

**CHAMBER OF COMMERCE
OF THE
UNITED STATES OF AMERICA**

October 12, 2018

Mr. Paul Worthington
Financial Conduct Authority
12 Endeavour Square
London E20 1JN

Mr. Paul Watkins
Office of Innovation
Bureau of Consumer Financial Protection
1700 G St. N.W.
Washington, D.C. 20552

**Re: Response to Global Financial Innovation Network August 2018
Consultation**

Dear Mr. Worthington and Mr. Watkins: We appreciate the opportunity to respond to the Global Financial Innovation Network's (GFIN) August 2018 Consultation Document. We are pleased to see the participation of the U.S. Bureau of Consumer Financial Protection (BCFP) and we urge other U.S. federal regulators to take part in this effort. In the global economy, it is imperative that different jurisdictions work together to produce streamlined and clear rules of the road to give companies the certainty they need to innovate.

Chamber FinTech Initiative

The Chamber has established a robust effort on FinTech that brings together traditional financial institutions and new entrants to the marketplace with the goals of better understanding the FinTech ecosystem and educating policymakers.

After months of consultation with our members, we released the Chamber FinTech Principles¹ that outline the following eight priorities, most of which are applicable to the global regulatory sandbox proposal:

- I. Encourage safe innovation in the financial sector, whether by a new entrant, traditional financial institution, or by a joint initiative.**
- II. Streamline the fragmented regulatory structure so any financial service provider that serves a national, multi-state market has one set of rules instead of a web of state rules and multiple federal agencies.**
- III. Foster partnerships between new entrants and incumbent financial institutions, while minimizing the burden of “vendor management” requirements.**
- IV. Support policies that promote expanded financial access to affordable and accessible credit for underserved communities for both households and small businesses.**
- V. Enrich financial literacy through multiple platforms to reach the consumers, investors, and small business owners who need it most.**
- VI. Educate policymakers about the benefits of financial innovation and the opportunities to serve the consumers and small business owners who may not have affordable access to credit.**
- VII. Protect consumer privacy, create best practices for cyber security protections, and develop safe ways for consumers to manage their digital identity.**
- VIII. Promote new and innovative ways to access capital, such as initial coin offerings (ICOs), while advocating for tailored oversight and strong consumer and investor protections.**

We look forward to working with our members and policymakers to make these principles a reality.

¹ See attachment 1.

Discussion

I. The Chamber Supports the Goals and Mission of the GFIN.

We are pleased to respond to this consultation and applaud the GFIN for establishing a working group of a diverse set of regulators. We agree that, “now is a time to consider how to begin building new ways to share experience and manage the questions that emerge.”² Today’s financial services are not limited by country or state borders and no longer exist within the confines of brick and mortar branches. The rapid rate of change coupled with the potential benefits of FinTech innovation makes it critical that companies have clear standards to follow. Failure or hesitation to act would have detrimental impacts on innovation.

The Chamber supports the GFIN’s policy goals of “financial stability, integrity, financial inclusion, competition and consumer wellbeing and protection.”³ We believe that innovation has the ability to further promote these goals and provide superior financial services products to those who need them most. Please find below our responses to the questions enclosed in the GFIN’s Consultation Document.

Question 1: *Do you agree with the proposed Mission Statement of the GFIN?*

Answer 1: We support the mission statement of the GFIN, which is as follows: *The GFIN is a collaborative policy and knowledge sharing initiative aimed at advancing areas including financial integrity, consumer wellbeing and protection, financial inclusion, competition and financial stability through innovation in financial services, by sharing experiences, working jointly on emerging policy issues and facilitating responsible cross-border experimentation of new ideas.*

The Chamber believes cross-border collaboration and communication between regulators is imperative in creating policy that affects global commerce and product development. Moreover, sharing best practices is incredibly helpful to ensure each country is not starting from scratch, and instead, can benefit from lessons learned.

Consumer protection must be a core component of innovation. Many innovations have the potential to foster greater financial inclusion, including

² GFIN Consultation page 1.

³ Id.

alternative data for underwriting and mobile banking to reach unbanked and underbanked. These innovations must also be financially sound and not cause risks to the financial system. We are pleased to see the mission statement focuses on competition, as competitive markets create greater product diversity that can serve consumers' unique needs.

Question 2: *Do you agree with the three main proposed functions of the GFIN?*

Answer 2: The Chamber agrees with the three main proposed functions for the GFIN. However, we believe that GFIN can add more functions to strengthen effectiveness further. We suggest the GFIN adopt some of Treasury's recommendations from its FinTech Report, especially "aligning the regulatory framework to combat unnecessary regulatory fragmentation, and account for new business models enabled by financial technologies."⁴

It is critical that the GFIN streamline the regulatory environment where possible. We also hope the GFIN will look at innovative products through a new lens, instead of trying to fit new technologies into often-outdated legal frameworks.

