

SHEARMAN & STERLING

FINTECH

FOUNDRY

**CELEBRATING
OUR ONE-YEAR
ANNIVERSARY**

Shearman

Celebrating the One-Year Anniversary of Shearman & Sterling's FinTech Foundry

It's been a year since the launch of the FinTech Foundry, Shearman & Sterling's program dedicated to supporting the FinTech-related activities of our clients and the wider global FinTech ecosystem. The FinTech Foundry touches upon every facet of the FinTech industry, including financial institutions, VCs, accelerators and incubators, startups, policymakers and more, and has put Shearman & Sterling at the forefront of advising on the latest developments in blockchain, digital assets, big data and artificial intelligence, among other areas.

The FinTech Foundry serves as a single point of contact, bringing together lawyers with financial regulatory, emerging growth, venture and capital raising, M&A, intellectual property, cybersecurity and data privacy, capital markets, finance and litigation experience to help clients navigate this new landscape. The core of our proposition is to convene the FinTech community, to offer up thought leadership and insights on business and legal developments and to be a key resource for our clients and the community providing mentorship and advice.

To commemorate the 12 months since our launch, the FinTech Foundry team has been involved in the following areas of FinTech, which we continue to monitor:



PRESSURE TO INTENSIFY FOR REGULATORS TO ADDRESS CRYPTO CUSTODY

The SEC will need to determine the circumstances under which crypto should be treated as a security and how it should regulate the custody of a digital assets.

Jay Baris, partner in Shearman & Sterling's Investment Funds practice, noted in the *Financial Times*, "to solve this puzzle, the regulator has to reconcile decades-old laws with new and inherently risky technology. Too much regulation may stifle innovation but too little will put Main Street investors at risk. Doing nothing is not an option."



INVESTOR DEMAND TO INCREASE TOKENIZATION OF ILLIQUID ASSETS

Interest in using blockchain and tokenization to fractionalize more illiquid assets, such as real estate or art, to enhance the efficiency and transparency of trading, and to give more people access to these asset classes, shows no signs of slowing down.

On a podcast with *Rebank*, Donna Parisi, Global Head of Financial Services and FinTech at Shearman & Sterling, explained that the goal is to promote trading in secondary markets of new asset classes but from a systemic view, we will need to watch and see if that will lead to bubbles in certain markets.

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FINTECH GROWTH WILL CONTINUE TO ACCELERATE IN LATIN AMERICA

Given the increased adoption of smartphones and mobile technology in this underbanked region, and the influx of international investment over the past 12 months, Latin America will remain a fertile FinTech market.

Donna Parisi, Global Head of Financial Services and FinTech at Shearman & Sterling, recently noted in *Corporate Counsel* that, “digital startups are disrupting the financial services market in the region, which has historically been dominated by large banking monopolies with high barriers to entry. Startups like Nubank, a Brazil-based company, have come in to offer individuals easier access to bank accounts and credit cards.”

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OPEN BANKING TO GAIN MOMENTUM IN THE U.S.

The U.K. has led the world in open banking and regulators around the globe are looking at its Open Banking Framework as they seek to adopt standards for accessing bank data. Open banking business models continue to gain traction worldwide and could lead to huge opportunities for small business growth in the U.S.

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DATA CONTINUES TO DRIVE MARKET EFFICIENCY, RISKS

“Data powers trading strategies. Data powers customer-facing ‘robo-advice’ and chatbots... Yet it is also a high-value asset that can be used, bought and sold.” As data becomes a valuable commodity, there’s inherent value in how it’s protected and tremendous enterprise risk in how it could be compromised, cautioned Nathan Greene, partner in Shearman & Sterling’s Investment Funds practice, in *The Investment Lawyer*.

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AI'S GROWING ROLE IN FINTECH

FinTechs are increasingly leveraging AI and machine learning in their services and grappling with related problems, such as how to ensure ethical behavior of AI algorithms and avoid unintended results. In addition, as cyberattacks increasingly rely on AI, AI cybersecurity measures are being deployed in response. A recent survey of senior cybersecurity executives indicated that 48 percent of companies globally intend to increase their budgets for AI in cybersecurity by an average of 29 percent next year to upgrade their systems.

