NORTON ROSE FULBRIGHT

Global Blockchain Business Council

Monthly FinTech Updater, May

Norton Rose Fulbright LLP – 28 May 2021

Global, EU, UK and US Regulatory developments

EU	
Europe's Digital Decade: Commission launches consultation and discussion on EU digital principles	As a follow-up to its Digital Decade Communication of 9 March, the Commission is launching a public consultation on the formulation of a set of principles to promote and uphold EU values in the digital space. The consultation, open until 2 September, seeks to open a wide societal debate and gather views from citizens, non-governmental and civil society organisations, businesses, administrations and all interested parties. These principles will guide the EU and Member States in designing digital rules and regulations that deliver the benefits of digitalisation for all citizens. Margrethe Vestager, Executive Vice-President for a Europe fit for the Digital Age, said: “A fair and secure digital environment that offers opportunities for all. That is our commitment. The digital principles will guide this European human-centred approach to digital and should be the reference for future action in all areas. That's why we want to hear from EU citizens. Commissioner for Internal Market, Thierry Breton, said: “This is Europe's Digital Decade and everyone should be empowered to benefit from digital solutions to connect, explore, work and fulfil one's ambitions, online as offline. We want to set together the digital principles on which a resilient digital economy and society will be built.” On 9 March, the Commission laid out its vision for Europe's digital transformation by 2030 in its Communication “Digital Compass: the European way for the Digital Decade“, and proposed to compile a set of digital principles. This covers areas such as access to internet services, to a secure and trusted online environment, to digital health services and to human-centric digital public services and administration. All interested people and parties can also share their view on digital education and skills necessary for people to take an active part in society and in democratic processes, ethical principles for human centric algorithms, the protection and empowerment of children and young people in the online space or digital systems and devices that respect the environment. They are also invited to propose alternative formulations or elaborate on other possible principles. These principles will complement existing rights that already protect and empower Europeans online such as the protection of their personal data and privacy, freedom of expression, freedom to set up and conduct a business online or the protection of their intellectual creations. This approach goes also hand-in-hand with the recent proposal on Artificial Intelligence whereby the Commission aims to ensure the use of this technology in the EU is trustworthy and human-centric. **Next steps** The contributions to the public consultation will feed into a proposal from the Commission for a joint inter-institutional declaration on Digital Principles of the European Parliament, the Council, and the Commission. The proposal is expected by the end of 2021. **Published:12 May**

ESMA launches call for evidence on digital finance	On 25 May 2021, the European Securities and Markets Authority (**ESMA**) launched a call for evidence on digital finance. This call for evidence follows a request for technical advice to the European Supervisory Authorities (**ESAs**) that was issued by the European Commission (**Commission**) in February 2021, and which concerned three main issues: (1) the growing fragmentation of value chains in finance, (2) digital platforms and (3) groups combining financial and non-financial activities. The purpose of the technical advice is to help the Commission to evaluate the challenges and risks attached to digital transformation prior to proposing, where relevant, amendments to the relevant legislative frameworks by mid-2022. In accordance with the scope for technical advice, the call for evidence is divided into three main parts and covers: • **More fragmented or non-integrated value chains** (Qs 1-15). Acknowledging an increased dependency of financial firms on third-parties, notably technology firms, for the provision of financial services (e.g. cloud outsourcing arrangements, data analytics) and that such arrangements may introduce new risks and not be fully captured by the existing regulatory framework, ESMA seeks evidence on new material developments in the evolution and fragmentation of value chains and the extent to which this development introduces new risks and/or create regulatory and supervisory challenges. • **Platforms and bundling of various financial services** (Qs 16-26). Noting that platforms can market and provide access to multiple different financial services, often from different financial firms, and that the relevant financial services bundled on the platform may fall under separate sectorial regulations or outside of the scope of EU financial services regulation, ESMA seeks feedback on the use of digital platforms in the EU and on the extent to which such use introduces new risks and/or creates regulatory and supervisory challenges. • **Risks of groups combining different activities** (Qs 27-33). Noting that existing sectoral financial legislation already includes provisions relating to group supervision, it does not provide a framework for coordinated supervision on a cross-sectoral basis for emerging types of mixed activity groups, ESMA seeks feedback whether: (1) large technology companies as mixed-activity groups should be supervised specifically, (2) how interdependencies within the groups, and potential risks stemming from, can be identified and addressed, and (3) how supervisory cooperation can be improved for these groups. ESMA's call for evidence is therefore directed to a broad group of stakeholders, including: • Financial firms relying on third-parties, in particular technology firms, to fulfil critical or important functions. For the purpose of this call for evidence, by "financial firm" ESMA considers any firm falling within its remit by means of the relevant sectoral legislation (e.g. investment firms, central counterparties, alternative investment fund managers, market operators of trading venues, administrators of critical benchmarks and other). • Third-parties, in particular technology firms, on which financial firms rely to fulfil critical or important functions. • Technology firms providing financial services, either directly or through partnerships with financial firms. For the purpose of this call for evidence, "financial service" or "financial product" means any financial service and product falling within ESMA's remit, i.e., any financial service and product provided by a financial firm (and excluding banking, payment, credit and insurance services). • Platforms marketing or providing access to different financial services. For the purpose of this call for evidence, a term "platform" means any digital platform that enables financial firms directly (or indirectly using a regulated or unregulated intermediary) to market to investors, and/or conclude with investors contracts for, financial products and services (e.g. technical infrastructures used by financial firms to market or distribute different financial products and

