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 **NORTON ROSE FULBRIGHT**

Global Blockchain Business Council

Fintech Update

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Norton Rose Fulbright LLP – 1 June, 2020 - Private and confidential



Global, EU, UK and US Regulatory developments

FinTech		
UK, North America and APAC	NRF publication: 'the legal nature of smart contracts and cryptoassets'	<p>In this publication, 'the legal nature of smart contracts and cryptoassets' Norton Rose Fulbright considers the legal nature of cryptoassets and smart contracts, comparing the position in the UK, Australia, Canada, Singapore and the United States of America. Some key areas of difference or controversy are also highlighted which ought to be taken into account by businesses considering global roll-outs of business models that include cryptoassets or smart contracts.</p> <p>Published: May 2020</p>
EU	EIOPA speech on digital responsibility and role of actuaries	<p>EIOPA published a speech by Gabriel Bernardino, EIOPA Chair, on digital responsibility and the role of actuaries.</p> <p>Among other things, the speech considered the use of Big Data Analytics (BDA) in the insurance sector. In May 2019, EIOPA published a report following an EU-wide thematic review of BDA in the motor and health insurance markets. The speech explained that EIOPA is working to address the issues it identified under the review. The expert group will provide guidance to the market in the operationalisation of digital ethics principles for insurance.</p> <p>Any future regulatory framework will take into account the new realities of the big data landscape. It recognised that COVID-19 is likely to accelerate significant trends in digital technology.</p> <p>Published: 4 May 2020</p>
EU	European Commission 2020 adjusted work programme: financial services aspects	<p>The European Commission has published a communication outlining its adjusted work programme for 2020.</p> <p>The Commission published its 2020 work programme in January. It is adjusting its work programme for 2020 in the light of the COVID-19 pandemic.</p> <p>Changes to the work programme of potential interest to financial services practitioners relate to: sustainable finance, capital markets union, consumer credit, distance marketing and the eIDAS framework.</p> <p>The timing of the initiatives relating to the FinTech action plan (including the strategy for an integrated EU payments market, along with a legislative proposal on cryptoassets and a cross-sectoral financial services legislative proposal on operational and cyber resilience) remain unchanged. Publication of the legislative proposal is expected in Q3 2020.</p> <p>Published: 27 May 2020</p>
EU	COVID-19: ECB blog on digitisation of banking businesses	<p>The European Central Bank (ECB) published a blog on the first lessons from the COVID-19 pandemic.</p> <p>The blog states that the sustainability of banking businesses is based on technology. Banks have had to rely on digital and remote solutions to deliver services to clients. This new reality raises challenges. The exposure to cyber threats has increased. Investing in innovation and building digital</p>

		<p>presence is critical.</p> <p>The blog recognises that ECB banking supervision has adapted too. It is in regular contact with the national central banks and supervisory authorities to oversee digital security threats across the euro area. It will continue to monitor banks' capability to implement their business continuity plans. However, banks must retain control of their operations and avoid becoming too dependent on certain technology and IT infrastructure providers (including cloud services). Banks' boards and internal control functions must understand the main risks related to new technologies.</p> <p>Published: 8 May 2020</p>
<p>UK</p>	<p>COVID-19: FCA to pilot digital sandbox</p>	<p>The FCA announced that it intends to advance plans to develop a digital sandbox to provide enhanced regulatory support to innovative firms tackling challenges caused by the COVID-19 pandemic.</p> <p>The FCA believes innovation has an important role to play in meeting the challenges following coronavirus. A digital sandbox will allow innovative firms to test proofs of concept in a digital testing environment.</p> <p>The FCA had already been exploring the concept of a digital sandbox prior to the pandemic. It is therefore accelerating its plans and will pilot aspects of the digital sandbox on a modular basis to provide support to innovative firms during the crisis.</p> <p>The FCA will shortly be updating its website page with information on specific proposals for launching a coronavirus pilot of the digital sandbox and will ask for industry feedback on these proposals.</p> <p>Published: 4 May 2020</p>
<p>US</p>	<p>US bank regulators issue cloud computing security guidance</p>	<p>The US Federal Financial Institutions Examination Council (FFIEC), an interagency group of federal and state banking regulators, issued guidance on “<i>Security in a Cloud Computing Environment</i>.”</p> <p>The FFIEC guidance focuses on security risk management principles and the financial services sector’s use of cloud computing, and supplements its publications on outsourcing of Information Technology (IT) services, Outsourcing Technology Services and Supervising and Supervision of Technology Services Providers, and its cybersecurity resources.</p> <p>The FFIEC reminded financial institutions that while the detailed 11 page document does not constitute a new regulatory requirement, it was intended to provide guidance focusing specifically on the “safe and sound use” of those services and measures that can be taken to protect customer information. The FFIEC also cautioned financial institutions that a failure to develop and implement a risk-based approach to use of cloud computer services could constitute “an unsafe or unsound practice” as well as “placing consumer-sensitive information at risk.”</p> <p>In drafting the document, the FFIEC also drew on guidance issued by other agencies such as the National Security Agency (NSA) and the Center for Internet Security (CIS).</p> <p>Published: 30 April 2020</p>

