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WHITE PAPER

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International Regulators Announce Plans for a Global Innovation Sandbox

Spurred by the increasingly rapid growth of innovative business models and technologies, financial services regulators from around the world have jointly announced plans to create a Global Financial Innovation Network (“GFIN”) for improving cross-border cooperation, collaborating on policy work, and enabling simultaneous cross-border testing of innovative ideas in a global regulatory sandbox. The GFIN regulators expect to build on existing bilateral cooperation agreements to engage in greater sharing of experience and knowledge across markets and borders, all aimed at advancing financial integrity, consumer protection, financial inclusion, competition and financial stability. The GFIN is soliciting comments until October 14, 2018.

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Worldwide advances in innovation and technology are expanding the financial products and services available to consumers and businesses at an ever-accelerating pace. The exploding growth of new business models for financial products and services creates unique opportunities and challenges for global financial services regulators as they attempt to create an environment that supports innovation while maintaining adequate customer protections.

Many regulators are engaged in efforts to understand innovative technologies, particularly those that do not fit neatly within the existing legal and regulatory framework, in order to inform appropriate legal, policy, and strategic responses. Regulatory sandboxes¹ that allow for experimentation with new business models are becoming increasingly more common as regulators work to stay abreast of the latest market and technological developments to support responsible innovation that improves the marketplace for financial products and services.

At present, banks and non-bank companies must comply with a set of laws and rules that are designed to protect customers and financial markets and to combat fraud, money laundering, and terrorism. Oftentimes, applicable laws and rules that were developed for traditional brick-and-mortar companies are a poor fit for new and emerging business models. Within and across jurisdictions, overlapping, fragmented, and conflicting laws and rules are creating uncertainty and unnecessarily increasing the cost of innovative new financial products and services.

Spurred by the increasingly rapid growth of pioneering business models, on August 7, 2018, financial services regulators from Europe, the Middle East, Asia-Pacific, Australia, and North America announced they are pursuing plans to improve cross-border cooperation and to allow companies to test innovative business and consumer products and services in multiple jurisdictions simultaneously.

Eleven regulators and related organizations from around the world² have jointly issued a new consultation document soliciting comment on formation of a [Global Financial Innovation Network \("GFIN"\)](#).³ The GFIN would facilitate collaboration, provide a forum for combined policy work, and enable companies to test cross-border activities in a global regulatory sandbox. The GFIN regulators would specify upon joining the GFIN whether they could

support cross-border testing of business models and ideas or would prefer to focus on collaboration and policy work only.⁴

The composition of the network of participating regulators is not fixed, and other regulators may become involved as the mission and functions of the network are established. Indeed, the GFIN consultation document indicates that a "wider group of stakeholders expressed an interest in being kept informed on the main group's progress" and the initial GFIN regulators "would welcome further participation and interest from other regulatory bodies or related organizations, building on the ideas set out in [the consultation] document."⁵

The GFIN regulators expect to build on existing bilateral cooperation agreements to engage in greater sharing of experience, information, and knowledge across markets and borders, all aimed at advancing financial integrity, consumer protection, financial inclusion, competition, and financial stability. The new network of regulators would complement, but would not replace or duplicate, the work of international financial services standard-setting bodies, which would be invited to participate in, or observe, aspects of the GFIN's functions.⁶

The GFIN is soliciting responses to consultation questions regarding the parameters of its proposed mission statement, the scope of its joint policy work, and how cross-border trials should function. The GFIN plans to engage with interested parties across the initial jurisdictions involved in the project and hopes to learn from stakeholders in other jurisdictions outside the initial jurisdictions as well. Comments may be filed until October 14, 2018.⁷ Thereafter, the GFIN regulators intend to review comments and decide next steps, including timing for launch of the GFIN.

The GFIN consultation document provides an excellent opportunity for all types of stakeholders in all geographies to offer comments that will help frame the global direction of financial services. Private-sector participants should take advantage of the opportunity to establish an ongoing dialogue to develop practical solutions to pressing financial innovation challenges in concert with global regulators.

Banks, non-bank financial services companies of all types, technology companies, data aggregation firms, technology

providers (including those involving cryptocurrencies and distributed ledger or blockchain technology), consumer and business customers, trade groups, academia, and others may wish to review and comment on the GFIN consultation document.