	services, and enabling investors to access products and services provided by different financial firms). • Groups combining financial and non-financial activities, also known as mixed activity groups. Stakeholders interested in participating in this call for evidence have until 1 August 2021 to send their submissions. ESMA, together with other ESAs, is required to deliver the technical advice to the Commission by 31 January 2022. **Published:26 May**
UK	
Coalition for Integrity report: AI a useful tool in ABC compliance for larger organisations	On 4 May, the Coalition for Integrity has published a report summarising how machine learning (or AI) can be used in anti-bribery and corruption (ABC) compliance programmes (the **Report**). The Report provides companies with key points to consider in determining whether (and if so how) they should consider developing or using machine learning solutions for their ABC programmes. The Report follows increased interest from regulatory authorities globally in relation to the use of data in ABC compliance programmes. As well as providing examples of where machine learning has been successfully implemented in ABC programmes, the Report summarises some of the key legal, cost and practical issues that can arise in using machine learning. **Potential advantages of AI include:** **1.** Assisting in the timely identification of higher-risk transactions and relationships, including higher risk contracts and transactions with third parties. **2.** Helping companies detect new or changing risks and adjusting their compliance programmes to keep pace with their businesses' evolution (as required by most authorities). **3.** Cutting through large volumes of data quickly. **4.** One case study the Report examines is the implementation of machine learning in post-acquisition compliance integration. The purchaser created a platform to draw on data from across multiple systems of the newly acquired group including finance, compliance, and human resources to identify transactions and third parties that potentially posed a risk. The platform applied a risk-scoring approach; certain transactions or relationships were deemed higher-risk based on the number of risk attributes and greater weighting of higher-risk attributes (e.g., involvement of a politically connected entity). The solution reportedly reduced the review costs associated by millions of dollars. **Challenges** **1.** Care needs to be taken to ensure that AI is used ethically. Ultimately, humans should remain in control of delegation to AI systems and the responsibilities those systems have. **2.** Companies should be wary of data privacy/protection laws and cybersecurity implications when processing data given that development of any machine learning system involves drawing on large datasets that may be stored in a variety of locations. **3.** The process of developing and implementing machine learning solutions tailored to a company's needs is expensive and time-consuming. Sophisticated AI solutions are