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RISE OF CORPORATE DIGITAL ASSETS

We have started to see a number of major enterprises, such as Facebook and J.P. Morgan, announce plans to launch their own digital assets. As these products come into the market, we expect to see a shakeout globally. With an influx of new products entering the market, winners and losers will begin to emerge soon as many smaller players may find themselves struggling to compete.

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CHALLENGER BANKS TO TAKE ON THE U.S. MARKET

International challenger banks, including N26, Monzo and Raisin, are expected to gain traction in the U.S., the largest financial services market in the world. Venture capital firms have already turned their focus to growing challenger banks, given increased interest from millennials in alternative banking services. We expect to see more new entrants in the market in the coming years, potentially leading to some acquisitions by larger institutions seeking to benefit from the challengers' talent and technology.

Barney Reynolds, partner in Shearman & Sterling's Global Financial Institutions & Advisory practice says, "many U.K. challengers have managed to build significant franchises, particularly in the payments space. Tackling the U.S. and other markets, with all the legal and other complexity that brings with it, is the next step. The U.S. uses cash more than the U.K. so it is ripe for modernization, but there are considerable legal difficulties needing to be surmounted if they are to make the impact they deserve."

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INCREASE IN FINTECHS SCALING TO THE U.S.

FinTech is transforming the U.S. financial market. Many FinTech companies with international headquarters continue to attract a growing amount of attention and capital from venture capitalists and financial institutions.

Shearman & Sterling, in collaboration with the U.K. Department for International Trade and HM Treasury, have worked to develop a market entry guide, which provides FinTechs wanting to expand to the U.S. with a helpful overview of considerations they should be aware of when setting up in the U.S., allowing businesses to focus instead on their products, strategy and fundraising.

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CONTINUED RISE OF REGULATORY SANDBOXES

Over the past year, more than a dozen regulatory bodies around the world have launched FinTech regulatory sandboxes. In the U.S., several states also launched FinTech regulatory sandboxes, while a number of others have drafted related legislation.

As the FinTech ecosystem continues to rapidly develop, regulatory sandboxes provide a controlled environment for eligible FinTech firms to conduct live testing under regulatory supervision to secure authorization and launch their new products or services. Due to the experimental nature of many up-and-coming FinTech products and services, this is a trend that we see continuing throughout next year and beyond.

To learn more about the FinTech regulatory sandboxes located throughout the world, please visit our interactive FinTech regulatory sandbox map, available [here](#).

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COMPETITION AUTHORITIES TO DEEPEN SCRUTINY OF DATA COLLECTION

The European Commission and other competition authorities are growing increasingly concerned that high-tech companies with droves of consumer data are entering the financial services industry with unprecedented advantages. Within the past few months, we've also seen the U.S. Department of Justice open an antitrust review into whether these companies are unlawfully stifling competition. We expect to continue to see deep scrutiny of big tech's forays into financial services in 2020.

Is the current competition legal framework equipped to deal with the challenges these technologies have created? Shearman & Sterling's 2019 Antitrust Annual Report discusses these concerns.



U.S. STATES TO IMPLEMENT MORE STRINGENT PRIVACY REGULATIONS

Against a backdrop of increasingly prevalent cybersecurity incidents, an erosion of consumer trust and continued inaction at the federal level, U.S. states have begun to change the country's privacy landscape by implementing more stringent privacy regulations. Numerous states have strengthened their data breach notification laws and regulation of online service providers, and the California Consumer Protection Act will effectively overhaul Californians' rights and protections in personal information beginning January 1, 2020.

It's been an exciting year to be immersed in the FinTech space, and with only more innovation, developments and regulatory scrutiny ahead, we will continue to be there for the FinTech community in 2020 providing support through our FinTech Foundry. To stay up-to-date on the latest trends, you can find more of our thought leadership at our FinTech Insights page.

To be connected with a member of our team or to learn more about our FinTech Foundry program, email ShearmanFinTech@Shearman.com.

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