerce Advisory Committee**

MEETING NO: 3 / 2018

DATE: 29 October 2018 **TIME:** 10:00-13:00 **VENUE:** Crocodile Room, FSCA Pretoria

MEMBERS	Chairperson	Apologies	BY Invitation
Mr L Balakrishna (SARB)	Dr BJE Taute (Private)		FSCA
Dr A Ismail (SARB – Fintech Unit)			Mr G Anderson
Prof S Eiselen (Unisa)	Secretariat:		Mr G Beyl
Ms K Gibson (FSCA)	Mr Shimane Tshetlhane		
Mr JM Judin (Judin Combrinck Inc)	Enquiries:		
Adv Nkateko Nkhwashu (BASA - Alt)	(012) 422 2870		
Mr S Kumkani (DTI)	Adv S Robbertse (DoJ & CS)		
Mr C Malan (FIC)	Ms M Mahura (SARS)		
Ms T Mabuza (NCC)	Mr P Coetzee (PASA)		
Mr L Mathiane (National Gambling Board)	Mr W Volker (PASA)		
Adv P Louw (NPA)	Mr S Rayfield (SARB)		
Ms P Legoze (DTPS)	Ms V Letsiri (ICASA)		
Mr T Loate (E-Commerce Working Group of DTPS and EFA)	Mr J Van Tonder (ASISA)		
Brig. NT Pieterse (SAPS)	Mr E Jooste (ASISA)		
Ms S Potgieter (SABRIC)	Mr A Wiltz (DTPS)		
	Mr A Tempest (EFA)		

Objective:

The main objective of the E-Commerce Advisory Committee is to serve as an advisory forum to Government on matters relating to ICT in the Financial Services Industry.

ITEM	ACTION REQUIRED	PRESENTER	FO LIO
1. OPENING AND PROCEDURES			
1.1. Welcome		Chairperson	
1.2. Apologies		Secretariat	
1.3. Adoption of agenda		All	
1.4. Approval of the minutes: 22 August 2018		All	4
1.5. Conflict of Interest declaration (if relevant)		All	
1.6. Matters arising will be dealt with in each section		All	
2. GENERAL and MEMBERSHIP MATTERS			
2.1. Membership matters: DTI	Feedback	Mr Anderson	
2.2. Open discussion – the ECAC name, scope, ecosystem	Discussion	Chairperson	

3. LEGISLATIVE MATTERS			
3.1. Protection of Personal Information Act	Feedback	Prof Eiselen	
3.2. Protection of State Information Bill	Feedback	Prof Eiselen	
3.3. Identity Management	Feedback	Prof Eiselen	
3.4. National Cybersecurity Policy Framework and its implementation, including Cybersecurity Hub	Feedback	DTPS	
3.5. Cybercrimes and Cybersecurity Bill	Status update	Adv Robberste	
3.6. Statistics in respect of commercial/cybercrime cases	Feedback	Adv Louw, NPA	
3.7. Status of the ECT Amendment Bill	Feedback	Mr Wiltz	
3.8. Customs Control Act and Customs Duty Act – electronic transferrable records	Status update	SARS/Prof Eiselen	
3.9. SADC Model Law on e-Commerce Matters	Status update	Adv Louw	
3.10. National Gambling Act – legislative toolkit, assistance	Feedback	Mr Mathiane	
3.11. Border Management Authority – legislation, implementation	Feedback	Chairperson	
3.12. Financial Intelligence Centre Amendment Act	Feedback	NT/FIC	
3.13. New topics for consultation, research, monitoring or recommendation including international legislative developments w.r.t cybercrime and e-commerce	Discussion	Prof Eiselen, DTPS, FSCA, NPA, ICASA	
4. REGULATORY MATTERS			
4.1. National Integrated ICT Policy White Paper – next steps, review of e-commerce policy recommendations and DTPS WG	Feedback	DTPS, Mr Loate	
4.2. New topics for consultation, research, monitoring, or recommendation	Discussion	FSCA, DoC, FIC, ICASA, SARB	
5. ICT MATTERS			
5.1. Electronic Deeds	Feedback	Prof Eiselen	
5.2. Presentation on income tax on the cryptocurrency matters	Presentation	SARS	
5.3. New topics for consultation, research, monitoring, or recommendation including ICT and Fintech risk and opportunities for e-commerce	Open Discussion	FSCA, SARB Fintech Unit	
6. FINANCIAL SERVICES INDUSTRY MATTERS			
6.1. Twin Peaks Regulatory model – FSCA Strategy	Info sharing	FSCA	
6.2. Financial stability, access and inclusion	Update	NT/ FSCA/SARB/ PASA /EFA	
6.3. New topics for consultation, research, monitoring, or recommendation	Discussion Information	FSCA, NT, PASA, EFA	