	more feasible where a company's size, business model, financial resources and data volumes make machine learning a cost-effective solution. For the biggest companies, AI can be an extremely useful tool to assist with ABC compliance (just as it is for many financial institutions in relation to anti-money laundering compliance). **Published 4 May**
South Korea	
Government to Strengthen Oversight on Virtual Asset Transactions and Improve Transparency	On May 28, the government announced its plan to enhance supervision on virtual asset transactions at a taskforce meeting led by the Office for Government Policy Coordination. The measures introduced are aimed at strengthening efforts to prevent illegal transaction activities and improving transparency amid growing market size of virtual assets. The taskforce meeting also assigned specific tasks for each government authority and agency dealing with virtual asset transactions. With the revised Act on Reporting and Using Specified Financial Transaction Information providing a six-month grace period for current virtual asset service providers (**VASPs**) to register their business with the authority, the government will ensure an effective management over the registration process as well as ensuing risks both during and after the grace period. **Key measures:** **1. Pre-emptive management during the grace period** In order to encourage prompt and early registration from existing VASPs, the financial authorities will provide consulting on the registration and supplemental requirements, such as obtaining an ISMS certification, opening up a real-name checking account, etc. The KoFIU will promptly process applications for business registration as they come in to promote market reorganization with registered entities. To let market participants know in advance and help them prepare for the possibility of business closure, the authorities will let the public know the status of business applications being filed through relevant websites. The authorities will continue to share information about VASPs with the investigative authorities to help enhance the effectiveness of necessary investigations. As of May 20, about sixty VASPs appear to be in operation. Twenty entities have received ISMS certifications and four them are found to run their operation with real-name accounts as of May 27. The authorities will continue to closely monitor fraudulent activities by VASPs and ensure strict response. **2. Systematic management after the grace period** The authorities will strengthen management on the registered VASPs by closely watching whether they are in compliance with the registration requirement, AML, embezzlement and hacking prevention requirements.VASPs will be required to register with the KoFIU or otherwise face penalties of up to five years of imprisonment or up to KRW50 million in monetary sanction. AML duties will be closely monitored to ensure transparency in transactions. VASPs will be required to comply with necessary protocols, such as filing suspicious transaction reports (STRs) and having internal control standards, etc., or otherwise be subject to monetary sanctions or business suspension. VASPs will be required to maintain deposits from customers separately to prevent embezzlement. A registered VASP that fails to maintain its ISMS certification status will be subject to a cancellation of registration

	In addition, the authorities will continue to work on improvements to boost transparency in virtual asset transactions and strengthen safekeeping and other measures. In this regard, the authorities will work to introduce measures that prohibit VASPs issuing theirs own virtual assets from engaging in brokerage activities for the sale or exchange of their own virtual assets. Second, the authorities will work on a measure that bans employees of VASPs from engaging in virtual asset transactions through their own business establishments. Third, the authorities will consider raising the cold wallet safekeeping requirement (to more than 70%, for instance) to enhance protection from hacking, etc. **Published 28 May**
Singapore	
MAS Launches Global FinTech Hackcelerator for a Greener Financial Sector	On 6 May, the Monetary Authority of Singapore (MAS) announced the launch of the 6th edition of the Global FinTech Hackcelerator, with the theme "Harnessing Technology to Power Green Finance". The competition, supported by Oliver Wyman, seeks to unlock the potential of FinTech in accelerating the development of green finance in Singapore and the region. FinTech firms and solution providers around the world are invited to submit innovative solutions to address over 50 problem statements that have been collected from financial institutions and green finance industry players. These problem statements focus on three key challenges: (i) Mobilising Capital; (ii) Monitoring Commitment; and (iii) Measuring Impact. Up to 15 finalists will be shortlisted for a virtual programme where they will be paired with a Corporate Champion to develop customised prototypes on the API Exchange (APIX) . Each finalist will also receive a S$20,000 cash stipend and be eligible for a fast-tracked application for the MAS Financial Sector Technology and Innovation Scheme Proof-of-Concept Grant of up to S$200,000. Finalists will pitch their solutions at the Demo Day held at this year's Singapore FinTech Festival. Up to three winners will be selected, with each receiving S$50,000 in prize money. Mr Sopnendu Mohanty, Chief FinTech Officer of MAS said, "Green FinTech can be an important enabler to accelerate Asia's transition to a low carbon future. It can provide much needed innovative solutions, and develop the crucial technology stack, which can help promote green financial services, catalyse efficient allocation of green capital, and facilitate trust in the green data value chain. I encourage all innovators to make use of this platform and showcase their Green FinTech solutions to the world." All FinTech firms and solution providers are encouraged to submit their applications for the MAS Global FinTech Hackcelerator by 11 June 2021.

