

INTERNATIONAL FOCUS

# FINTECH

International perspectives  
on key developments

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# Today's speakers



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# Fintech - UK & EU perspectives

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# FinTech news: Developments

FUTURE OF MONEY    DECEMBER 17, 2020 / 9:51 AM / UPDATED A MONTH AGO

**German fintech N26 eyes more fundraising before IPO in 2023 -CEO**

**UK fintech offers world's 'first' net zero pension fund**

**Citi builds fintech marketplace**

18 December 2020     17     12     1    

**FINTECH**

**London's Checkout.com becomes Europe's most valuable fintech with \$15bn valuation**

# Key drivers of Fintech development and deployment

- ▶ Covid Pandemic
- ▶ Brexit
- ▶ Competition between jurisdictions
- ▶ Pace of technological innovation and its challenges
- ▶ ESG/the climate change challenge

# How to regulate in an appropriate way

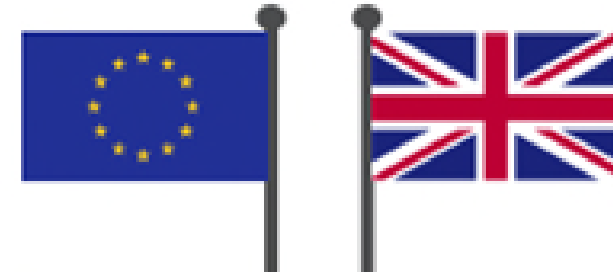
- ▶ Technological neutrality
- ▶ Same risk, same regulatory outcome
- ▶ Cross border issues – often underestimated: eg. targeting retail customers in another jurisdiction
- ▶ Sandboxes
- ▶ Costs of compliance
- ▶ Regulator's approach and attitude

# FinTech news: Brexit

UK aims to shape global fintech regulation as it bridges EU divorce – experts

Sunday 3 January 2021 2:45 pm

Brexit: UK to start talks on quick EU financial services agreement



**London fintechs flock to Lithuania post-Brexit**

UK fintech review to propose changes to visa and listing rules

Dec 21, 2020, 07:10pm EST | 2,640 views

**How Brexit Could Help London Evolve From A Fintech Center Into A DeFi Hub**

SECURITY & THEMATIC COOPERATION



TRADE IN GOODS



ROAD TRANSPORT



AVIATION



FISHERIES



UNION PROGRAMMES



ENERGY & CLIMATE



TRADE IN SERVICES, DIGITAL & PROCUREMENT



- ▶ UK service suppliers no longer benefit from the 'country-of-origin' approach or 'passporting' concept (e.g. for financial services), which enable automatic access to the entire EU Single Market
- ▶ No more automatic recognition of professional qualifications: Doctors, nurses, dentists, pharmacists, vets, engineers or architects must have their qualifications recognised in each Member State they wish to practice in
- ▶ UK operators no longer free to supply audiovisual services in the EU with UK licence
- ▶ Service suppliers or investors from the EU are treated no less favourably than UK operators in the UK, and vice-versa
- ▶ Facilitations for short-term business trips and temporary secondments of highly-skilled employees
- ▶ Removal of unjustified barriers to digital trade, including prohibition of data localisation requirements, while respecting data protection rules
- ▶ UK public procurement markets are open to EU bidders established in the UK, on equal footing, and vice versa, also for small contracts

# FinTech: Upcoming Legislation in the EU

**Bitcoin and its 'funny business' should be regulated globally, says European Central Bank chief**

Last Updated: Jan. 14, 2021 at 5:35 a.m. ET  
First Published: Jan. 13, 2021 at 3:26 p.m. ET



Brussels, 24.9.2020  
COM(2020) 593 final  
2020/0265 (COD)

Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**on Markets in Crypto-assets, and amending Directive (EU) 2019/1937**

(Text with EEA relevance)

{SEC(2020) 306 final} - {SWD(2020) 380 final} - {SWD(2020) 381 final}

**A New 'Wave of Regulatory Obligations' Over Crypto Players in EU**



Brussels, 24.9.2020  
COM(2020) 595 final  
2020/0266 (COD)

Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**on digital operational resilience for the financial sector and amending Regulations (EC) No 1060/2009, (EU) No 648/2012, (EU) No 600/2014 and (EU) No 909/2014**

(Text with EEA relevance)

{SEC(2020) 307 final} - {SWD(2020) 198 final} - {SWD(2020) 199 final}

**New rules to facilitate EU crowdfunding**

Economy - 07-10-2020 - 14:14

Bearbeitungsstand: 14.12.2020 9:19 Uhr

**Gesetzentwurf**

**der Bundesregierung**

**Entwurf eines Gesetzes zur Einführung von elektronischen Wertpapieren**



Brussels, 24.9.2020  
COM(2020) 594 final  
2020/0267 (COD)

Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**on a pilot regime for market infrastructures based on distributed ledger technology**

