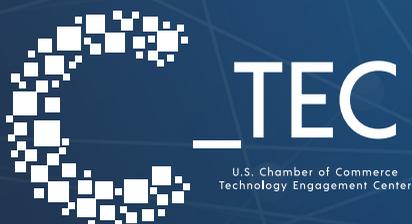




FINTECH INNOVATION INITIATIVE:

BRIDGING THE GAP BETWEEN TECH AND D.C.



CENTER FOR CAPITAL MARKETS
COMPETITIVENESS.



FinTech Innovation Initiative:

Bridging the Gap between Tech and D.C.

The financial services sector has always been innovative, but the rate of changing technology is escalating exponentially. At the same time, policymakers are still trying to understand the fundamentals of the new technological advances. This is why we are establishing the FinTech Innovation Initiative to “peel back the layers” of FinTech, inform policymakers about the new products and services that have the opportunity to better serve consumers, investors, small businesses, and indeed, society as a whole. We also will advocate on behalf of “FinTech” progress – whether at existing financial institutions or new entrants – to ensure safe innovation is promoted and the regulatory framework is simple, clear, and transparent.

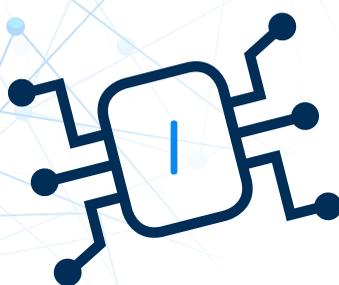
This rapid speed of technological change coupled with the potential opportunities and challenges is why it is critical that policymakers understand the FinTech landscape. Only if the gap is bridged between the innovators and the policymakers will safe innovations thrive, consumers and investors will be protected, and better products and services will reach the marketplace. While the FinTech conversation was waged years ago, there remains a significant need for robust debate and education to produce better understanding on the complex and divergent products and services that are categorized under the broad FinTech umbrella.



This is why we are launching our eight FinTech principles today, which include:

- I. Encourage safe innovation in the financial sector, whether by a new entrant, traditional financial institution, or by a joint initiative by both.**
- II. Streamline the fragmented regulatory structure so any financial service provider that serves a national, multi-state market has one set of rules to abide by, instead of the complex 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.**





Encourage safe innovation in the financial sector, whether by a new entrant, traditional financial institution, or by a joint initiative by both.

From accessing affordable credit to cover an unexpected car repair, to obtaining a loan to jumpstart a dream of opening a small business, each person and business is unique, and so are their financial needs. And these are just lending examples – “FinTech” innovations also encompass payment processors, blockchain technology, investing, and data aggregators – to name just a few other uses.

Not only do consumers, investors, and businesses need innovative goods and services to better meet their needs, but it is also critical that the U.S. signals a policy of supporting innovation before other countries set the standards and attract revenue away from the U.S. Last year alone, \$6 billion was invested in blockchain – with the majority coming from outside the U.S. – and 2018 has already seen \$10 billion invested in the first half of the year. If U.S. policymakers institute policies that quash innovation or stand on the sidelines, these inventions will still be established, but the jobs created and investments made will increasingly be abroad and other countries will set the rules of the road and reap the benefits of the marketplace.

With these critical issues in mind, we propose the following recommendations to help policymakers promote innovation and the opportunities that come from it:



Regulatory Recommendations

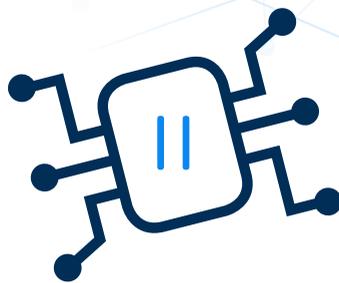
- Throughout their policy statements, the U.S. Department of the Treasury (“Treasury”) should highlight the importance of creating a regulatory framework that fosters FinTech innovation for all financial service providers in order to set the tone for other agencies to follow. The regulatory environment must be streamlined to minimize overlapping regulatory jurisdictions and needlessly duplicative regulation to avoid confusion in the marketplace and to ensure that economic growth and opportunity thrive.
- The Bureau of Consumer Financial Protection (“Bureau”) should adopt a robust no-action letter and advisory opinion process that gives innovators the opportunity to receive regulatory certainty they need to be successful. The Bureau should expand its limited no-action letter process to bring it in line with the processes used by peer regulators, such as the Securities and Exchange Commission (“SEC”). The Bureau also should create a new process for issuing advisory opinions when companies have questions about a legal provision or are requesting an interpretation of an unclear aspect of the law. Both of these processes should, of course, not take the place of a formal rulemaking process when creating a new legal requirement.
- Regarding blockchain and cryptocurrency, we urge the SEC to give more guidance on the treatments of tokens and initial coin offerings (“ICOs”) to indicate whether a token is a security so companies can have more predictability and certainty in the marketplace. We also urge the SEC to broadly consider and issue expedited no-action letters. Moreover, we urge the SEC to expand the definition of accredited investor to include those with experience or educational backgrounds that demonstrate subject matter expertise to broaden smaller-dollar, main street investments.
- For cryptocurrency that is a future, we urge the Commodity Futures Trading Commission (“CFTC”) to provide more guidance and broadly consider expedited no-action letters.



Legislative Recommendations

- **Protecting Consumers' Access to Credit Act, S.1642:** The Senate should pass the “Madden fix” legislation that was passed out of the House on February 14, 2018 by 245 to 171. This legislation would restore consistency to our nation’s lending laws by reaffirming the longstanding “valid when made” doctrine. Reaffirming this longstanding doctrine would give companies the certainty they need when buying loans across state lines, which is commonplace in our national economy.
- **Modernizing Credit Opportunities Act, H.R. 4439:** We urge the House to take up this bill that clarifies that the role of an insured depository institution as a “lender” under a loan agreement is not affected by any contract between such institution and a third party financial provider, and that Federal preemption of state laws applies to any loan where the insured depository is the lender. This bill would foster the critical partnership between traditional financial institutions and new entrants in the marketplace, which is necessary to expand access to credit to consumers and small businesses.
- **IRS Data Verification Modernization Act, S.1958 and H.R. 3860:** We urge the House and Senate to swiftly consider this bill that would drastically improve underwriting times by providing real-time responses for income verification by the Internal Revenue Service (“IRS”). This bill was previously passed out of the House in the IRS Reform Bill by over 400 votes. This bipartisan, bicameral bill would make it easier for qualified consumers and small businesses to receive the funds they need simply by making technological upgrades at the IRS.





Streamline the fragmented regulatory structure so any financial service provider that serves a national, multi-state market has one set of rules to abide by, instead of the complex state rules and multiple federal agencies.

We live in dynamic times where the internet and digital devices consume our everyday. In this digital age, national boundaries fade away as transactions fly through the internet and cloud, which is why a patchwork federal and state regulatory scheme for financial services companies is impractical. This conflicting patchwork has the potential to stifle innovation, limit market diversity and reach, and increase cost of credit that would impede growth and small business formation. To ensure new technologies get off the ground before they are snuffed out by regulatory burdens that impose a steep barrier to entry, we need congruent, simplified standards. Fifty individual state licensing and reporting requirements can be consolidated with federal requirements or streamlined through reciprocal or “passporting” provisions.

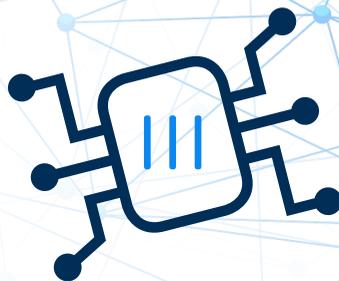


Our complicated and fragmented financial regulatory structure makes it challenging for financial service providers to know who to turn to and which rules to follow. Indeed, the Government Accountability Office indicated “fragmentation and overlap have created inefficiencies in regulatory processes, inconsistencies in how regulators oversee similar types of institutions, and differences in the levels of protection afforded to consumers.”¹ This confusion creates uncertainty in the marketplace, which breeds hesitation about innovating, stifles future projects, or worse – forces companies to abandon projects altogether.