7. INTERNATIONAL CONVENTIONS			
7.1. International conventions on e-commerce, cybercrime: AU Convention and BRICS dialogue	Feedback	Prof Eiselen, DTPS, SAPS, NPA	
7.2. New topics for consultation, research, monitoring, or recommendation	Discussion	Ms Potgieter, Brig Pieterse, Adv Louw	
8. GOVERNANCE MATTERS			
8.1. Governance Matters	Feedback	Mr Judin	
8.2. New topics for consultation, research, monitoring, or recommendation	Discussion	Mr Judin/FSCA	
9. CONSUMER PROTECTION & EDUCATION MATTERS			
9.1. Consumer awareness, education and protection initiatives	Discussion	NCC, SAPS, SABRIC, DTPS	
10. Closure and Date of Next Meeting: 20 February 2019			



**MINUTES OF THE E-COMMERCE ADVISORY COMMITTEE MEETING
HELD ON 22 AUGUST 2018 AT 10:00 IN THE CROCODILE ROOM,
GROUND FLOOR, RIVERWALK OFFICE PARK, BLOCK B,
41 MATROOSBERG ROAD, ASHLEA GARDENS, EXTENSION 6, PRETORIA**

PRESENT : Dr BJE Taute (Chairperson)
 Mr G Anderson (FSCA)
 Mr P Coetzee (PASA)
 Mr J Buitendag
 Prof S Eiselen (UNISA)
 Mr JM Judin (Judin Combrinck Inc.)
 Mr T Loate (E-Commerce Working Group of DTPS)
 Ms V Letsiri (ICASA)
 Ms M Mahura (SARS)
 Ms T Mabuza (NCC)
 Mr S Rayfield (SARB)
 Mr J Van Tonder (ASISA) (Tele-conference)
 Mr E Jooste (ASISA) (Tele-conference)

BY INVITATION:

SECRETARIAT: Mr Shimane Tshetlhane

APOLOGIES: Dr A Ismail (SARB-Fintech Unit)
 Adv. L Balakrishna (SARB)
 Ms K Gibson (FSCA)
 Mr C Malan (FIC)
 Adv P Louw (NPA)
 Mr L Mathiane (National Gambling Board)
 Adv S Robbertse (DoJ & CD)
 Mr W Volker (PASA)
 Brig N.T. Pieterse (SAPS)
 Ms S Potgieter (SABRIC)
 Mr A Tempest (EFA)
 Mr A Wiltz (DTPS)

1 OPENING OF PROCEEDINGS

1.1 Welcome

- 1.1.1 The Chairperson declared the meeting duly constituted. He opened the meeting officially and welcomed all present.
- 1.1.2 The Chairperson submitted that the E-Commerce Advisory Committee should in future discuss the whole eco-system/diagram of e-commerce industry in the country in an effort to ensure that it complies with the national strategic plan in an integrated manner (mitigate the silo approach), align its mandate to the national agenda and also involves all the role players in the strategic discussions.
- 1.1.3 Furthermore, it was agreed that the Committee should engage with the FSCA Commissioner and the National Treasury to discuss possible realignment of the E-Commerce Advisory Committee mandate and be transformed into a Digital Advisory Committee by virtue of the fact that its mandate is beyond e-commerce in order to comply with global trends. Based on the outcome of the discussions with the FSCA Commissioner, the terms of reference should also be reviewed accordingly.
- 1.1.4 The Committee was also of the view that the National Treasury (Minister of Finance) should be engaged to indicate whether the E-Commerce Advisory Committee was still adding value to the national dialogue and whether there was still need for its continuance based on the regulatory reforms in the financial services industry. Also to discuss mechanisms of improving the ways that the Committee was still adding value to the national dialogue.
- 1.1.5 The Committee suggested that a formal invite should be send to the Minister of Finance or/and the Director-General to periodically attend the E-Commerce Advisory Committee meetings for purposes of inclusive governance and to follow the deliberations particularly in the new FSCA.

Chairperson/FSCA

1.2 Apologies

- 1.2.1 The apologies tendered as per the attendance list were NOTED.

1.3 Adoption of the agenda

- 1.3.1 The agenda was ADOPTED as circulated.