Given the global nature of financial innovation, we recommend that GFIN add to its mandate a commitment from all participants to allow the cross-border transfer of information, including personal information. The ability to move data across borders and to access information is arguably as important to a modern economy as the movement of capital. If companies are to scale FinTech innovations into new countries, they must be able to move personal data between countries.

We would also like to emphasize the importance of focusing on the overall themes that arose from the Financial Conduct Authority's (FCA) 2018 sandbox comment request, listed below with our feedback:

- Regulatory engagement is necessary to help foster a transparent, productive, and informed process between regulators and industry.
- Regulatory cooperation is critical to ensure there are consistent standards for companies operating in different jurisdictions.

⁴ Treasury Report at pg. 9.

- Speed to market and scalability are key factors in the viability of a company's business model, given the reliance of most new ventures on outside funding. For small and medium-sized enterprises in particular, delays of only a few months can mean the difference between success and failure.
- Governance must be clear, consistent, and collaborative with the company. Only with open and constructive dialogue between the regulators and regulated will the best policies be achieved.
- Emerging technologies/ business models must be looked at from an innovative perspective and, as mentioned above, have flexible legal frameworks applied instead of outdated legal standards to ensure these new products and services have the environment to succeed.

Question 3: *What aspects/ areas of regulation pose the biggest challenge when it comes to innovating?*

Answer 3: The biggest challenges in regulating innovation is the lack of certainty for companies, the opaque and complicated regulatory process, and inapplicable or outdated governing laws. Companies need legal certainty for the confidence to launch a product or start operating in a specific jurisdiction. The U.S. regulatory environment alone can seem like an opaque and confusing process, especially for newer entrants, who may not have robust regulatory or legal teams.

Even the U.S. federal government agrees that its banking regulatory structure is too complex – a 2016 Government Accountability Office (GAO) report found “[f]ragmentation and overlap have created inefficiencies in regulatory processes, inconsistencies in how regulators oversee similar types of institutions, and differences in the levels of protection afforded to consumers.”⁵

As an example, companies issuing tokens as part of an Initial Coin Offering or other offering are not sure if the Securities and Exchange Commission (SEC), Commodity Futures Trading Commission, or another regulator oversees that activity.

The U.S. also has a patchwork of 50 state regulators seeking to engage in FinTech oversight in ways that may conflict with federal regulation, including requiring companies to register for money transmitter purposes and opposing the Office of the Comptroller of the Currency's recent special purpose charter. The burden of overlapping regulation and jurisdiction becomes even greater when international rules are added to the already complex U.S. environment. Such overlap stifles innovation within companies of all sizes, particularly those companies in the early stages of their development.

In addition, the limited use of retroactive review of regulation can lead to well-intentioned but outdated laws. New products and services may not always fit into these legal parameters. This is especially true in the FinTech world, where tokens may not easily fit into securities frameworks from the 1930s, and where online lending is more prone to take place across borders. The Chamber urges regulators to regularly review rules and, where necessary, amend them to ensure the laws governing a financial product or service are appropriate to current offerings. This should include a holistic assessment of the consumer benefits of a particular innovation.

Question 4: *Do you see any reasons why this initiative may be counterproductive to the outcomes it is seeking to achieve?*

Answer 4: Cross-border collaboration between regulators is important if innovative FinTech products and services are to be scaled across borders. While collaboration is important, however, it must focus on identifying and adopting best practices to streamline international regulatory requirements. While regulatory structures may differ where regulatory objectives differ, GFIN representatives should seek to reduce the regulatory burden on companies where possible.

If the notion of a global regulatory sandbox is to work in practice, GFIN participants should seek to align the criteria for sandbox eligibility across countries. In Singapore, the majority of applicants were found not to be eligible for Monetary Authority of Singapore's sandbox – often because they were not covered by existing regulations. Where criteria differ across jurisdictions, the likelihood that a company will be eligible in multiple jurisdictions is lower still. If the percentage of applicants that qualify falls too low, the monetary and labor costs associated with applying may come to outweigh the benefits of the concept.

We underscore the importance of one of the underlying themes from the FCA's sandbox comment letters: enabling quick scalability into new markets is critical if companies are to survive, and innovations are to come to market.

II. Collaboration, Education, and Issuance of Best Practices Should be Key Functions of the GFIN.

***Question 5:** Do you believe the issue of developing a best practice for regulators when assessing financial innovation should be a priority for the network? If not, what other priorities should the network first address?*

Answer 5: We believe establishing “best practices” are an important first step for the GFIN, however we think the GFIN should study the FinTech international ecosystem and learn from their fellow regulators and industry before moving forward. The final document should be the product of robust discussions with industry participants, trade associations, and other stakeholders from various countries. Since FinTech is still in a nascent stage, it is important to understand the benefits and potential pitfalls of innovations, before engaging in heavy-handed regulation. Best practices are a good start to establish guidelines and certainty for the industry without stifling innovations before their full potential is realized.