We support regulatory “sandboxes” or innovation incubators within the financial regulators. While we encourage all agencies to prioritize innovation, we believe it is critical that there is one coordinated body that is leading the effort. We urge the Financial Stability Oversight Council to use their convening authority to bring together Innovation Officers from each agency. This coordinated body can provide more consistency and clarity about expectations for market participants. In terms of a “FinTech” charter, we believe an institution seeking a charter should receive preemption and protection from enforcement actions from sister agencies if it is operating under the terms of the charter once the charter is granted.

¹Government Accountability Office, Complex and Fragmented Structure Could Be Streamlined to Improve Effectiveness (Feb 2016) pg. 1 (also see pg. 12 for complex regulatory structure chart)
<https://www.gao.gov/assets/680/675400.pdf>





Foster partnerships between new entrants and incumbent financial institutions, while minimizing the burden of “vendor management” requirements.

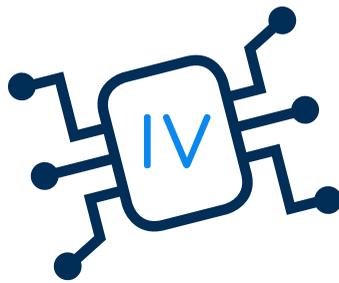
A federal “stamp of approval” for individual financial services companies that are expanding their use of financial technologies may reduce compliance burdens and increase innovation because it would:

- Clarify the vendor management requirement for traditional institutions that are partnering with new entrants since a robust audit of the company already would have been completed at the federal government level;
- Streamline and reduce the amount of audits new innovative entrants must comply with if they are being vetted by and partnering with multiple institutions; and
- Delineate responsibilities for consumer data management, making for orderly and hygienic data flow and data access rights and responsibilities.

This “stamp of approval” or registry could be based on a starter set of operating principles including privacy protections, information and cyber security, and appropriation insurance. A formal bank charter may carry further requirements to be determined by the chartering institution.



Further, we recommend the Bureau revise its onerous Compliance Bulletin and Policy Guidance regarding Service Providers, which was released October 31, 2016. Our members take risk management incredibly seriously and go to great lengths to establish compliance systems to ensure risks are identified and mitigated. However, it is impractical for any institution to know exactly what is happening in another organization, at all times. We support risk management requirements; however, unworkable standards and continuous audits have become too onerous under the current framework and there needs to be more flexibility so consumers do not needlessly shoulder the costs.



Support policies that promote expanded financial access to affordable and accessible credit for underserved communities for both households and small businesses.

There has been comprehensive research performed over the last decade on the needs of underserved communities for both household and small businesses. The Federal Reserve Board (“Federal Reserve”)² and Federal Deposit Insurance Corporation (“FDIC”)³ have conducted numerous surveys on underserved consumers, and examined the opportunity for innovative lending and digital banking to help these vulnerable populations.

²<https://www.federalreserve.gov/econresdata/consumers-and-mobile-financial-services-report-201603.pdf>

³<https://www.fdic.gov/householdsurvey/2015/2015report.pdf>



Notably, the Federal Reserve found in a 2016 study:

- Mobile phones are prevalent among unbanked and underbanked consumers.
- Nine percent of consumers were unbanked at the time of the survey. Forty percent of the unbanked had access to a smartphone, 28 percent had access to a feature phone, and 32 percent lacked access to any type of mobile phone.
- Twenty-two percent of consumers were underbanked, meaning they had a bank account and had used one or more alternative financial services (typically from a nonbank) within the past year. Seventy percent of the underbanked were smartphone owners, and 17 percent owned a feature phone.
- Among the underbanked with mobile, 55 percent used mobile banking.⁴

Clearly, there is an opportunity to reach those outside the conventional banking system with new and innovative products and services. Many financial companies are focused on serving the unbanked and underbanked by creating services that can reach consumers who would typically fall outside traditional underwriting requirements. In practical terms, we encourage policymakers to modernize requirements that still limit an all-mobile process by requiring in-person interactions or wet signatures. The recent MOBILE Act is an example of legislative action that is keeping up with technology.