1.4 Approval of the previous minutes: 21 February 2018

- 1.4.1 The minutes of the ECAC meeting held on 21 February 2018 were considered and APPROVED as a true record of the proceedings. The Chairperson indicated that the background information in the minutes will be updated in future and committee members will be requested to make inputs in their respective work areas.

1.5 Conflict of interest declaration

- 1.5.1 Committee members were requested to declare conflicts of interest in respect of the matters to be considered in the agenda. There were no conflicts of interest declared.

1.6 Matters arising: 21 February 2018

- 1.6.1 The matters arising from the ECAC meeting held on 21 February 2018 were considered and dealt with in each section.

2 GENERAL AND MEMBERSHIP MATTERS

2.1 Membership matters: Department of Trade & Industry

- 2.1.1 The Committee **agreed** that the Secretariat should follow up with Department of Trade & Industry with regard to appointment of a replacement on the E-Commerce Advisory Committee due to the resignation of Mr Andisa Potwana.

Secretariat

3 LEGISLATIVE MATTERS

3.1 Protection of Personal Information Act "POPI"

- 3.1.1 The Protection of Personal Information Act which will extensively regulate the processing of personal information of individuals and juristic entities was promulgated during April 2014. Furthermore, some sections of the Act in relation to the establishment of the Information Regulator and the powers of the Minister of Justice and Correctional Services to issue regulations are currently being implemented by the Minister. The Regulator had launched a website at www.justice.gov.za/infoereg
- 3.1.2 Previously, it was reported that the following incumbents were appointed as members of the Information Regulator: Adv Pansy Tlakula (Chairperson), Adv Lebogang Stroom-Nzama, Adv Collen Weapond, Prof Tana Pistorius and Mr Sizwe Snail ka Mtuze.

3.1.3 Further that the Information Regulator has particularly asked for comment on the development of more detailed rules concerning the processing of personal information concerning a data subject's health by insurance companies, medical schemes, medical scheme administrators and managed healthcare organisations; and administrative bodies, pension funds, employers or institutions working for them. It was also reported in the press on 15 February 2018 that public comments have been incorporated in the draft regulations. It has to be sent to the Department of Justice's State Law Adviser to ensure they are constitutional. The Information Regulator had previously indicated that they aim to table the regulations in Parliament during April 2018.

3.1.4 Professor Eiselen tabled the following implementation roadmap in respect of the Strategic Goals of the Act:

- Public awareness and understanding of their rights
- Conducive legislative, policy and technological environment to promote protection – make regulations, guidelines, Codes of Conduct
- Informed and cooperative stakeholders
- Informed stakeholders and cooperative relationships
- Resolving of complaints
- Alignment of national legislation with international best practice.

Implementation:

- Regulations submitted for constitutional vetting 1st quarter – 2018/19 year
- Office of the Chief State Law Adviser (OCSLA) input incorporated 2nd quarter
- Regulations tabled in Parliament 3rd quarter
- Implementation 4th quarter
- Development of draft Guidelines – 1st semester
- Consultation on draft Guidelines – 2nd semester

3.1.5 Impact on e-commerce: The Act will have enormous impact on the banking industry and business sector in dealing with the collection, protection, processing, sharing and archiving of personal information. Financial institutions, service providers and retailers will need to implement sufficient security measures to protect personal information in their possession and will need to ensure that such personal information is only used for its intended purpose.

3.1.6 The Committee **agreed** that Professor Eiselen should give feedback on implementation of the Protection of Personal Information Act as and when there are new developments.

Professor Eiselen

3.2 Protection of State Information Bill “Secrecy Bill”

- 3.2.1 The Protection of State Information Bill is aimed at protection of certain state information from alteration, loss, destruction and unlawful disclosure, and to regulate the manner in which state information may be protected. The final Bill was adopted by the National Assembly in November 2013 but the Bill has not been promulgated yet. It was reported that the Bill remains still in the office of the State President for assent. It is envisaged that in the new era of openness, there will be further new developments on the matter. It is anticipated that there would be a possible amendment to the Bill or otherwise it remains in the State President’s office. It was further indicated that this particular Bill may make law enforcement more difficult. The advice to take is that this Bill still seems to be government’s new strategy and/or policy.
- 3.2.2 Impact on e-commerce: The Act will guide government entities, business and the public in dealing with the collection, protection, processing, sharing and archiving of confidential state information. The Act will also impact on the availability of potential state information for the investigation of cyber-crime and fraud. There were no developments on the matter since 2013.
- 3.2.3 The Committee **agreed** that Professor Eiselen should give feedback on the Protection of State Information Bill as and when there are new developments.

