

Compliance Chrestomathy

Notes from the Compliance Cutting Room Floor

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Who would have thought that in this era of anti-globalism and deep state subterfuge we would see the Consumer Financial Protection Bureau or, if you'd like, the Bureau of Consumer Financial Protection, going global! Well, maybe not global in the sense that the whole world will get involved, but at least eleven financial regulators are jumping on a new initiative which, for United States companies, is run out of the offices of the CFPB. Then again, perhaps the whole world will not get involved, but supposedly enough of the world's financial regulators will get involved in this willowy scheme for it to somehow make some sense.

Before I get into those plans, a word about the name change from Consumer Financial Protection Bureau (CFPB) to Bureau of Consumer Financial Protection (BCFP). Although the change in the name conforms with the statutory name given the agency, the branding effect is to make "consumer financial protection" play second fiddle to the concept of a mere "bureau." From a marketing point of view, think of it as a kind of demotion, a blurring of focus, a mangling of an intuitive juxtaposition.

Maybe the name change is an apt decision, since the agency at this time is hardly involved in enforcement and has either throttled down enforcement litigation or cancelled it out altogether. Remember the CFPB's dispute with Equifax over letting 143 million emails get filched? Iced by the BCFP! Maybe the idea is to leave the enforcement to the states; after all, Equifax has been under investigation by every state attorney general and has faced more than 240 class action lawsuits. In any event, the BCFP doesn't seem to mind much about the 20,000 complaints from consumers about Equifax's cyber-breach. I guess they'll just let the states figure it all out. The Feds have better things to do, like join a global interface!

Anyway, for the time being, I'm still stuck on "CFPB" over "BCFP," so I'm going with it.

Welcome to "GFIN" – yet another acronym to be added to the great pantheon of acronyms!

It stands for Global Financial Innovation Network. The name contains some modernistic sounding buzz words, such as "global," innovation," and "network." It consists of eleven financial regulators,[i] hence the overly abused word "financial." I am not sure how to contract GFIN into a monosyllabic word, let alone a polysyllabically pronounceable word, like "Go-Fin" or "Gaf-In" or "Goof-In" or "Gay-Fin" or



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“Gee-Fin” or “Gy-Fin” – so let’s just say “G,” “F,” “I,” “N,” and hope for the best!

The CFPB has said the new network will seek to provide a more efficient way for innovative firms to interact with regulators by helping them navigate between countries as they look to scale new ideas. Who gets to choose what is and what is not “innovative?” Not yet determined. Maybe “innovative” means “make money for investors” or maybe “innovative” means “less regulations.” This initiative will also create a new framework for cooperation between financial services regulators on purportedly innovation-related topics.



Here’s the gist of the GFIN deal:

1. Establish a network of regulators to collaborate and share the experience of innovation in respective markets, including emerging technologies and business models.
2. Provide a forum for joint policy work and discussions.
3. Offer firms with an “environment” in which to find cross-border solutions.

I may have missed the memo, but why is an anti-globalist Administration promoting a globalist regulatory collaboration?

Maybe it just has a greater fondness for “innovation” than it does for globalism.

Participating regulators are now seeking views on the “mission statement” for the GFIN, its proposed functions, and where it should prioritize activity. Having dealt with regulators both domestic and international, I think they’ll all likely be stranded in the miasma of the very first word of the mission statement. We’ll see.

To get this venture underway, the CFPB is parking the initiative in its new Office of Innovation. Somehow, I guess, these newfangled, leading edge advances are all somehow to be connected up with best practices and coordinated in this new regulatory office. For an Administration that has time and again railed at the notion that the government should not be in the business of steering innovation, picking winners and losers, it is surprising to see it now empowering an office devoted to its own selection process rather than the market’s mechanisms. Must have missed that memo, too!

The GFIN stems from a White Paper issued by the United Kingdom’s Financial Conduct Authority (FCA). If you haven’t heard of the FCA, don’t worry about it. Almost nobody has heard of it in this country! The paper, issued in February 2018, discussed the idea of a “global sandbox.” Numerous responses were bantered about in support of financial regulators figuring out how to collaborate with one another.

I read this soporific paper, so you don’t have to, thereby saving you the bother.

Here’s my take:

- Regulatory collaboration: establish a means by which financial regulators can “cooperate” on common challenges or policy questions that firms face in different jurisdictions.

- Market access: the “global sandbox” could reduce the time it takes to bring ideas to new international markets.
- Governance: “transparent” and “fair” interactions would be offered to potential “innovative” firms wishing to apply for cross-border testing.
- Emerging technologies and business models: issues range from cross-border application, artificial intelligence, distributed ledger technology, data protection, regulation of securities and Initial Coin Offerings (ICOs), know your customer (KYC) and anti-money laundering (AML).

Evidently, you can provide your view by October 14, 2018, giving your feedback to questions contained in the initiative’s “Consultation Document.”^[ii] Domestically, just contact the above-mentioned Office of Innovation. The CFPB believes this initiative fulfills its “statutory mandate” to “promote competition, innovation, and consumer access within financial services.”

I suppose we are soon going to hear them talking about “harnessing innovation” and “shared experiences” and “collaborative knowledge” and “international markets” – but I just wish they would get back to the primary goal of consumer financial protection.

[i] In addition to the CFPB and the FCA, the organizations currently involved in the GFIN are: Abu Dhabi Global Markets; Autorité des marchés financiers (Québec); Australian Securities & Investments Commission; Central Bank of Bahrain; Dubai Financial Services Authority; Guernsey Financial Services Commission; Hong Kong Monetary Authority; Monetary Authority of Singapore; Ontario Securities Commission; and Consultative Group to Assist the Poor (CGAP).

[ii] <https://www.fca.org.uk/publication/consultation/gfin-consultation-document.pdf>

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