We also urge regulators to revisit the Community Reinvestment Act (“CRA”)⁵ to update the 1977 law for modern technology. As we noted in our letter to Treasury, “in the digital age, consumers are receiving many of their services, including banking, online or on a mobile device. CRA should be updated to reflect this reality and incentivize institutions to invest in these technologies and benefit consumers.”

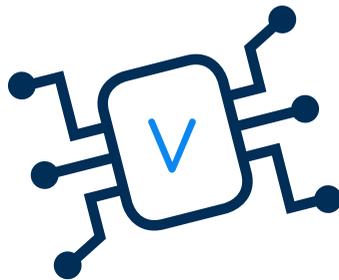
⁴Federal Reserve at 2.

⁵12 U.S.C. 2901.



Treasury agreed with the need to update CRA due to technological advances in their April 2018 report, which indicated “Treasury recommends revisiting the approach of determining assessment areas. CRA’s concept of community should account for the current range of alternative channels that exist for accepting deposits and providing services arising from the ongoing evolution of digital banking.”⁶

It is critical that the unbanked and underbanked be incorporated into the mainstream credit system to help these consumers improve their financial health and build wealth. Another critical step to boost the financial health of unbanked and underbanked lies with financial education, which is discussed in the next section.



Enrich financial literacy through multiple platforms to reach the consumers, investors, and small business owners who need it most.

Financial institutions and governmental entities share the common goal of promoting financial literacy to the public. A financially educated public can make better decisions for themselves and their families, which ultimately results in a more robust economy. Often times, the root cause of financial strife is a lack of understanding of products and services, or how a certain financial behavior may affect consumers’ or small business’ ability to access credit. This is why we need a comprehensive financial literacy plan that spans across the federal government and partners with private industry.

⁶U.S. Department of Treasury, Memorandum for the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation (April 2, 2018) <https://home.treasury.gov/sites/default/files/2018-04/4-3-18%20CRA%20memo.pdf>



Multiple agencies devote resources to financial education; however, this incredibly critical mission would be more powerful if it was coordinated by a lead agency. We believe the Treasury should spearhead this effort in its Financial Literacy and Education Commission (“Commission”).⁷ The Commission should coordinate efforts of the prudential regulators, the Bureau, the Department of Defense for service member concerns, and any other agency engaged in financial education. It is also critical that the Department of Education is involved to create a plan for educating the youngest Americans about the importance of financial health. Good financial habits should start at a young age, instead of trying to educate consumers after mistakes have already been made .

The Commission should also work closely with industry, and hold public/private sector roundtables to discuss the most problematic financial issues facing Americans. As we mentioned in our recent response to the Bureau’s request for information on consumer education, “Financial institutions are leading the charge in financial education to better serve their customers. Institutions have created different academies, workshops, and educational materials to help their customers understand the products and services they offer, as well as the overarching financial services landscape.” The immense challenge of educating the public on financial issues cannot be accomplished by one bank or one regulator, which is why it is imperative that all parties come together to establish initiatives that most effectively reach our citizenry.

⁷<https://www.treasury.gov/resource-center/financial-education/Pages/commission-index.aspx>



Educate policymakers about the benefits of financial innovation and the opportunities to serve the consumers and small businesses owners who may not have affordable access to credit.

In the fast paced and ever changing world of technology, it's difficult for industry experts to keep up, let alone for policymakers who are far removed and dealing with countless different issues. It is critical that the industry educate policymakers and their staff about the innovative products, services, and technology being developed to ensure that they make informed, thoughtful decisions. We are excited to release our FinTech Innovation Initiative and look forward to working with policymakers on how technology can enhance the financial well-being of a consumer or small business, especially by alternative data and innovative underwriting.





Protect consumer privacy, create best practices for cyber security protections, and develop safe ways for consumers to manage their digital identity.

As the use of digital services escalates, the amount of data collected and stored increases exponentially. For decades, companies have been collecting information about consumers to use it to better serve customers and anticipate the desires and preferences of consumers. While this targeted focus has made it easier for consumers to find products they like or a new service they want to try, it has also come with pitfalls and concerns about how this data is stored and managed.