Professor Eiselen

3.3 Identity Management (IdM)

- 3.3.1 The overall goal of the proposed work on IdM should be to promote trade, especially across borders, by removing legal obstacles to mutual recognition of IdM systems and trust services. It was also suggested that future work should take into account that cooperation between private and public entities in the delivery of IdM services was common and could take place in different forms.
- 3.3.2 It was reported that the current Working Group IV of UNCITRAL was tasked with developing a legislative instrument for international use in respect of identity management. The Working Group IV of UNCITRAL last met in April 2017 and will meet again during 2018. There was a recommendation to be made to the Minister to the effect that South Africa should also be represented in the Working Group as observers with full participation and discussions in that regard are still ongoing.
- 3.3.3 Professor Eiselen tabled the following report in respect of the UNCITRAL Identity management. The Committee agreed on the following structure for the work:
- General principles
 - Definitions
 - Mutual recognition requirements and mechanisms
 - Certification of IdM and trust service schemes

- Levels of assurance for IdM and trust services
- Liability
- Institutional cooperation mechanisms
- Transparency
- No new obligation to identify
- Data retention and Supervision of service providers

3.3.4 Impact on e-commerce: The pervasive requirement for Identity Management in e-commerce highlights the need for guidelines on mechanisms to protect privacy and provide access to personal records and accounts only under exceptional circumstances.

3.3.5 The Committee **agreed** that Professor Eiselen should give feedback on the Identity Management matter as and when there are new developments.

Professor Eiselen

3.4 National Cybersecurity Policy Framework (NCPF) and its implementation, including Cybersecurity Hub

3.4.1 As a background to the matter, the National Cybersecurity Policy Framework (NCPF) which is part of the National Security Strategy under the auspices of the State Security Agency was developed to ensure a focused and an all-embracing national safety and security response in respect of the cyber security environment. The policy framework was presented to the JCPS Cluster and thereafter approved by the Cabinet during 2012. A public version of the Policy was gazetted in December 2015.

3.4.2 Feedback regarding NCPF implementation: The SAPS is currently working on a comprehensive Cybercrime Strategy and establishing a cybercrime centre.

3.4.3 **Cybersecurity Hub** – The DTSPS had launched the Cybersecurity Hub (Hub) during October 2015. The Hub had subsequently launched a revamped website at www.cybersecurityhub.gov.za. Dr Pillay was appointed by DTSPS as the Chief Director responsible for the Cybersecurity Hub. DTSPS coordinated a cybersecurity awareness month in October 2017. Collaboration between the SAPS and the Hub is vital, including information sharing, business intelligence, and piloting tools.

3.4.4 Impact on e-commerce: Cybersecurity is fundamental to e-commerce since cyber-attacks and cybercrime can affect both financial institutions and the payment processes for companies. The NCPF is geared at ensuring a comprehensive and integrated approach to national safety and security in the cyber environment. Establishment and operationalisation of all the key national structures are essential for ensuring a safe e-commerce environment as well as the successful investigation and prosecution of crimes in this domain. There were no new developments on the matter.

- 3.4.5 The Committee **agreed** that the DTPS should give feedback on the Cybersecurity Hub as and when there are new developments.

DTPS

3.5 Cybercrimes and Cybersecurity Bill

- 3.5.1 The fundamental objective of the Cybercrimes and Cybersecurity Bill is to be an over-arching legislation to harmonise all laws dealing with cyber-crime and to align the current South African cyber-laws with international cyber-laws. It also deals with Critical Information Infrastructure and the establishment of national cybersecurity structures. The Bill was first published in the government gazette for public comments on 26 August 2015 and has since undergone a number of significant updates. The Bill was presented to Parliament on 7 June 2018, and the latest version will soon be presented to the NCOP. There were no new developments on the matter.
- 3.5.2 Impact on e-commerce: 1) to give clarity on the definitions of crime committed in cyberspace, the handling of electronic evidence, access to electronic information, stiffer penalties and the role of key national cybersecurity structures. 2) The Bill provides for regulations on information sharing for proactive crime prevention, eg between the banks and internet service providers. 3) The Bill puts obligations on Electronic Communications Service Providers and Financial Institutions to report cybercrime-related offences to the SAPS and preserve information that may be used to investigate an offence. A key consequence of this will be improved national statistics of cyber related crimes.
- 3.5.3 Adv Robbertse reported as follows:
- The Bill was introduced in Parliament during February 2017. Public hearings took place and certain amendments were proposed.
 - The Bill is currently being considered by the Justice Portfolio Committee. The Portfolio Committee was briefed on the comments received on the Bill. Proposals to give effect to these amendments were drafted and discussed in the Portfolio Committee. We started with clause by clause deliberations on the Bill. As you know, the Bill is technical in nature, and the Committee has called for a technical group to assist the Committee in the evaluation of the Bill before they proceed with the Bill. There is a possibility that the Bill may be split in a Bill that deals with cybercrimes and a Bill that deals with cybersecurity and then to promote the Cybercrimes Bill as a matter of urgency. Indications are that the Cybercrimes Bill will be passed during this financial year.
 - The Cybercrimes part of the Bill has not substantially been changed as a result of the Parliamentary process to date. More prominent amendments relate to the Malicious Communications Chapter of the Bill.
- 3.5.4 The Committee **agreed** that Professor Eiselen and Adv S Robbertse should give feedback on the Bill as and when there are new developments.