This *White Paper* provides context and background and identifies the salient themes and specific questions raised in the GFIN consultation document.

PREQUEL TO THE GFIN CONSULTATION DOCUMENT

The United Kingdom's Financial Conduct Authority ("FCA") put forward the initial proposition for a global regulatory sandbox in February 2018. The FCA solicited comments on the idea of collaboration among international regulators to share their knowledge and experiences. In response to the initial proposition, the FCA received positive responses to the notion of introducing greater regulatory cooperation and engagement to assist companies in launching innovative financial products and services.

Five key regulatory policy themes emerged in the comments that the FCA received on the initial proposition:

1. **Regulatory cooperation and collaboration** was a common challenge, including for companies that must engage with regulators on a bilateral or multijurisdictional basis.
2. **Regulatory engagement** or a process through which industry can engage with regulators and other stakeholders on a single issue was a common challenge.
3. **Speed to international markets** and the time needed to launch emerging technologies, such as encryption technology, across jurisdictions was an important consideration as companies grow beyond their domestic market.
4. **Governance** should be transparent and fair to those companies that wish to apply for cross-border testing. Commenters identified potential models for testing, such as transitioning from a domestic to a global sandbox and "TechSprints" similar to those arranged by the FCA.⁸
5. **Emerging technologies and business models**, especially those with cross-border application, were considered challenging. Specific areas addressed by commenters included artificial intelligence, distributed ledger technol-

ogy, protection of data, securities regulation and initial coin offerings, anti-money laundering and know-your-customer rules, and green finance.⁹

The GFIN consultation document integrates these regulatory policy themes into the proposed operating framework and functions of the GFIN.

It is notable that the FCA subsequently announced bilateral agreements (for example, with Australia) for coordination and cooperation in respect of fintech innovation. These agreements typically allowed new entrants approved to operate in the FCA regulatory sandbox to be approved comparatively quickly to operate in the bilateral partner country, but did not eliminate the need for individual country approvals. The GFIN advances this concept several steps further.

PROPOSED MISSION STATEMENT OF THE GFIN

The GFIN is intended to be an inclusive community of international financial regulators and related organizations that seek to provide innovative companies with efficient and well-informed regulatory communications within and between jurisdictions.¹⁰ The GFIN is designed to promote agile regulatory communications and thereby to support adoption of responsible technologies and business models that improve "financial stability, integrity, customer outcomes and inclusion."¹¹

The GFIN would not have the power to implement rules and would not replace or duplicate other international financial services standard-setting bodies or organizations. Rather, the GFIN would offer a collaborative framework within which international regulators can pool their knowledge and experience with evolving market developments to facilitate cross-border experimentation with new ideas.

The GFIN consultation document identifies three complementary activities for the GFIN. First, the GFIN network of regulators would promote sharing of information and knowledge of emerging trends in innovation. Second, the GFIN regulators would collaborate on important policy questions to inform regulators' positions and to support the work of standard-setting bodies, such as "collaborating on RegTech solutions."¹² Finally,

the GFIN would also support companies that wish to experiment across multiple jurisdictions with innovative consumer and business financial models, products, and services.

Specific Questions for Comment: The GFIN consultation document requests comments on the proposed mission statement, the three main proposed functions, the aspects and areas of regulation that present the greatest challenges to innovations, and any reasons why the proposal would be counterproductive to the desired outcomes.¹³

PROPOSED FUNCTIONS OF THE GFIN

The GFIN consultation document requests comments on the questions of why, what, and how three broad functions should be operationalized by the GFIN as it addresses global emerging trends in innovation: (i) the network of regulators; (ii) joint policy work and regulatory trials; and (iii) cross-border trials. This section of our *White Paper* describes each of these proposed functions in greater detail.