The Chamber supports the passage of uniform cybersecurity, data breach notification, and data security standards that would preempt the patchwork of state-specific requirements. Protecting individuals' sensitive personal information from theft or illicit uses is a top industry priority. Technology-neutral, federal data breach legislation would help businesses by reducing the significant complexity associated with complying with some 50 state data breach laws.

The U.S. Chamber urges lawmakers to be especially mindful that both consumers and businesses are victims of cybercrimes—attacks that are often launched from overseas—that can give rise to data breaches. The central reason for Congress to legislate is to expressly preempt organizations' obligations under state laws. A weak preemption law would accomplish little other than to add to the conflicting and contradictory mix of state laws and regulations already in effect. We support a national cyber security standard and a reasonable, flexible data privacy bill that allows consumers to manage their digital identity without quashing innovation.





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.

Entrepreneurs know all too well how difficult it is to raise the capital necessary to start or grow their business. This challenge persists throughout the lifecycle of a company as it tries to jump from small to medium, medium to large, and large to public. The actual complex and expensive regulatory requirements have capped the growth of public companies in the U.S., with the amount of listed companies in 2016 half of what they were in 1996.⁸

It is no surprise that American innovators are searching for new, more efficient ways to raise capital, such as crowdfunding and ICOs. With new innovations, comes the opportunity for creating efficiencies in the marketplace, but also comes the need to insure the innovation is safe and legally compliant. While steps have been taken in recent years to ease capital formation rules and enable public fundraising from individual investors, more can be done to modernize these rules to facilitate Americans' direct involvement in economic growth.

⁸ Credit Suisse, The Incredible Shrinking Universe of Stocks (March 22, 2017)
https://www.cmgwealth.com/wp-content/uploads/2017/03/document_1072753661.pdf



We urge the SEC to continue studying ICOs to see how they can be an effective tool for raising capital, while protecting investors and ensuring applicable laws are met. We also urge the CFTC to study how cryptocurrency is functioning in the futures and commodities market. In both cases, we urge the agencies to regulate the products and services enabled by the technology instead of the technology itself. This approach would alleviate contradictory and overlapping rules, and allow institutions to focus on what really matters – reducing consumer risk and preventing fraud.

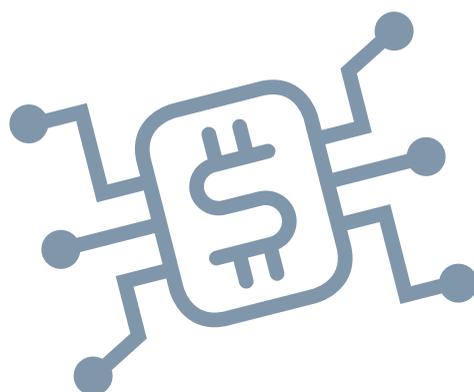
It is important to emphasize that streamlined and efficient consideration is critical to sustain these technologies because there is generally a significant lag time between the speed of technological innovation and regulatory action. As the crypto industry rapidly evolves, it is critical that both the SEC and CFTC are mindful of the fast moving pace of technology, create streamlined processes to assess the tokens, and be prepared to issue relief so regulatory hurdles do not become a barrier to entry. We look forward to working with both of these agencies as the use of tokens grows and regulatory expectations are clarified.

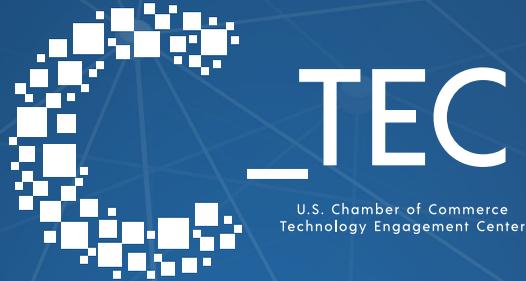




Conclusion

The speed of innovation is not slowing anytime soon and will only likely increase in the years to come. It is critical the U.S. government and states encourage these innovations that will shape the economic landscape and transform our daily lives. We urge the U.S. government to lead this digital transformation, and promote economic growth, to ensure the U.S. maintains a competitive advantage on the world stage and plays a key role in the development of global financial policy.





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