DoJ/Adv Robbertse/Prof Eiselen

3.6 Statistics in respect of commercial/cybercrime/ECT Act cases

3.6.1 The Committee **agreed** that the DoJ, SAPS and the National Prosecution Authority would furnish the Advisory Committee with the statistics in respect of commercial/cybercrime cases and conviction rates as and when they are available.

NPA

3.6.2 Impact on e-commerce: Successful prosecution of cybercrimes under the ECT Act is a positive development, and there is a hope that this will increase under the Cybercrimes and Cybersecurity Bill, when enacted.

3.7 Status of the ECT Amendment Bill

3.7.1 The Electronic Communications and Transactions Amendment Bill was published for comment and the ECAC provided comments. The the objects of the Bill are to amend the Electronic Communications and Transactions Act 25 of 2002. The Bill has subsequently incorporated changes based on the outcomes of the DTPS National Integrated ICT Policy White Paper and the provisions of the Cybercrimes and Cybersecurity Bill in an effort to align all the processes.

3.7.2 Impact on e-commerce: The legal use of digital signatures, electronic identities, electronic communications and electronic transactions are central to the financial sector, and to e-government services, and therefore the ECAC will monitor with a keen interest developments with this Amendment.

3.7.3 The Committee **agreed** that the DTPS should give feedback on the Electronic Communications and Transactions Amendment Bill as and when there are new developments.

DTPS

3.8 Customs Control Act (Act 31 of 2014) and Customs Duty Act - Electronic Transferable Records

3.8.1 SARS has implemented the two new Customs Acts. They published the rules for the Reporting of Conveyances and Goods Act as the first step and they are doing it as an amendment of the 1964 Act rather than as an implementation of the new Act. Further, the rules that are now developed are very close to what is required in the current Customs Control Act. Similar developments are likely to be seen later this year, and will assist commerce generally and most likely E-commerce. This will harmonise and facilitate the movement of goods at the ports and airports.

3.8.2 Furthermore, it was indicated that the SARS was shifting from its modus operandi of goods clearance at the entry ports into a pre-clearance system. Also that going forward, clearances would be processed in the foreign countries in an effort to mitigate fraudulent/corrupt activities. In addition, the department was in the process of developing implementation schedules in respect of the Customs Control Act.

- 3.8.3 Previously, it was reported that there were no regulations issued as at date of the meeting and it was envisaged that there will not be many regulations issued in respect of the two Acts as most of the subordinate legislation was contained in the Rules. However, there will be several regulations issued in respect of penalties. The matter was still work in progress.
- 3.8.4 Impact on e-commerce: The Customs Control and Customs Duty Acts are geared at creating electronic control of the customs processes and efficient management and clearing of goods at the ports of entry.
- 3.8.5 The Committee **agreed** that Professor Eiselen should give feedback on the Customs Control Act matter as and when there are new developments.

SARS/Prof Eiselen

3.9 SADC Model Law on e-commerce matters

- 3.9.1 The Southern African Development Community was in the process of developing model law on electronic transactions and electronic commerce as a guideline law for the member states. There were no new developments on the matter.
- 3.9.2 Impact on e-commerce: The ECAC takes note of a Southern African Development Community process of developing model law on electronic transactions and electronic commerce as a guideline law for the member states.
- 3.9.3 The Committee **agreed** that Adv Louw will submit feedback on the model law on electronic transactions and electronic commerce as and when there are new developments.