<p>US</p>	<p>The Digital Dollar Foundation and Accenture launch the Digital Dollar Project to advance exploration of a United States Central Bank Digital Currency</p>	<p>The Digital Dollar Project (Project) is a partnership between the Digital Dollar Foundation (Foundation), a not-for-profit organization, and Accenture to advance the exploration of a central bank digital currency (CBDC) - or a “digital dollar.” The purpose of the Project is to encourage research and public discussion on the potential advantages of a tokenized dollar, convene private sector thought leaders and actors, and propose possible models to support the public sector as it considers development, testing, and adoption of a CBDC. The Project seeks to advance the public interest by future-proofing the dollar for consumers and institutions across both domestic and global economies. Given the US dollar’s status as the world’s primary reserve currency and exploration of CBDC by other national governments and stakeholder organizations, the Digital Dollar Project sees piloting a US digital dollar across a range of use cases as a critical and prudent initiative for the United States to begin now. The Project views the infrastructure underpinning the US dollar as a critically important public good and believes that upgrading this infrastructure will provide current and future generations enhanced flexibility, optionality, stability, and prosperity.</p> <p>In summary, the Project considers the “champion model” to be a tokenized form of the US dollar that:</p> <ul style="list-style-type: none"> • operates alongside existing monies • is primarily distributed through the existing two-tiered architecture of commercial banks and regulated money transmitters • is recorded on new transactional infrastructure, potentially informed by distributed ledger technology <p>Published: May 2020</p>
<p>US</p>	<p>NRF publication: Blockchain law: a ‘Telegram’ to SAFTs: ‘Beware!’</p>	<p>Cryptocurrency and token offerings present a regulatory paradox. How and when can a cryptocurrency or token offering transform from a security into a commodity or something else that is not subject to the securities laws? In his Blockchain Law column, a ‘Telegram’ to SAFTs: ‘Beware.’ Robert Schwinger discusses one approach that some issuers have tried in order to avoid or minimize having to face securities law requirements: “simple agreements for future tokens” or SAFTs.</p> <p>Published: 26 May 2020</p>

International developments

G20

There has been no reported activity.

Financial Stability Board (FSB)

There has been no reported activity.

Bank for International Settlements (BIS)

There has been no reported activity.

International Organisation of Securities Commissions (IOSCO)

There has been no reported activity.

Committee on Payments and Market Infrastructures (CPMI)

There has been no reported activity.

Basel Committee on Banking Supervision (Basel Committee)

There has been no reported activity.

Financial Action Task Force (FATF)

In October 2018, the [Financial Action Task Force \(FATF\)](#) adopted changes to its Recommendations to explicitly clarify that they apply to financial activities involving virtual assets (VA), effectively expanding the scope of the Recommendations to apply to virtual asset service providers (VASPs) and other obliged entities that engage in or provide covered VA activities.

There exists a need for VASPs to adopt uniform approaches and establish common standards to enable them to meet their obligations resulting from the FATF Recommendations as they apply to affected entities.

To tackle this, a cross-industry, cross-sectoral joint working group of technical experts was formed in December 2019 and a new technical standard developed by the group. The Joint Working Group on interVASP Messaging Standards (JWG) was established by three leading international industry associations representing VASPs:

[Chamber of Digital Commerce](#)

[Global Digital Finance](#)

[International Digital Asset Exchange Association](#)

Published: May 2020

World Economic Forum

There has been no reported activity.

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