

DIGITAL INNOVATIONS TO COME UNDER REGULATOR SPOTLIGHT IN 2016

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News

[Regulators](#) are set to continue their focus on digital innovation in the [financial services industry](#) over the next 12 months, with a particular focus on robo-advice and blockchain technologies, according to a new Herbert Smith Freehills outlook.

The rapid pace of change and exponential rise in fintech investment has seen regulators, including the Australian Securities and Investments Commission (**ASIC**), take a strong interest in the area as they engage with financial institutions.

According to Herbert Smith Freehills' Financial Services Regulation 2016 Outlook for Australia, robo-advice businesses - which use computer algorithms to match investors with assets - will be of particular interest.

"Robo-advice has huge potential for consumers but it does present some regulatory challenges. The challenges lie in determining how these new businesses will comply with best interests duties, what control environment will be in place to ensure robust development and testing of algorithms and how staff will be appropriately trained and remunerated," Herbert Smith Freehills partner [Michael Vrisakis](#) said.

"At the same time, ASIC has acknowledged the huge potential these new businesses present because of their ability to eliminate conflicts of interest and reduce investment costs."

Applications of blockchain - the distributed digital ledger technology which forms the backbone of bitcoin - will also be an increasing area of focus for ASIC. A number of global financial institutions, including the [National Australia Bank \(NAB\)](#) and the [Commonwealth Bank of Australia \(CBA\)](#), are already collaborating to develop a protocol for the use of blockchain technology in financial markets.

“Such a development could have far reaching impacts on how financial markets operate, so it will come as no surprise that ASIC and other regulators will take an interest in the architecture being developed, particularly around stability, security and transparency,” Herbert Smith Freehills partner [Fiona Smedley](#) said.

“Blockchain technology is a potential boon for regulators because it is transparent and, if widely used, has the potential to facilitate market oversight and systemic risk monitoring.”

Other key regulatory developments predicted for 2016 include a continuing focus by ASIC on culture and individual accountability.

“Despite already being a key focus this year, ASIC’s definition of ‘good culture’ remains an ambiguous concept. We will likely see more concrete action from the regulator in 2016 but ASIC may ultimately find culture is a difficult beast to regulate,” Fiona said.

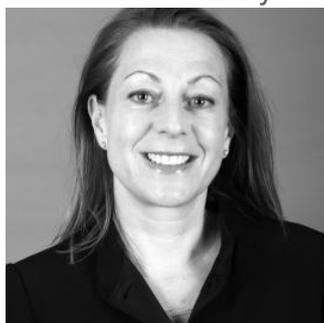
Behavioural economics, which can help explain why people do not always act rationally, is also set to increasingly shape legislative reform and the approach of regulators.

“When applied to financial services, behavioural economics explains why decisions about an investment can be influenced by cognitive biases such as the illusion of being in control of an uncertain event,” Herbert Smith Freehills partner [Andrew Eastwood](#) said.

“In 2016 it will be critical for financial institutions to be across developments in this area. This year ASIC released a report on how ‘biases’ impact consumer decisions when investing in hybrid securities and regulators will expect financial institutions to be drawing upon insights from the field of behavioural economics to assist in achieving better outcomes for consumers.”

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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