Adv Louw

3.10 National Gambling Act- legislation toolkit, assistance

- 3.10.1 The Department of Trade and Industry as the custodian of legislation on gambling issues had developed a legislative toolkit in respect of gambling legislation and policies which are designed to enable the National Gambling Board to identify and prosecute the operators of the illegal gambling sites. Further that the NGB was in consultation and cooperation with the industry stakeholders in identifying and possible prosecution of illegal gamblers.
- 3.10.2 In terms of legislative matters, it was reported that upon the passing of the National Gambling Amendment Bill, the National Gambling Board will be phased out and replaced by the National Gambling Regulator. There were no new developments on the Bill.
- 3.10.3 Impact on e-commerce: Electronic transactions with online gambling websites result in illegal income and forfeiture to the state.

3.10.4 The Committee **agreed** that the representatives of the National Gambling Board and Department of Trade and Industry would keep the Committee abreast of the latest developments on the National Gambling Amendment Bill.

DTI/NGB

3.11 Border Management Authority- legislation, implementation

3.11.1 The Border Management Authority is a concerted effort to synchronise the border control initiatives by the government agencies through the establishment of a single Border Management Authority. Cabinet had approved the drafting of legislation to synchronise the border control initiatives. It was envisaged that the proposed single Border Management Authority would be established during 2017, but it has not happened yet since it requires amendments to other pieces of sectorial legislation.

3.11.2 In addition, the Department of Home Affairs is the lead agency responsible to develop BMA legislation and they have established the BMA Project Management Office. There are 22 entities and departments that are dealing with border control responsibilities. The Integrated Border Management Authority Bill is still going through the parliamentary processes..

3.11.3 Impact on e-commerce: Changes in the management of customs processes at ports of entry that should improve international trade facilitation where most of the processes are already conducted electronically.

3.11.4 The Committee **agreed** that the Chairperson will give feedback on the Integrated Border Management Authority Bill as and when there are new developments.

Chairperson

3.12 Financial Intelligence Centre Amendment Act

3.12.1 The FIC Amendment Act was signed into law by the President on 26 April 2017 and gazetted on 2 May 2017. The Minister of Finance will continue to develop regulations and thereafter proclaim on the implementation date thereof.

3.12.2 Previously, it was reported that the National Treasury had issued the Second Draft Amendments to Regulations and Draft Withdrawal Notice of Exemptions in terms of the Act for public comment. Moreover, the Treasury indicated that the consultation builds on the first draft amendment to regulations and withdrawal of exemptions for public comment purposes.

3.12.3 The Committee agreed that NT/FIC will give feedback on the development of regulations and the implementation date of the Act as and when there are new developments.

- 3.12.4 Moreover, the SARB Fintech Unit is looking at how cryptocurrency can be used to launder money because it goes out of the financial system. FIC and SARB will give a comprehensive guidance on how they intend to deal with it. It was further reported that the previous Act had a consultative forum employed by the Minister to look at trends. The new Act does not prescribe this as a requirement but the National Treasury is looking at establishing a new forum again.
- 3.12.5 The Committee agreed that NT/FIC will give feedback on the development of regulations and the implementation of the Act as and when there are new developments.

NT/FIC

4 REGULATORY MATTERS

4.1 National Integrated ICT Policy White Paper

- 4.1.1 It was previously reported that the DTPS had appointed an ICT Policy Review Panel to prepare the National Integrated ICT Policy White Paper for the purposes of integrating broadcasting, postal, telecommunication and e-commerce matters. The National Integrated ICT Policy White Paper was approved by Cabinet and published on 28 September 2016.
- 4.1.2 **DTPS E-Commerce Working Group Report:** This Working Group forms part of the DTPS ICT Forum appointed by the Minister of DTPS. However, activities of this WG is currently suspended.
- 4.1.3 The Committee **agreed** that the DTPS and the Chairperson of the DTPS E-Commerce Working Group will give feedback on the National Integrated ICT Policy White Paper and DTPS E-Commerce Working Group as and when there are new developments.

DTPS/E-Commerce Working Group

5 ICT MATTERS

5.1 Fintech Matters

- 5.1.1 It was reported that the FinTech Committee which includes representatives from the FSCA, SARB, PASA, FIC and National Treasury was primarily established to ensure that there is policy uniformity and compliance amongst the various regulators in respect of cross-cutting regulatory issues.
- 5.1.2 It was indicated that SARB had established a FinTech Unit and allocated dedicated staff members to deal with FinTech matters effective 1 August 2017. The Unit envisaged meeting with the industry during February 2018 to discuss *inter alia* their regulatory concerns. Further that Dr Arif Ismail has been appointed to be a representative of the SARB Fintech Unit on the E-Commerce Advisory Committee.

Further that the FinTech unit had successfully demonstrated Project Khokha in June 2018: The goal of the project was to build a proof-of-concept (PoC) wholesale payment system for interbank settlement using a tokenised South African rand on distributed ledger technology (DLT).