Network of Regulators

To improve information-sharing, several regulators have signed bilateral cooperation agreements, some of which refer companies to other regulators to help avoid the common difficulty of initiating cross-border contact with regulators that otherwise have no prior knowledge of a company and its ideas.¹⁴ The GFIN would expand existing collaboration efforts by fostering deeper and more extensive regulatory dialogue among all stakeholders.¹⁵ The GFIN would share information and best practices relating to emerging issues, technology, and innovation through closer ties among international financial services regulators and would connect with international financial services standard-setting bodies as they undertake activities related to innovation.¹⁶

The GFIN would consist of an overarching group of members that would participate in broad discussions and smaller sub-groups of members that would address specific topics. All GFIN members would share knowledge gained from key domestic work and emerging innovation trends with the full membership.¹⁷ The sub-groups would be self-organized by GFIN members based upon their interests and would share specific information with the full membership during regular meetings.¹⁸ A steering group composed of a subset of members would select a chair by consensus or by vote if necessary,

and the steering group would act as secretary, organizing meetings and providing updates to members.¹⁹

Once the GFIN is established, international standard-setting bodies would be asked to participate in, or observe, GFIN sub-groups or cross-border tests, which they may do at their discretion.²⁰ The GFIN would attempt to help companies navigate cross-border policy issues and expansion by providing regulatory contacts and by guiding companies to resources that may be available through a GFIN-hosted portal or otherwise.²¹

Specific Questions for Comment: The GFIN consultation document specifically requests commenters to address whether creating a set of best practices for regulators, or another activity, should be a priority for the GFIN, and whether international standard-setting bodies should be involved in the manner envisioned by the consultation document or in another manner.²²

Joint Policy Work and Regulatory Trials

In response to the initial consultation document issued by the FCA, commenters indicated a need to create a setting for discussions with regulators that would leverage experience, promote collaboration, and diminish regulatory arbitrage. Pursuant to the GFIN consultation document, the first step toward these goals would be for the GFIN to identify areas of common interest, drawing upon “discussions with standard setting bodies, one of the sub-groups, or ... consultation with industry, consumer groups, and academia.”²³ Additionally, the GFIN would act as a tool to identify areas where regulators’ approaches to emerging innovative models diverge and to highlight potential implications for international regulatory policy direction.²⁴ The GFIN consultation document raises anti-money laundering, counterterrorist financing, payments, and cross-border identity verification as examples of areas that could benefit from a common regulatory approach.²⁵

Consistent with its proposed mission statement, the GFIN would make decisions collaboratively for the mutual benefit of members, and members would be able to opt into those functions where they believe they would derive the most value.²⁶ The GFIN members may collaborate on a wide variety of types of policy work, such as findings from cross-border tests and comparative market studies and trials involving RegTech and SupTech.²⁷ Moreover, the GFIN consultation document notes that the FCA’s TechSprints could produce prototypes that could be tested and refined through the GFIN.²⁸

The policy work conducted by the GFIN would be informed by a variety of stakeholders, including individual companies, partnerships between traditional and start-up companies, and industry associations, and GFIN members would be expected to share the outcomes of their policy work with one another.²⁹

Specific Question for Comment: The GFIN consultation document asks organizations the broad question of what kind of outcomes from policy work and regulatory testing would be of benefit.³⁰

Cross-Border Firm Trials

Most regulators have historically focused on innovations locally, and as a consequence, there is no global platform for testing new ideas in multiple jurisdictions. The concept of a regulatory sandbox varies across jurisdictions. For example, the regulatory sandbox adopted by the United Kingdom's Financial Conduct Authority offers companies defined eligibility criteria and testing parameters, the potential for waiver of some rules, and direct collaboration with FCA personnel in all phases of the testing process.

In the United States, the Department of the Treasury recently published a series of recommendations for engagement by Treasury and U.S. financial regulators with international forums, standard-setting bodies, and the private sector regarding financial technology and innovation.³¹ The U.S. Bureau of Consumer Financial Protection recently created a new Office of Innovation "to focus on encouraging consumer-friendly innovation," and on the same date the GFIN consultation document was issued, announced a regulatory sandbox to encourage innovative new products and services for consumers.³²

In connection with the initial consultation document for a global regulatory sandbox published by the FCA, commenters highlighted the importance of testing and scaling new technology across jurisdictions. To address commenters' views, the GFIN consultation document proposes that regulators engage in activities to promote cross-border trials: "Facilitating cross border trials is about ensuring the potential benefits of financial innovation are shared across jurisdictions with consumers, regulatory authorities and other market participants."³³ Moreover, cross-border testing may inform the regulators' supervisory work by enabling them to closely observe emerging business models and technology.³⁴

