

GAO Publishes Report on Fintech Regulation

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On March 22, 2018, the Government Accountability Office (“GAO”) issued a [report](#) on the regulation of financial technology (“fintech”) in response to a request from Congress for more information on “fintech activities.” The report concludes that agencies that regulate fintech firms should coordinate with each other more closely, develop offices of innovation (for agencies that have not already done so), and consider adopting approaches to fintech used in foreign jurisdictions, such as the “[regulatory sandbox](#)” approach used by the U.K.’s Financial Conduct Authority. GAO also reports on a few innovation initiatives under consideration by agencies such as the OCC and CFTC.

The GAO’s analysis focuses on the following fintech areas: payments, lending, wealth management and financial advice, and blockchain/distributed ledger technology, including virtual currency. The report is the product of interviews with over 100 fintech stakeholders, including representatives of fintech firms, financial institutions, trade associations, law firms, consumer groups, and federal and state financial regulators.

GAO concludes that fintech products provide a number of benefits to consumers – such as convenience, lower costs, and increased financial inclusion. It further concludes that the risks to consumers are largely the same as those found in traditional products, and indeed may be lower. For example, GAO observes that there are relatively few consumer complaints about fintech companies as compared to traditional financial services. That said, GAO does identify certain risks that it believes are unique to fintech products, such as heightened privacy and cybersecurity concerns. In particular, GAO is concerned that there is no consensus about if and how a consumer will be reimbursed for a fraudulent transaction if the fraud can be traced to a breach from a consumer-permissioned data aggregator.

GAO further observes that the fragmented and complex regulatory landscape in the U.S. poses significant challenges to fintech companies. In contrast, GAO describes the approaches foreign regulators have taken to ease the regulatory burden on innovative companies in the financial services industry. These approaches include regulatory sandboxes, proofs-of-concepts, innovation competitions and awards, and agency-led accelerators. According to GAO, U.S. regulators should consider implementing similar programs.

As the report notes, the OCC has thus far [resisted](#) calls to adopt the regulatory sandbox approach. However, OCC officials told GAO they are considering a pilot program by which fintech firms partnering with banks would have the opportunity “to test innovative products with the involvement

and interaction of OCC staff.” Similarly, GAO observes that the CFPB, SEC, and CFTC No Action Letter processes share some characteristics with sandboxes. Of further note, CFTC officials told GAO they intend to launch prize competitions for innovative technologies in 2018.

Finally, GAO recommends that a number of U.S. regulators engage in greater coordination on fintech issues and develop innovation offices, if they have not already done so.

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