The Fintech Unit request the Committee to submit suggestions for future “Project Khokha” topics.

All

- 5.1.3 The Committee AGREED that the SARS IT & Tax Units should be invited to the next meeting to make a presentation on the position of SARS in respect of income tax on the cryptocurrency. It was indicated that the current position of SARS was that the institution will continue to apply the normal income tax rules on the crypto currency which excludes the value added tax rules. The institution was also of the view that the current tax legislation is sufficient to cater for the crypto currency matters.

SARS

- 5.1.4 In another matter, it was reported that the SARB Cyber Security Conference will take place from 28 - 30 August 2018 and the conference is going to be divided into two sections, namely the payments innovation/modernisation and cyber security matters. Furthermore, the conference will discuss *inter alia*, technological innovations, central banks crypto currencies, cloud computing, cyber security, artificial intelligence. Further that invites and programme will be forwarded to the committee members.

SARB

5.2 Electronic Deeds

- 5.2.1 The Electronic Deeds Registration Bill is aimed at providing for electronic deeds registration and having regard to legislation regulating electronic communication and transactions. The Bill enables the establishment of electronic deeds and specifically makes provision for *inter alia* use of advanced electronic signatures as a requirement for the electronic deeds to be accepted by the deeds registrar. The Bill was published for public comments and was going through the parliamentary processes. It was reported that the updated draft Bill was awaited after public consultation closed.

- 5.2.2 Professor Eiselen reported that the Electronic Deeds Registration Systems Bill, 2017, after an update following public consultation, was introduced in Parliament on 08 December 2017. The Bill provides for the development of an electronic deeds registration system in order to effect the registration of large volumes of deeds necessitated by Government’s land reform initiatives. The Bill further seeks to expedite the registration of deeds by decreasing the time required for the deeds registration process having regard to legislation regulating electronic communication and transactions. There were no new developments on the Bill.

- 5.2.3 The Committee **agreed** that SARB/FSCA will share information as and when there are relevant issues.

SARB/FSCA

- 5.2.4 The Committee **agreed** that Professor Eiselen should give feedback on the Electronic Deeds Registration Bill at the next meeting.

Professor Eiselen

6 FINANCIAL SERVICES INDUSTRY MATTERS

6.1 Twin Peaks regulatory model

- 6.1.1 As a background to the transition from the FSB to the FSCA, it was reported that the Minister of Finance had signed the Commencement Notice for the Financial Sector Regulation Act which consequently provides for implementation of the FSCA effective 01 April 2018. The Regulations of the Financial Sector Regulation Act makes provision for a new governance structure for the FSCA which consequently resulted in the dis-establishment of the Board of the FSB and some of its Committees. A Transitional Management Committee was then established in terms of the transitional Regulations to manage the operations of the FSCA until the appointment of the Commissioner and Deputy Commissioners.

- 6.1.2 It was also reported that the FSCA Strategy was going to be published soon, and that this will be shared with the Committee as input into a review of its scope.

FSCA

6.2 Financial stability, access and inclusion

- 6.2.1 It was previously reported that the DTSPS E-Commerce Working Group was looking at the issue of financial stability, access and inclusion. They will focus on *inter alia* SMME development, banking services (Post Bank) and provision of financial services.

- 6.2.2 In another matter, it was reported that the entities under the Minister of Finance were invited to attend a meeting of the Standing Committee on Finance to discuss the transformation issues, in particular around ownership within the financial services industry. The entities were urged to expedite the transformation process within the financial services industry even before the passing of legislation. It was further reported that the FSCA had been mandated to drive the issues of financial inclusion in terms of the Financial Sector Regulation Act.

- 6.2.3 In another matter, it was also indicated that PASA also plays a pivotal role in financial inclusion and some initiatives thereto. Further that financial inclusion was incorporated as one of the pillars in the Policy White Paper, under digital inclusion and digital access.

- 6.2.4 In addition, Mr Tempest suggested that the committee includes business to business (BtoB) and business to government (BtoG) e-commerce within its scope. He submitted the following information:

- the UNECA (United Nations Economic Commission for Africa) report (to be circulated)

- SA e-commerce strategy – the Committee should discuss how it can contribute to the strategy
- WTO event 2-4 October in Geneva – more information will be shared
- Africa e-commerce week 10 Dec in Nairobi – more information will be shared.

6.2.5 The Committee **agreed** that the National Treasury, FSCA and PASA should give feedback as and when there are new developments on the financial stability, access and inclusion.