Regulators should review existing rules against best practices. Where these regulations do not reflect best practices, policymakers should amend or remove those rules to ensure that they do not inhibit innovative FinTech products or services. Sandboxes provide an opportunity to review existing regulations in terms of the practical costs and benefits they provide to consumers.

***Question 6:** Do you agree with the approach to involve global standard setting bodies as part of the GFIN? How else would you like to see these organizations involved?*

Answer 6: We support the involvement of international standard-setting bodies, however we caution against these bodies creating standards at this early juncture. We believe the GFIN should use expertise from these bodies to factor into their decision making and learn from them as they would do from any stakeholder, however we believe those bodies' involvement should be limited to an advisory role.

III. Joint Policy Work and Regulatory Trials will Benefit from Sub-Groups and Cross-Border Research.

The Chamber agrees with the GFIN's approach to first identifying common areas of interest, then engaging in discussions with stakeholders and sub-groups. FinTech has become an all-encompassing word that must be broken down into sub-parts. A non-exhaustive list of suggested sub-group categories are listed below:

- a. Lending and underwriting – both consumer and business
- b. Faster payments and mobile banking
- c. Data aggregation
- d. Digital identity
- e. Tokens – currency, utility, and securities
- f. ICOs
- g. Blockchain
- h. Currency exchange and cross-border payments
- i. Artificial Intelligence advisory solutions

We suggest the GFIN establish smaller sub-groups with experts in each field. During the discussions, we urge the sub-groups to meet with companies, trade associations, consumer groups, and other stakeholders to receive input and create best practices. We also support the proposed cross-border findings reports, market studies, assessments of different regulatory approaches, and events similar to TechSprints. These tools will lead to better outcomes by helping stakeholders understand different jurisdictions and the FinTech landscape.

Question 7: *What kind of outcomes from the policy work and regulatory trials would your organization benefit from?*

Answer 7: We are most focused on expanding cross-border, multi-stakeholder collaboration regarding the regulation of FinTech products and services. The objective of such collaboration is to identify best practices that can be adopted across

the jurisdictions represented in the network. We would emphasize the importance of engaging with stakeholders throughout this process to ensure that any resulting regulation is well crafted and does not inhibit the emergence of products and services that may benefit broad sections of society.

IV. Cross Border Firm Trials Must have Certainty and Protections.

***Question 8:** Would the cross-border trials be of interest to your organization? If so, could you provide any potential example use cases?*

Answer 8: The Chamber applauds the GFIN for pursuing the difficult task of cross-border trials and we believe it could be beneficial to our members if done correctly. To feel comfortable to pursue a cross-border trial, a company must have, at minimum, the three following assurances:

1. Protection from liability, both while the trial is occurring and after the trial is over for the period of time that is was approved.
2. Confirmation that the company's sensitive, proprietary information will not be released publicly and is protected with adequate cybersecurity procedures.
3. Assurance there will be solidified, tailored procedures for the continuous monitoring to ensure it is not overly burdensome.

If the process is solidified in a manageable way, our members might be interested in pursuing a cross-border trial for an array of use cases including, but not limited to online lending, algorithms accuracy and impacts, disclosure wording and delivery, faster payments processes, and token issuance.

***Question 9:** Do you agree with the proposed approach to managing the application process for cross-border trials?*

Answer 9: The Chamber agrees with the general cross-border trial approach, but again think the details of the final process are critical. Specifically, GFIN must ensure that sandbox eligibility is somewhat streamlined across jurisdictions, to ensure that the cost-benefit of applying makes sense from a business perspective. Once an

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application is submitted and the regulators are reviewing it, we urge the GFIN to have an open dialogue with the company to ensure it can answer any questions and clear up any concerns about the proposal. New products and services can be difficult to understand, especially in the FinTech space, and companies should have the opportunity to explain any protections and make changes to respond to regulators' concerns. This back and forth dialogue should ensue before a decision is made on the initial screening.

Similarly, when companies are working on the trial plan after their concept passes the initial screening, there should be an ongoing dialogue between regulators and the companies. Companies should have the opportunity to respond to regulatory concerns and fix potential pitfalls before finalizing the plan, which will ideally give them a better chance of approval.

Conclusion

During this time of rapid innovation, the Chamber is pleased to see collaboration between multiple regulators and innovative approaches to solve complex problems. We appreciate the opportunity to comment on the GFIN consultation and hope to serve as a resource as the policy is finalized.

Sincerely,



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Abu Dhabi Global Market

Autorite des marches financiers

Australian Securities & Investments Commission

Central Bank of Bahrain

Dubai Financial Services Authority

Guernsey Financial Services Commission

Hong Kong Monetary Authority

Monetary Authority of Singapore

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