Hong Kong	
Government releases consultation conclusions on legislative proposals to enhance anti-money laundering and counter-terrorist financing regulation for virtual asset services providers	On 21 May, Hong Kong's FSTB (Financial Services and the Treasury Bureau) published the results from a consultation from 3 November 2020 to 31 January 2021 on legislative proposals to enhance anti-money laundering and counter-terrorist financing ("AML/CTF") regulation in Hong Kong through the introduction of (a) a licensing regime for virtual asset services providers ("VASPs"); (b) a two-tier registration regime for dealers in precious metals and stones ("DPMS"); and (c) miscellaneous technical amendments under the Anti-Money Laundering and Counter-Terrorist Financing Ordinance (Cap. 615) ("AMLO"). The FSTB received 79 responses to the proposals by the end of the consultation, with 47 submissions focusing solely on the VASP regime, 13 submissions focusing solely on the DPMS regime, and the rest commenting on all the proposals under consultation and Hong Kong's anti-money laundering and counter terrorist financing ("AML/CTF") system in general. "We are pleased to note that the respondents generally agreed with the overall direction and principles as well as the broad framework of the legislative proposals. Having regard to the valuable comments and suggestions from respondents, we will fine-tune the legislative proposals as appropriate to address stakeholders' concerns," a Government spokesman said. The Government will proceed to prepare the amendment bill based on the consultation conclusions, with a view to introducing the amendment bill into the Legislative Council in the 2021-22 legislative session. The full consultation paper can be found here.
Malaysia	
Malaysia and United Nations Capital Development Fund launch Islamic fintech Accelerator programme	On 25 May, the Securities Commission Malaysia (SC) and the United Nations Capital Development Fund (UNCDF), through its Centre for Financial Health programme, launched an innovation programme to develop a vibrant Islamic FinTech innovation ecosystem in Malaysia's Islamic capital market (ICM). The programme, known as the FIKRA Islamic FinTech Accelerator Programme (FIKRA), kicked off with its inaugural initiative, the first accelerator focusing on FinTech for the ICM in Malaysia. FIKRA aims to identify and scale relevant and innovative Islamic FinTech solutions that can help address three main challenge areas, namely, new ICM offerings, accessibility and social finance integration*. SC Chairman, Datuk Syed Zaid Albar said, "Islamic FinTech in the Malaysian capital market is still at a nascent stage, but there is great potential for exponential growth with the right ecosystem. The accelerator and future initiatives under FIKRA will advance the development of Islamic FinTech while creating an ecosystem that nurtures talent, funds innovation, commercialises ideas and solutions, and creates jobs and opportunities." FIKRA is designed to turn ideas into real-life solutions taking innovators through the entire value chain from ideation, solutions validation, prototype building, creating a fundraising pitch deck, to preparing applicants for an effective pitching to potential investors and more. FinTech start-ups who participate in FIKRA's first accelerator initiative will benefit from regulatory guidance, the programme's mentorship, social networks, and more. The methodologies used for the programme are developed by UNCDF based on their prior experience running innovation challenges through their Financial Innovation Lab (FinLab) and now scaled to address finance related initiatives under the Centre for Financial Health.