Through the GFIN, companies could test their innovative ideas in several jurisdictions at the same time, and regulators in those jurisdictions that wish to opt in to cross-border testing would closely supervise implementation of companies' ideas.³⁵ While innovative companies must meet the requisite licensing and regulatory requirements, and a regulator's involvement in a test would not constitute an endorsement, cross-border tests may help facilitate entry into new jurisdictions.³⁶ The GFIN consultation document indicates that cross-border tests may inform regulatory convergence but recognizes that this convergence is a longer-term proposition.³⁷ Similarly, the GFIN consultation document notes that the ability to test new ideas in multiple jurisdictions operating under a single license in one jurisdiction is a longer-term project that would require regulatory convergence.³⁸

The GFIN would make publicly available the prerequisites for entry into a global regulatory sandbox, including the entity status for a company to conduct a trial in a particular jurisdiction. In light of the broad range of regulatory requirements across jurisdictions, the GFIN is not proposing a single set of regulatory criteria, and companies would be expected to demonstrate that they are able to operate in multiple jurisdictions during the entire length of the trial.³⁹

The GFIN consultation document proposes that cross-border trials could begin based upon select defining characteristics and for a limited geography and could expand based upon experience, or alternatively, cross-border trials could be accepted on a rolling-application basis under which companies could apply at any time.⁴⁰ For entry into the global regulatory sandbox, regulated companies would apply first to their domestic regulator, and nonregulated companies would apply to the chair of the GFIN, who would distribute the application to the GFIN members in those jurisdictions in which the company wishes to test.⁴¹

Relevant GFIN regulators would discuss applications during an initial screening, and successful companies would be asked to submit a trial plan that would be discussed among involved regulators prior to the beginning of testing.⁴² Information about successful applicants would be published initially and following the trial period, depending upon the particular circumstances;⁴³ however, the GFIN consultation document does not make clear the specific information that would be published at either stage of the global regulatory sandbox process.

During a company's trial, the involved regulators would review information for purposes of compliance with law and rules and would discuss emerging issues with the other GFIN regulators.⁴⁴ Following the conclusion of the trial, the results would be shared among GFIN members and the company would be provided with information about the merits of the product or service and its benefits to consumers or to financial services markets.⁴⁵ The GFIN consultation document envisions that the results of the trial could potentially inform future licensing decisions of the particular company or help clarify how the technology or model may fit within the relevant regulatory framework.⁴⁶

Specific Questions for Comment: The GFIN consultation document asks commenters whether the cross-border trials would be of interest and, if so, requests examples of uses. It also asks how commenters view the proposed process for managing applications for cross-border trials.⁴⁷ Regulators are requested to comment on anticipated challenges associated with the application process and conducting cross-border trials.⁴⁸

