Hon. Xavier Luc Duval, Vice Prime Minister and Minister of Finance and Economic Development

Honourable Mrs Cheong, Puisne Judge and Chairperson of the Institute of Judicial and Legal Studies

Mr. Marc Hein, Chairman of the Financial Services Commission

Ms. Clairette Ah-Hen, Chief Executive of the Financial Services Commission

Colleagues from the legal profession

Ladies and Gentlemen

Today is a landmark day for the financial services sector as it is the first time that so many Legal professionals are assembled under one roof to discuss about opportunities and career prospects in the Financial Services sector.

It gives me great pleasure to address you today at this Workshop on Financial Services for Lawyers organized by the Financial Services Commission (FSC). I would wish, at the very outset, to congratulate the FSC for this laudable initiative which illustrates the importance of legal professionals for the financial services sector and the importance of financial services for legal professionals.

The development of the Financial Services sector during the last decades has changed the landscape of the legal profession. With an ever-growing demand for legal services and skilled lawyers in varied areas such as corporate finance, capital markets, mergers and takeovers, private client business, commercial arbitration and dispute resolution, it is to be noted that an increasing number of lawyers are now closely involved in the financial services sector. Over time, this has resulted in tangible mutual benefits for the financial services sector and the legal profession.

If Mauritius wishes to be recognized as a well regulated jurisdiction, it will need the input and support of the legal community in establishing and implementing the proper legal framework to boost the confidence of investors in the Mauritian jurisdiction. Those of you who are actively involved in the Mauritian Financial Services sector will acknowledge the continuous challenge that it represents, particularly the need to always keeping abreast with all latest developments in this field.
It is worthy to note that to cater for the constant requirement to upgrade the level of competence in the legal profession, an Institute for Judicial and Legal Studies has recently been established and will be officially launched tomorrow. The aim of this Institute is to provide Continuing Professional Development Programmes for law practitioners, including legal officers, and courses for prospective judicial and legal officers and law practitioners who qualified as such in a State other than Mauritius, for the purpose of promoting proficiency and ensuring the maintenance of standards in the Judiciary and among law practitioners and legal officers with a view to enhancing our legal system.

Ladies and Gentlemen,

A former Chief Justice has once observed in an address to newly qualified barristers:

“It takes a lifetime to build a reputation. It takes a few moments to lose it”.

In addition, the legal profession is required, within the current legislative regime, to find innovative ways of addressing challenges, thus demonstrating the responsiveness and adaptability of the legal and judicial institutions in the face of the rapidly evolving global social and economic context.

We also have to ensure that the Code of Ethics for Barristers is fully respected.

A legal profession that is respected for the probity and quality of its conduct and for the professionalism of its representation in the courts, in which both judiciary and public can have confidence, is vital to the welfare of our country. Barristers are expected to act for their clients without fear or favour but their paramount duty is towards the court. The aim of barristers should be to observe the highest standards of ethics and competency.

In the Privy Council case of Patel v. Beenessreesingh (2012) which concerned the quantum of damages in a tragic road accident case, the Judicial Committee of the Privy Council mentioned that: “The Board is extremely grateful to Counsel on both sides for their assistance in this difficult case, and would wish in particular to mention the sensitive and responsible line taken throughout by the Defendant insurers.” These are words which my Office and the FSC as regulator are pleased to hear.

In our own Code of Conduct for Barristers we find the following quotation from the former US Chief Justice Warren Burger,

"Having observed many legal systems for 40 years, nowhere in the world have I seen more fearless, more vigorous and more independent advocacy than that found in Britain’s courts... They insist that advocacy must be vigorous, but always within the framework of a system regulated by well-known rules of conduct".
Ladies and Gentlemen,

The FSC also has an important role to play in preserving the reputation of Mauritius. In the case of Voet & Co (Mauritius) Ltd v. Financial Services Commission, the Court stated that “The affidavits and other documents filed on behalf of the respondent have also shown that the respondent had acted reasonably in the discharge of its statutory obligations to preserve the reputation of Mauritius as a sound financial centre.”

The Court also said in this case that the FSC is required to “ensure the sound conduct of business in the financial services sector” with a view to promoting the good repute of Mauritius as a financial centre. Therefore, the FSC acts as a gatekeeper and ensures that the integrity of the financial system of Mauritius and the good repute of Mauritius as an international financial services centre is maintained.

Our commitment to fully adhere to international instruments and conventions is a clear demonstration that maintaining the good repute of the Mauritius jurisdiction is one of the major concerns of the Government of Mauritius. The government has already declared its commitment through the adoption of a strategic approach which includes the revision of the legal and regulatory framework as well as the strengthening of both the banking and non-banking financial services sector.

We need to continue our progress in building the kind of business environment that will stimulate private investments both local and foreign. For instance, we should not overlook the importance of good governance, especially as we seek to foster joint ventures and interact with and provide services to the world class businesses Mauritius is seeking to attract.

As you are aware, the Law Practitioners Act was amended in 2008 to make provision for the registration of law firms, foreign law firms, foreign lawyers and joint law ventures.

Following my meeting with law firms earlier this year, I have set up a standing committee at the level of my office to address specific issues affecting them.

Alongside, we are working on regulations by which foreign lawyers will be governed.

Also, in 2010, the Financial Services Act was amended to add legal consultants and law firms to the list of persons able to certify that applications for licences for Global Business Companies comply with the laws of Mauritius.

Ladies and Gentlemen,

My office has worked in close collaboration with the FSC and the Ministry of Finance on the three modern legislations which have been enacted recently for the financial services sector namely the Limited Partnerships Act, the Foundations Act and the Private Pension Schemes Act. The Asset Recovery Act, a ground breaking legislation to help in the repression of crime, came into operation on 01 February 2012. The aim of the Act is to provide for the legal framework and procedure to enable the state to recover assets which we are proceeds or instrumentalities of crime, or terrorist property. This is another step to enhance the reputation of Mauritius as a clean jurisdiction.
The Act creates a comprehensive asset recovery framework which does not only apply to drug offences but also to all offences against the laws of Mauritius which are punishable by a maximum term of imprisonment of not less than 12 months, the enforcement authority being the Director of Public Prosecutions.

Ladies and Gentlemen,

The future of the financial services sector is full of opportunities and challenges and Mauritius needs skilled legal practitioners to embrace such opportunities and challenges.

Your presence here this afternoon demonstrates the importance that the financial services sector holds for you.

We therefore count on your keeping close interest in this sector and rely on you for the continued provision of expert legal services in this area to contribute to the expansion of the sector.

I am sure that the outcome of this workshop will be positive and instrumental in improving the legal framework for financial services. My office also looks forward to continued close collaboration with the FSC on future projects.

With these words, ladies and gentlemen,

I thank you for your kind attention.