	"To achieve Sustainable Development Goals (SDGs), it is important to ensure that product offerings focus on building financial resilience and security for the people we serve," said Preeti Sinha, Executive Secretary for UNCDF. "As we look to broaden market participation, FIKRA can be an avenue for innovators to cultivate their solutions that can potentially provide a much-needed and timely boost for the Malaysian ICM. We look forward to partnering with the SC on this innovative initiative." Participants will also have the opportunity to work closely with FIKRA's industry partners such as Bank Islam Malaysia, Gobi Partners, Kenanga Investment Bank, and Permodalan Nasional Berhad. The programme is currently open for registration, and is scheduled to commence in July 2021 for three months, culminating in a public virtual demo day during the annual SCxSC FinTech Conference 2021. For more information, and to apply for the accelerator programme, visit the UNCDF website. Applications close on 30 June 2021.
United States	
Chair of the Securities and Exchange commission says SEC and FINRA should be prepared to bring cases involving crypto, cyber and FinTech	On 20 May, the chair of the securities and exchange commission, Gary Gensler spoke at the annual Financial Industry Regulatory Authority ((FINRA) conference. **Extract of speech as follows:** At the SEC, we are focused on going after misconduct wherever we find it in the financial system. That means holding individuals and companies accountable, without fear or favor, across the approximately $100 trillion capital markets we oversee. Individual accountability is an important part of any enforcement agenda. I believe we should continue to pursue bars and similar relief, where appropriate, to protect the public. That also means bringing cases that matter to all parts of our mission — whether deceptive conduct by private funds, offering or accounting frauds, insider trading, market manipulation, failures to act in retail customers' best interests, reporting violations, best execution and fiduciary violations, or any other form of misconduct. We need to do whatever we can to ensure that bad actors aren't playing with working families' savings and that the rules are enforced aggressively and consistently. What's more, technology is always evolving, as are our markets. As we continue to stay abreast of those developments, the SEC and FINRA should be ready to bring cases involving issues such as crypto, cyber, and FinTech. I believe we also should remain focused on how our agencies use technology and data analytics to surveil the markets and enforce the law. **Published 20 May**

US Treasury addresses the use of cryptocurrency in tax evasion	On 20 May, the US Department of the Treasury (the **Treasury**), published the American Families Plan Tax compliance Agenda. The agenda supports President Biden's new proposals to advance comprehensive and necessary investments in American children and families by setting compliance measures to foster a tax system where Americans pay the taxes they owe. In particular, the Treasury addressed the challenge posed by virtual currencies in making income visible to the IRS. The Treasury noted that virtual currencies, which have grown to $2 trillion in market capitalisation, pose a significant detection problem by facilitating illegal activity broadly including tax evasion. President's proposal includes additional resources for the IRS to address the growth of cryptoassets. Despite constituting a relatively small portion of business income today, cryptocurrency transactions are likely to rise in importance in the next decade, especially in the presence of a broad-based financial account reporting regime. Within the context of the new financial account reporting regime, cryptocurrencies and cryptoasset exchange accounts and payment service accounts that accept cryptocurrencies would be covered. Further, as with cash transactions, businesses that receive cryptoassets with a fair market value of more than $10,000 would also be reported on. Although cryptocurrency is a small share of current business transactions, such comprehensive reporting is necessary to minimize the incentives and opportunity to shift income out of the new information-reporting regime. The treasury highlighted that these opportunities are particularly available for those in the top end of the income distribution who can avoid taxes through sophisticated strategies such as offshoring, creating complex partnership structures, or moving taxable assets into the crypto economy. **Published 20 May**

International Developments

G20

Digital and green prospects for existing and future infrastructure in G20 countries.

On 5 and 6 May, the Infrastructure Working Group members met virtually for the fourth time under the Italian G20 Presidency. The agenda featured items related to maintenance and financing of digital and sustainable infrastructure. One of the Italian G20 Presidency goals is to make global infrastructures more resilient and inclusive. Previous G20 exchanges on this matter have showed strong consensus on improving maintenance of existing assets and promoting future digital and sustainable infrastructure networks.

While the COVID-19 crisis represents an enormous challenge for most infrastructure systems, with a direct impact on essential social infrastructure such as healthcare and education, the crisis has shown that reliable and agile infrastructure systems, together with digital infrastructure investments, hold the key to global economic recovery.

In this context, the G20 Infrastructure Working Group meets regularly to gear policy making towards favouring and managing quality infrastructure investments to secure the provision of inclusive, sustainable and resilient infrastructure services to all. On 5 and 6 May 2021, its members met virtually for the fourth time under the Italian G20 Presidency. In particular, the agenda of this fourth meeting featured items related to maintenance, financing of digital and sustainable infrastructure.

