

HERBERT SMITH FREEHILLS LEADS ASIFMA MEMBER WORKING GROUP TO FORMULATE BEST PRACTICES FOR EFFECTIVE DEVELOPMENT OF FINTECH

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Legal Briefings - By **Hannah Cassidy, Valerie Tao and Sally Grieg**

The Asia Securities Industry and Financial Markets Association (**ASIFMA**) released on Friday afternoon its guide, [***Best Practices for Effective Development of Fintech***](#). Its press release can be accessed [here](#).

The guide was developed by a member working group at ASIFMA led by Herbert Smith Freehills. The working group has agreed 10 best practices for policymakers and regulators in Asia Pacific to consider as they support the development of fintech in the financial services industry.

The best practices acknowledge the delicate balance required between encouraging fintech innovation, and ensuring customer protection and market integrity.

The best practices are released at a time of rapid development in fintech and increased involvement by financial regulators. Cooperation amongst Asia Pacific's regulators could enhance the competitiveness and growth of the region's fintech industry to address key cross-border issues, such as cyber security and data transmission.

Highlights of the initiatives taken by regulators in the region to support fintech development in recent months include:

Cross-border collaboration: Following the signing of a [fintech cooperation agreement](#) with the Hong Kong Monetary Authority (**HKMA**) in late 2016, the UK Financial Conduct Authority signed a similar [agreement](#) with the Securities and Futures Commission (**SFC**) in Hong Kong last month to foster collaboration in support of fintech innovation. The Monetary Authority of Singapore (**MAS**) signed a memorandum of cooperation with the [International Finance Cooperation](#) last month, in which the parties agreed to collaborate to establish and develop the ASEAN Financial Innovation Network. The network aims to facilitate wider acceptance of fintech innovation and development, and promote economic integration in the ASEAN region. The MAS has also entered into fintech cooperation agreements with a number of regulators in the last three months, including the [Financial Services Agency](#) of Japan, the [Abu Dhabi Global Market](#), and the [Autorité de Contrôle Prudentiel et de Résolution and Autorité des Marchés Financiers](#) of France. The Australian Securities and Investments Commission (**ASIC**) recently entered into a fintech cooperation agreement with the [Otoritas Jasa Keuangan](#) (**OJK**) of Indonesia in April 2017. These latter agreements typically cover matters such as sharing of information between and engagement in joint fintech projects by the parties.

Reform: In addition to introducing fintech "sandboxes" (such as those in Australia, Hong Kong, Singapore and Malaysia) to provide an environment for businesses to test new products within certain parameters, regulators have sought to introduce or update their guidance in view of technological developments. In January 2017, the OJK published a [regulation](#) on technology-based money lending and borrowing services, which seeks to provide legal certainty and consumer protection on the implementation of fintech in Indonesia. Last month, the SFC launched consultations to introduce guidance on [online distribution and advisory platforms](#) and on [reducing hacking risks in internet trading](#) respectively.

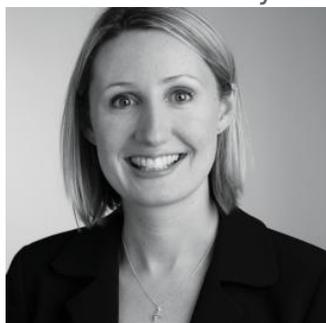
Regulatory technology (regtech): Late last month, ASIC [published](#) a [report](#) on its approach to regtech. Its proposals included establishing a new regtech liaison group (comprising industry, technology firms, academics, consultancies, regulators and consumer bodies where ASIC proposes to play the role of enabler, convener and catalyst), conducting trials using regtech technologies in ASIC's regulatory, supervisory and enforcement work, and organising a "hackathon" (a problem solving event). The SFC has indicated that a pilot project is underway whereby it is assessing which risk data could assist in its ongoing supervision. The SFC is also exploring useful external systems that may help achieve its regulatory objectives. For example, it undertook a methodological comparison of social media sentiment analytics tools that make use of big data analytics, machine learning and natural language processing.

Research: The SFC led a [research report](#) on fintech published by the International Organisation of Securities Commissions in February 2017, the first methodological analysis of the intersection of fintech with securities regulation (covering alternative financing platforms, retail investment platforms, institutional investment platforms and distributed ledger technology). In late March 2017, the HKMA commenced research and proof-of-concept work on central bank digital currency in collaboration with the three note-issuing banks in Hong Kong, the Hong Kong Interbank Clearing Limited and the R3 consortium to explore the potential of distributed ledger technology.

It is hoped that the ASIFMA best practices will serve as a useful guide, both for policymakers and regulators to develop an appropriate regulatory response to the rapid development of fintech, and for industry participants in understanding how they can collaborate with regulators to achieve universally beneficial outcomes.

KEY CONTACTS

If you have any questions, or would like to know how this might affect your business, phone, or email these key contacts.



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