

Editorial: Special Edition on Corporate and Financial Markets Law: Embracing Technology in Corporate, Securities and Financial Markets Law and the Combating of Financial Crimes in the 4th Industrial Revolution

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Online ISSN
1727-3781

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Date Submission

26 April 2020

Date Revised

22 September 2021

Date Accepted

22 September 2021

Date published

11 October 2021

Editor Dr TV Warikandwa

How to cite this article

Chitimira H & Warikandwa T
"Editorial: Special Edition on
Corporate and Financial Markets
Law: Embracing Technology in
Corporate, Securities and Financial
Markets Law and the Combating of
Financial Crimes in the 4th
Industrial Revolution" *PER / PELJ*
2021(24) - DOI
<http://dx.doi.org/10.17159/1727-3781/2021/v24i0a10909>

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DOI

<http://dx.doi.org/10.17159/1727-3781/2021/v24i0a10909>

Abstract

This special edition consists of a selection of contemporary and well thought out academic contributions that were developed into full journal articles by presenters who delivered their key findings at the 2nd Annual Colloquium on Corporate and Financial Markets Law at the Faculty of Law, North-West University, on 29-30 October 2020. These contributions were developed into articles, subjected to a rigorous double-blind peer review process to determine their quality, and subsequently accepted for publication in the *Potchefstroom Electronic Law Journal*.

Keywords

Financial crimes, financial markets, technology, securities, fourth industrial revolution, challenges, data protection.

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Editorial

The inaugural Corporate and Financial Markets Law Colloquium was launched on 24-25 October 2019 at the Faculty of Law, North-West University as the brain child of Professor Howard Chitimira, with a view to offering a platform to students, legal practitioners, regulatory authorities, emerging researchers, established researchers, policy makers and other relevant persons from South Africa and other countries to converge, discuss and share ideas on contemporary corporate and financial markets law-related aspects. This colloquium grew and continued into a second year. Thus, despite challenges arising from the corona virus pandemic (covid-19), the 2nd Annual Colloquium on Corporate and Financial Markets Law was successfully held virtually at the Faculty of Law, North-West University on 29-30 October 2020. The theme of the Colloquium was: embracing technology in corporate, securities and financial markets law and the combating of financial crimes in the 4th industrial revolution (4IR).¹ The Colloquium focussed *inter alia* on the use of innovative technology to do business efficiently and enhance market integrity, good corporate governance standards, public investor confidence, good corporate practices and ethical standards in global financial markets and financial institutions.² In this regard, it is important to note that the advent of new technology and 4IR has introduced new corporate and financial crimes as well as new regulatory challenges for enforcement authorities in both the developed and developing countries.³ Accordingly, the Colloquium provided a platform for academics and other relevant persons in the financial markets sector to robustly debate and consider better, innovative ways of doing business and the optimal use of technology to combat systemic risks and financial crime

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¹ Lawack 2013 *Washington Journal of Law, Technology and Arts* 319.

² Mohammed, Mensah and Gyeke-Dako 2017 *The African Finance Journal* 2; Williams 2017 *International Journal of Research in Economics and Social Sciences* 266.

³ See related comments by Isayeva and Velieva "Consequences and Prospects of Using Innovative Technologies in Banks" 147-149; Chavda and Solanki 2014 *International Journal of Commerce, Business and Management* 2319.

in global financial markets and financial institutions.⁴ It was noted that the use of artificial intelligence (AI) and the commission of high-frequency trading (HFT), market abuse, corporate fraud, money laundering, front running and other illicit trading practices could be carefully controlled through the effective enforcement of the relevant laws to ensure viable economies, financial institutions and financial markets.⁵ In this regard, it was further noted that the current technical recession affecting South Africa, the covid-19 pandemic-related global financial woes, the technological war between China and the United States of America (USA) and the Brexit uncertainty justify the need to embrace technology and new ways of doing business to curb financial crimes globally.⁶

We received a satisfactory number of papers from academics from selected African countries, Europe and Australia, and we had three key-note speakers at the 2nd Annual Colloquium on Corporate and Financial Markets Law, namely Professor Ruth Taplin of the University Leicester, Professor Tracy Gutuza of the University of Cape Town and Dr Tapiwa Victor Warikandwa of the University of Namibia. Thereafter, we decided to publish all good contributions as journal articles. Accordingly, this special edition consists of a selection of articles developed from the presentations delivered at the 2nd Annual Colloquium on Corporate and Financial Markets Law at the Faculty of Law, North-West University, on 29-30 October 2020. Brief outlines and/or overviews of the articles published in this special edition are provided below.

Kilian explores the differences between the members and the shareholders of a friendly society and aspects of the payment of dividends in South Africa and Australia. Osode and Mudzamiri investigate the relationship between technology and corporate takeovers in the USA, the United Kingdom (UK) and South Africa. Asheela-Shikalepo discusses the use of good corporate governance measures to curb corruption and other technology-related crimes in Namibia. Ndlovu unpacks the possible use of AI to enhance the value of patents as corporate assets in South Africa. Chitimira and Ncube examine the regulation and use of AI and other technological measures to

⁴ De Koker and Jentzsch 2013 *World Development* 267-280; De Koker 2006 *Journal of Financial Crime* 26-50; Chibba 2009 *European Journal of Development Research* 213-230.

⁵ See related comments by Luiz 1999 *South African Mercantile Law Journal* 138-151; Osode 2000 *Journal of African Law* 241-263; Bromberg, Gilligan and Ramsay 2017 *Journal of Business Law* 655-679.

⁶ Mohammed, Mensah and Gyeke-Dako 2017 *The African Finance Journal* 2; Louis and Chartier 2017 *Journal of Comparative Urban Law and Policy* 173; Chitimira and Ncube 2020 *Journal of African Law* 337-355; Ngwenya, Pelser and Chivaura 2018 *South African Journal of Economic and Management Sciences* 3.

combat cybercrime and financial crime in South African Banks. Ukwueze investigates the regulatory aspects of cryptocurrency and fintech in Nigeria and South Africa. Van Niekerk and Phaladi explore the prospects and challenges of digital financial services in South Africa. Chitimira and Magau provide a legal analysis of the use of innovative technology to promote financial inclusion for low-income earners in South Africa. Sibanda discusses aspects of shareholder oppression and the concept of *ubuntu* under South Africa's Companies Act 71 of 2008.

Chitimira and Torerai investigate the nexus between mobile money regulation, innovative technology and the promotion of financial inclusion in Zimbabwe. Marumoagae discusses the need to adopt preventative measures to combat the misappropriation of retirement fund assets in South Africa. Hamadziripi and Chitimira interrogate the integration and reliance on technology to enhance the independence and accountability of company directors in South Africa. Animashaun and Chitimira provide an incisive debate on reliance on the use of technology and lifestyle audits to curb corruption and tax evasion by public officials in Nigeria. Matotoka and Odeku discuss the possible mainstreaming of black women into managerial positions in the South African corporate sector. Chitimira and Ncube examine the use of ingenious technology and the robust enforcement of financial markets laws to curb money laundering in Zimbabwe. Lastly, Warikandwa unpacks key aspects of personal data security in financial services markets in South Africa and the European Union.

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