The meeting kicked off with a presentation by the Italian G20 Presidency on the preparation of the G20 Policy Agenda on Infrastructure Maintenance, which aims to show how ensuring proper resources for resilience and maintenance across the entire life of existing assets is critical and, for many countries, an urgent priority. On this matter the G20 work is supported by the OECD and the World Bank. In this meeting the International Organisations presented the preliminary results of their activities.

Given the global willingness to move towards a more digital world, the Infrastructure Working Group members discussed measures, opportunities and challenges to finance high-quality broadband connectivity. With the support of the OECD, the group is discussing guidelines aimed at improving investment opportunities to extend high-level connectivity and recommend a set of public measures to address financing gaps.

In the current challenging economic juncture, the G20 has had the ambition to make concrete progress in the so called green agenda. At the May meeting, the Group continued the discussions on issues related to this theme with a presentation by the Global Infrastructure Hub (GI Hub) on the outcomes of the workshop on circular economy organised on 30 April. The GI Hub also updated the members on their work on innovative financing solutions for sustainable, green and circular economy infrastructure projects and on its Infrastructure Roadmap for accelerating the transition to the circular economy.

This fourth meeting also offered an opportunity to discuss the role of the private sector in infrastructure financing. Despite broad recognition of the need for more and better quality infrastructure investment, in recent years, public and private investment has seen a declining trend, which particularly affected social infrastructure. Important progress on sustainable infrastructure financing for the recovery is expected on 3 June with the G20 Infrastructure Investors Dialogue, organised in close collaboration with the OECD and the D20-Long Term Investors Club.

The work of the Infrastructure Working Group will continue with a busy calendar of closed and open door meetings with public and private stakeholders ahead of the July G20 Finance Ministers and Central Bank Governors meeting in Venice.

Published 8 May

Bank for International Settlements (BIS)

BIS Innovation Hub and Bank of Italy launch G20 Techsprint

On 6 May, the Bank for International Settlements (BIS) Innovation Hub and the Bank of Italy, within the Italian G20 Presidency, launched the G20 TechSprint Initiative to highlight the potential for new technologies to resolve some of the most pressing challenges in green and sustainable finance. The aim of the TechSprint is to highlight the potential for new technologies to tackle challenges in green and sustainable finance.

The rapidly growing green finance sector focuses on allocating capital to economic projects that protect the environment and is a key factor in supporting sustainable development. The BIS Innovation Hub and the Italian G20

Presidency have published three high-priority operational problems and invite private firms to develop innovative technological solutions.

The problem statements identify the following challenges, highlighted by submissions from G20 finance ministries and central banks:

- Data collection, verification and sharing;
- Analysis and assessment of transition and physical climate-related risks;
- Better connecting projects and investors.

"This TechSprint shows how FinTech innovation can help promote green and sustainable finance, which has advanced to the top of central banks' priorities", said Benoît Cœuré, Head of the BIS Innovation Hub. "The G20 TechSprint 2021 has clear and measurable goals to fire the imagination of people worldwide, inspiring everyone into action to develop practical solutions to address issues in the field of sustainable finance", said Alessandra Perrazzelli, Deputy Governor of the Bank of Italy.

Interested participants can compete and develop innovative solutions to face these problems using the dedicated platform, through which Codemotion will facilitate registration and online judging of project proposals, and the IBM Cloud for prototype building. The TechSprint will be presented during an online event on 7 May at 11:45 CEST. The closing date for applications is 31 May, with shortlisted teams announced on 14 June and invited to showcase their prototypes in a workshop in August for feedback from national authorities and experts. An independent expert panel organised and sponsored by the Bank of Italy will judge the submissions and identify the most promising solutions. Selected solutions will be announced in October and cash prizes awarded.

For information on participant application, go to techsprint2021.it.

Published 6 May

Contact details:

Hannah Meakin

Partner and Co-head of FinTech Regulation

London

Norton Rose Fulbright LLP

Tel +44 20 7444 2102

Hannah.Meakin@nortonrosefulbright.com