

Client Alert

January 24, 2017

Parting Shot: Outgoing Administration Releases FinTech White Paper

By **Obrea O. Poindexter** and **Calvin D. Funk**

On January 13, 2017, a week before the change in Administration, the Obama White House issued a [white paper](#) entitled “A Framework for FinTech” (“White Paper”). The White Paper highlights various financial technology (“FinTech”) initiatives that were taken by the previous Administration and lays out policy objectives and principles that the Obama White House thought should be considered by FinTech stakeholders in the government and the private sector.

The White Paper states that when working to grow FinTech—and financial services more broadly—the government and the private sector should focus on key policy objectives such as fostering innovation and entrepreneurship; promoting safe, affordable and fair access to capital; expanding financial inclusion; and identifying and mitigating potential systemic risks. In addition, the White Paper encourages regulators to develop their regulatory approach based on data-driven analysis and to design flexible and innovative regulatory tools. The White Paper cites the United Kingdom and Singapore as examples of countries that utilize innovative regulatory approaches to promote a globally competitive FinTech industry.

The White Paper also highlights a number of FinTech initiatives under the Obama Administration, including the Office of the Comptroller of the Currency’s Responsible Innovation initiative¹ and the Consumer Financial Protection Bureau’s Project Catalyst,² as examples of regulatory tools that encourage dialogue with industry participants.

In addition to identifying key policy objectives for FinTech, the White Paper sets forth ten principles for stakeholders to apply to the development and growth of FinTech. In particular, the White Paper encourages public and private stakeholders to:

1. Think broadly about the financial ecosystem and consider how FinTech offerings affect the financial services landscape;
2. Start with the consumer in mind and develop products and services that go beyond compliance with existing regulations and provide maximum value;
3. Promote safe financial inclusion and financial health by increasing access to financial services in ways that improve consumers’ overall financial health;
4. Recognize and overcome potential technological bias by testing algorithms for systemic biases;

¹ For recent developments with respect to the OCC’s Responsible Innovation initiative, see our client alerts [OCC Lays Out Responsible Innovation Framework](#) and [OCC Announces Special Purpose National Bank Charter for FinTech Companies](#).

² For recent developments regarding Project Catalyst, see our client alert [CFPB Makes FinTech Headlines](#).

Client Alert

5. Maximize transparency with both customers and regulators, and perform customer due diligence to identify potential illicit actors;
6. Strive for interoperability and harmonized technical standards to reduce friction for consumers and promote best practices;
7. Build cybersecurity, data security and privacy protections into FinTech offerings to safeguard individuals and the financial system;
8. Increase the efficiency and effectiveness of the financial infrastructure by developing enterprise solutions and infrastructure innovations in addition to consumer-facing products and services;
9. Protect financial stability by being forward-thinking about potential risks that FinTech could impose; and
10. Continue and strengthen cross-sector engagement between incumbent financial institutions, new entrants and government authorities.

Notwithstanding this parting shot from the outgoing Administration, the Trump Administration could take a different regulatory approach toward FinTech. The new Administration has signaled an interest in working with leading technology companies, including many companies active in the FinTech space, but it remains to be seen what the Administration's priorities are and whether it will pursue policies that facilitate growth in the FinTech industry.

Contact:

Obrea O. Poindexter
(202) 887-8741
opoindexter@mofo.com

Calvin D. Funk
(202) 8876930
cfunk@mofo.com

Client Alert

Financial Services Team

California

Michael J. Agoglia	(415) 268-6057
Alexis A. Amezcua	(415) 268-6557
Elizabeth Balassone	(415) 268-7585
Roland E. Brandel	(415) 268-7093
Sarah Nicole Davis	(415) 268-7478
Henry M. Fields	(213) 892-5275
Joseph Gabai	(213) 892-5284
Angela E. Kleine	(415) 268-6214
Jim McCabe	(415) 268-7011
James R. McGuire	(415) 268-7013
Mark David McPherson	(212) 468-8263
Ben Patterson	(415) 268-6818
Sylvia Rivera	(213) 892-5734
Nicholas Alan Roethlisberger	(415) 268-7534
Grant C. Schrader	(415) 268-6635
William L. Stern	(415) 268-7637
Nancy R. Thomas	(213) 892-5561
Lauren Lynn Wroblewski	(415) 268-6458

New York

James M. Bergin	(212) 468-8033
Meghan E. Dwyer	(212) 336-4067
Tiffani B. Figueroa	(212) 336-4360
David J. Fioccola	(212) 336-4069
Marc-Alain Galeazzi	(212) 336-4153
Adam J. Hunt	(212) 336-4341
Jessica Kaufman	(212) 336-4257
Mark P. Ladner	(212) 468-8035
Jiang Liu	(212) 468-8008
David H. Medlar	(212) 336-4302
Barbara R. Mendelson	(212) 468-8118
Michael B. Miller	(212) 468-8009
Judy Man Ni Mok	(212) 336-4073
Jeffrey K. Rosenberg	(212) 336-4130
Mark R. Sobin	(212) 336-4222
Joan P. Warrington	(212) 506-7307

Washington, D.C.

Leonard N. Chanin	(202) 887-8790
Rick Fischer	(202) 887-1566
Adam J. Fleisher	(202) 887-8781
Natalie A. Fleming Nolen	(202) 887-1551
Calvin D. Funk	(202) 887-6930
Julian E. Hammar	(202) 887-1679
Oliver I. Ireland	(202) 778-1614
Crystal N. Kaldjob	(202) 887-1687
Steven M. Kaufmann	(202) 887-8794

Washington, D.C. (continued)

Donald C. Lampe	(202) 887-1524
Jeremy R. Mandell	(202) 887-1505
Amanda J. Mollo	(202) 778-1609
Obrea O. Poindexter	(202) 887-8741
Ryan J. Richardson	(202) 887-8761
Sean Ruff	(202) 887-1530
Trevor R. Salter	(202) 887-1527
Nathan D. Taylor	(202) 778-1644

Client Alert

About Morrison & Foerster:

We are Morrison & Foerster—a global firm of exceptional credentials. Our clients include some of the largest financial institutions, investment banks, Fortune 100, technology and life science companies. We've been included on *The American Lawyer's* A-List for 13 straight years, and *Fortune* named us one of the "100 Best Companies to Work For." Our lawyers are committed to achieving innovative and business-minded results for our clients, while preserving the differences that make us stronger. This is MoFo. Visit us at www.mofo.com.

Because of the generality of this update, the information provided herein may not be applicable in all situations and should not be acted upon without specific legal advice based on particular situations. Prior results do not guarantee a similar outcome.