(Text with EEA relevance)

{SEC(2020) 308 final} - {SWD(2020) 201 final} - {SWD(2020) 202 final}

Bearbeitungsstand: 26.11.2020 22:39 Uhr

**Referentenentwurf**

**des Bundesministeriums der Finanzen**

**Entwurf eines Gesetzes zur begleitenden Ausführung der Verordnung (EU) 2020/1503 und der Umsetzung der Richtlinie EU 2020/1504 zur Regelung von Schwarmfinanzierungsdienstleistern (Schwarmfinanzierung-Begleitgesetz)**



# Areas of Fintech & issues

- ▶ Digital Assets
  - Taxonomy
  - Securities and other regulated investment products
  - Stablecoins
  - Central bank currencies
- ▶ Payments & electronic money
- ▶ AI/machine learning
- ▶ Digital Banking
- ▶ Decentralised Finance
- ▶ Operational Resilience
- ▶ Increasing regulatory burden and scrutiny

# Fintech – US perspectives

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# FinTech Regulation by the SEC

*The SEC's approach has softened over time; it's often sensible to approach the regulator regarding plans for new FinTech ventures.*

- ▶ **Digital Assets:** Ledgers' decentralization forces SEC examination of years-old conduct to assert illegal securities offerings (Tether; Ripple).
- ▶ **Roboadvisors:** Application of Regulation Best Interest focuses most on disclosures, fees, and coding inputs in the robo context.
- ▶ **Exchanges/DeFi:** Past SEC enforcement actions against onshore and offshore exchanges; same is likely with P2P/decentralized exchanges.

# U.S. Digital Asset Regulation

- ▶ Largely dictated by existing securities laws; no new statutory law and minimal written guidance or rules.
- ▶ Most principles established through enforcement.
- ▶ Some cause for optimism due to successful exempt offerings, and new SEC leadership.
- ▶ Cryptocurrencies like Bitcoin and Ether are CFTC-regulated, and as-yet no nominee for leadership.



# The SEC & FinTech under Biden

- ▶ Presumed Chairman Gary Gensler is well versed in FinTech.
  - Former Chairman of CFTC, where he imposed regulation on previously unregulated spaces (swaps).
- ▶ Gensler seen as a progressive with a strong consumer protection streak, and is aggressive with enforcement.
- ▶ Clearly appreciates benefits of the FinTech revolution, but wants to ensure appropriate safeguards in place.

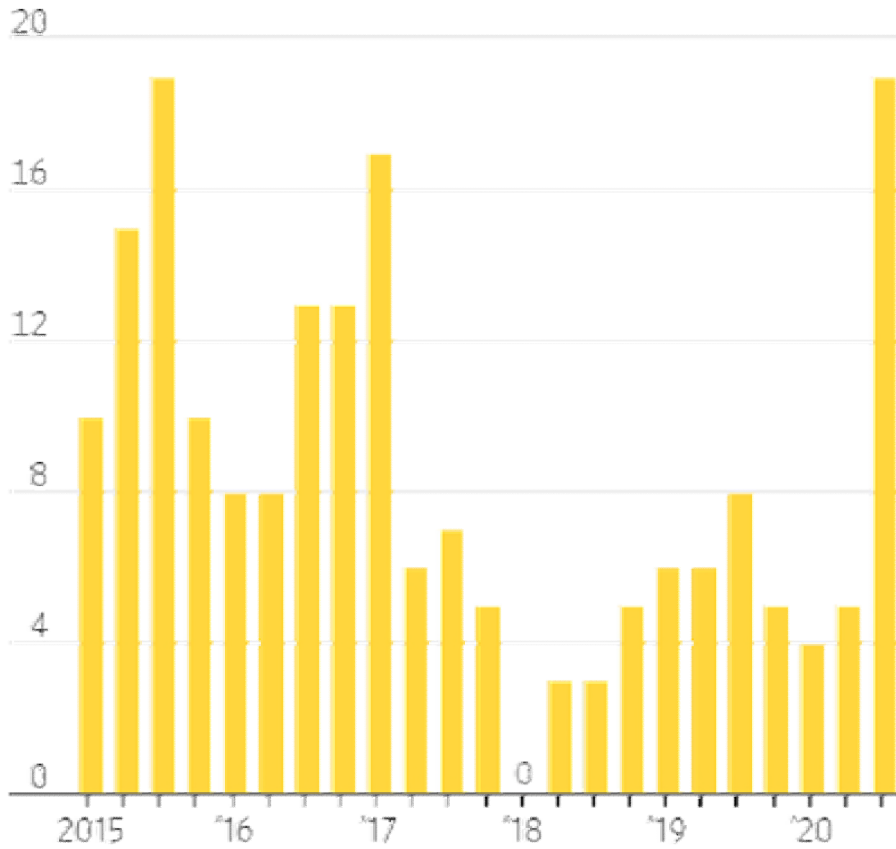
# Biden's Impact – the CFPB, FBAs and States