DTPS/PASA/NCR/FSB/SARB

7 COMMERCIAL AND CYBERCRIME MATTERS

7.1 International Conventions on e-commerce, cybercrime

7.1.1 **AU Convention on Cyber Security and Personal Data Protection** - It was reported that this AU Convention that is aimed at capacitating law enforcement agencies to assist their foreign counterparts in combating cybercrime, and at building confidence and trust, was adopted by the African Union Heads of the Member States during June 2014. Further that the Convention was signed by 8 countries but not yet adopted by any of the countries.

7.1.2 The Committee **agreed** that Professor Eiselen should give feedback as and when there are new developments on the matter.

Prof Eiselen

7.1.3 BRICS expert dialogue on electronic commerce

In July 2014, in Fortaleza, Brazil, the BRICS leaders acknowledged the growing importance of e-commerce and agreed that BRICS begins discussion on the general rules governing e-commerce transactions, consumer protection, alternative (online) dispute resolution, electronic signatures, diverging VAT systems, diverging distribution systems and e-privacy.

7.1.4 In subsequent BRICS meetings in India in 2016, two workings groups started focusing on e-commerce. Furthermore, the BRICS ICT Working Group under the broader theme of cooperation on the digital economy and the BRICS Contact Group on Economic and Trade Issues (CGETI) also started to focus on e-commerce.

7.1.5 In 2017, a study on e-Commerce was done for BRICS. At the end of July 2017, the CGETI (Trade Experts in BRICS) adopted the study and now the study provides a framework on areas of possible future cooperation and a work programme in BRICS on e-Commerce.

- 7.1.6 Furthermore, the prevailing view in all the discussions is to create conditions to promote cross-border electronic commerce and make the system of e-commerce common, accessible and integrated by intensifying cooperation among the relevant stakeholders from public and private sectors, promote economic development and SMME development and increase intra-BRICS trade. The study also identified key risks faced by e-commerce which are a work in progress.

DTPS

8 GOVERNANCE MATTERS

8.1 Corporate Governance matters

- 8.1.1 It was previously reported that the Institute of Directors of Southern Africa task team (King Committee) had finalised the King IV Code. The Committee noted that the King Code now enjoys global acceptance and that it has become the standard for corporate governance in South Africa (common law) based on about 14 High Court judgments. The launching of the King IV Code was held on 1 November 2016. It is based on “apply and explain” principles.
- 8.1.2 In another matter, it was reported that the new Conscience Leadership Academy will formally be launched/announced in September 2018 and that one of the Business Schools will provide an MBA programme on conscience leadership/governance ethos.
- 8.1.3 The Committee **agreed** that Mr Judin should give feedback as and when there are new developments on the matter.

Mr Judin

9 CONSUMER PROTECTION AND EDUCATION MATTERS

9.1 Cybersecurity Awareness

- 9.1.1 Cybersecurity Awareness is a matter of cultural challenge and behavioural change. Getting people to act is the primary challenge; usually they will act only when they have been exposed to security problems, or somebody they know has been. Young users can be good promoters of a message and through education, parents can often be reached as well. The earlier the education starts, the stronger the positive effects that will be achieved on the behaviour of internet users.
- 9.1.2 It was further indicated that globally, October has been designated as National Cyber Security Awareness Month. The DTPS, since 2016, has also adopted October as Cybersecurity Awareness Month. In 2017, the focus was on *inter alia* the development of a national awareness portal. The Portal was launched officially on 31 October 2017. It will run awareness campaigns and be the central source of awareness information and resources for the public.

9.1.3 Committee members were encouraged to submit their cyber security information to be loaded in the website of the Cybersecurity Hub. The website is www.cybersecurityhub.gov.za.

9.2 Integration of the consumer education and protection initiatives

9.2.1 It was previously suggested that the NCC, SAPS, DTPS and SABRIC would enter into corporation and explore the possibility of integration of their consumer education initiatives where there are common areas of interests in an effort to utilise the resources optimally and reach out to a wider target audience.

9.2.2 The Committee **agreed** that the NCC/SAPS/SABRIC/DTPS should give feedback as and when there are new developments on the matter.

NCC/SAPS/SABRIC/DTPS

10 Other Matters

There were no matters raised under the agenda item.

11 CLOSURE AND DATE OF NEXT MEETING

11.1.1 The Chairperson thanked members for their contributions and closed the meeting at 13h00. The next meeting is scheduled for Monday 29 October 2018 at 10h00.

CHAIRPERSON

DATE

SECRETARY

DATE