LAWYER CONTACTS

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ENDNOTES

- 1 While there is no universal definition of "regulatory sandbox," the general concept means a regulatory program that allows companies to offer products and services on a limited basis under a modified regulatory and enforcement approach.
- 2 At this time, the regulators and organizations that are involved in the GFIN are: (1) the Abu Dhabi Global Market; (2) the Autorité des marchés financiers (Quebec, Canada); (3) the Australian Securities & Investments Commission ("ASIC"); (4) the Central Bank of Bahrain; (5) the Bureau of Consumer Financial Protection (U.S.A.); (6) the Dubai Financial Services Authority; (7) the Financial Conduct Authority (UK); (8) the Guernsey Financial Services Commission; (9) the Hong Kong Monetary Authority; (10) the Monetary Authority of Singapore; (11) the Ontario Securities Commission (Canada); and (12) the Consultative Group to Assist the Poor (World Bank). The full membership of the GFIN will be informed through the consultative process; the current set of regulators and organizations may or may not decide to remain involved, and others may decide to become involved.
- 3 [Global Financial Innovation \(GFIN\) Consultation document](#), August 2018 ("GFIN consultation document").
- 4 See *id.* at Section 4, Functions, Paragraph 50, p. 12.
- 5 *Id.* at Section 2, Introduction, Paragraph 11, pp. 4-5.
- 6 See *id.* at Section 3, Mission statement, Paragraph 19, p. 7 and Section 4, Functions, Paragraph 30, p. 9. International financial services standard-setting bodies include the International Organization of Securities Commissions, the International Association of Insurance Supervisors, and the Basel Committee on Banking Supervision Group of International Finance Centre Supervisors. See *id.* at Functions, Paragraph 25, p. 8.
- 7 Comments may be submitted by electronic mail to GFIN@fca.org.uk. Comments will be shared among the GFIN regulators unless directed otherwise.
- 8 The FCA's "TechSprints" are events of short duration that bring together participants from within and outside the financial services industry to develop technology-based ideas that address specific industry challenges. The FCA has held a series of TechSprints events, covering consumer access; regulatory reporting; financial services and mental health; model driven, machine-executable reporting; and anti-money laundering and financial crime.
- 9 See the GFIN consultation document at Section 2, Introduction, Paragraph 9, p. 4.
- 10 See *id.* at Section 3, Mission statement, Paragraph 15, p. 6.
- 11 *Id.* at Section 3, Mission statement, Paragraph 14, p. 6.
- 12 *Id.* at Section 3, Mission statement, Paragraph 16, p. 6. "RegTech" is the development of new technologies to facilitate the delivery of regulatory requirements. See *id.* at Section 2, Introduction, Paragraph 7, p. 4.

- 13 See the GFIN consultation document at Section 3, Mission statement, Questions 1 and 4, p. 6.
- 14 See *id.* at Section 4, Functions, Paragraphs 21 and 23, p. 8.
- 15 See *id.* at Paragraph 22, p. 8.
- 16 See *id.* at Paragraphs 2 and 25, p. 8.
- 17 See *id.* at Paragraph 26, pp. 8.
- 18 See *id.* at Paragraph 27, p. 9.
- 19 See *id.* at Paragraph 28, p. 9.
- 20 See *id.* at Paragraph 30, p. 9.
- 21 See *id.* at Paragraph 31, p. 9.
- 22 See *id.* at Questions 5 and 6, p. 9.
- 23 See *id.* at Paragraph 33, p. 10.
- 24 See *id.* at Paragraph 34, p. 10.
- 25 See *id.* at Paragraph 34, p. 10.
- 26 See *id.* at Paragraph 36, p. 10.
- 27 See *id.* at Paragraphs 37 and 38, p. 10. “SupTech” refers to regulatory harnessing of new technology to improve supervisory functions. See *id.* at Section 2, Introduction, Paragraph 8, p. 4. For a description of RegTech, see n. 11, *supra*.
- 28 See the GFIN consultation document at Paragraph 39, p. 10.
- 29 See *id.* at Paragraphs 40 and 41, p. 10.
- 30 See *id.* at Question 7, p. 11.
- 31 See “A Financial System That Creates Economic Opportunities: Nonbank Financials, Fintech, and Innovation,” U.S. Department of the Treasury Report to President Donald J. Trump, Executive Order 13772 on Core Principles for Regulating the United States Financial System, July 2018, p. 211.
- 32 See “Bureau of Consumer Financial Protection Announces Director for the Office of Innovation” and “BCFP Collaborates With Regulators Around The World To Create Global Financial Innovation Network.”
- 33 See the GFIN consultation document at Paragraphs 42 and 43, p. 11.
- 34 See *id.* at Paragraph 44, p. 11.
- 35 See *id.* at Paragraph 45, p. 11.
- 36 See *id.* at Paragraphs 45 and 48, p. 11.
- 37 See *id.* at Paragraph 46, p. 11.
- 38 See *id.* at Paragraph 47, p. 11.
- 39 See *id.* at Paragraphs 49 and 51, p. 12.
- 40 See *id.* at Paragraphs 52 and 53, p. 12.
- 41 See *id.* at Paragraph 54, p. 12.
- 42 See *id.* at Paragraph 55, p. 12.
- 43 See *id.* at Paragraph 57, p. 12.
- 44 See *id.* at Paragraph 56, p. 12.
- 45 See *id.* at Paragraph 57, p. 12.
- 46 See *id.*
- 47 See *id.* at Questions 8–10, p. 13.
- 48 See *id.*

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