- ▶ Big Picture
  - Racial Inequality, Diversity & Inclusion
  - Climate Change / Environmental Sustainability
- ▶ Federal Regulators
  - CFPB
  - OCC
  - FDIC
  - Federal Reserve
- ▶ State Regulators

# Significant Change Expected at CFPB

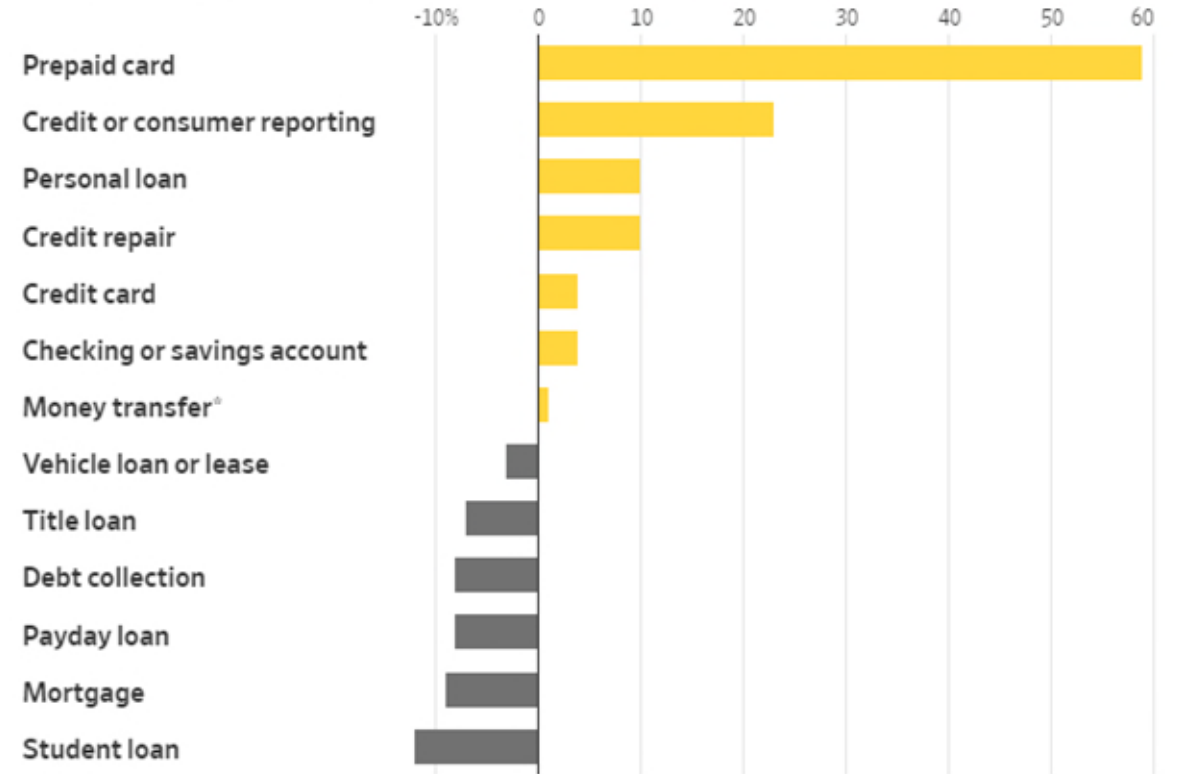
- ▶ Expect new director and structural reorganization
- ▶ **Rulemaking** likely to focus on diversity and anti-discrimination efforts, including algorithmic/AI bias
- ▶ Expanded **enforcement** – in fair lending, credit reporting, mortgage servicing and student lending. Dem. states will amplify efforts. See, e.g., Cal. DFPI)
- ▶ Will continue to promote innovation but will balance against consumer protection concerns

### CFPB enforcement actions



Source: Consumer Financial Protection Bureau

### Change in complaints to the CFPB between 2018 and 2019



\*Or service, virtual currency  
Source: Consumer Financial Protection Bureau

<https://www.wsj.com/articles/financial-firms-gear-up-for-biden-and-an-emboldened-consumer-watchdog-11603272600>



# Biden's impact on federal banking agencies

- ▶ Rollbacks and modifications on rulemakings, like the OCC's last-minute Fair Access to Financial Services Rule and its controversial True Lender Rule
- ▶ Promotion of special-purpose charters or repurposing of old charter types fintechs to be balanced against state interests in oversight, slowing trend that has accelerated during the Trump run OCC and FDIC
- ▶ Continued focus on faster payments

# Get in touch



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## INTERNATIONAL FOCUS

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## International perspectives on key developments

This document provides a general summary only and is not intended to be comprehensive. Specific legal advice should always be sought in relation to the particular facts of a given situation

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