

Fintech Companies Should 'Take Advantage' of Opportunities to Consult With Regulators

The "Regulators Roundtable" virtual panel held during Winston & Strawn's Disruptive Technologies Legal Summit 2020 pointed to both the rapidly quickening pace of innovation with the fintech industry as well as the outreach that regulators are undertaking to try and help innovators—and themselves—keep up.

By Frank Ready

Regulators often find it difficult to keep pace with the speed of innovation, which can leave both technology companies operating in the financial space and the government agencies responsible for keeping them in check feeling frustrated. But there are steps that regulators are taking to help ease lingering uncertainty.

On Wednesday, Winston & Strawn's Disruptive Technologies Legal Summit 2020 hosted a panel titled "Regulators Roundtable: Observation from Key Regulators on Technology Trends, Cryptocurrency Developments and Enforcement Issues." Speakers from various government financial agencies discussed how they were attempting to get out in front of innovation while still protecting consumers, something that may have become more difficult during the pandemic.



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Beth Knickerbocker, chief innovation officer in the Office of the Comptroller of the Currency, said that COVID-19 has accelerated the digitization of financial services products and even the use of artificial intelligence-powered chatbots as banks look for ways to service customers remotely. "With

respect to the innovation that's occurring now and the developments around technology, those cycles of innovation have been shortened significantly," she said.

Companies operating in the fintech space may be hesitant to reach out to regulators with concerns for fear of attracting

unwanted attention, but that impulse may ultimately be counterintuitive. Knickerbocker stressed that regulators have been making an effort to reach to innovators to address any questions or concerns they might have. "You should take advantage of that and speak to us as soon as you can," she said.

At the U.S. Commodity Futures Trading Commission, for example, chief innovation officer Melissa Netram indicated that they host open hours every Tuesday for startups or other fintech companies who wish to come to them preemptively for guidance. "What is the process for going through this specific registration process and how can we help facilitate that?" Netram said.

But it's not just the innovators who may have some learning to

do. Per Netram, it's also important to educate regulators on the ins and outs of the various technologies they may be encountering or legislating. "We have been taking the time in the pandemic to actually devote to training on blockchain and Bitcoin, Ethereum and you name it," she said.

Still, just how severe are regulators looking to get with innovators working in fintech? Netram stressed an approach that is based on regulating the principles at issue rather than the technology itself. But the resulting process can be slow and plodding.

Whereas technologists evolve their products through a process of trial and error, regulators may be more inclined to wait until they are confident in a singular approach. "We go through all of the steps that we need to

go through in order to not fail," Netram said.

However, the good news is that regulators aren't necessarily looking to jump straight to a fine every time a company finds itself in conflict with the law. For example, Kristina Littman, chief of the cyber unit in the Division of Enforcement at the U.S. Securities and Exchange Commission, said they try to keep in mind that firms and coin issuers are oftentimes the victims in a cybersecurity incident.

"The rules for regulated entities don't require perfection, they require reasonably designed controls. So we're mindful of that when a regulated entity has experienced a breach," she said.

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