C L I F F O R D C H A N C E



FINTECH IN 2018: FIVE TRENDS TO WATCH



- THOUGHT LEADERSHIP

FEBRUARY 2018







FINTECH IN 2018: FIVE TRENDS TO WATCH

We have only just begun to scratch the surface when it comes to the impact of technology on financial services but that small abrasion is revealing. We are making five bold predictions for the future of fintech – from how banks will re-imagine themselves, to where risks may arise and contaminate the financial system, and what the regulators may focus on.

Marketplace banking is coming

Imagine a bank that doesn't want to sell you its products and services but instead offers "best in class" mortgages, insurance, FX services and loans from its competitors; a world where consumers hand over access to their banks accounts and transaction information to get the best deals. This is exactly what we will see this year in the UK and across Europe as Open Banking and PSD2 take effect.

What's next?

- Banks that fail to adapt will become basic utilities, providing the "plumbing" rather than offering competitive, profit-generating products and services.
- Banks will need to adjust their business models to react they will need to consider what it means to become a marketplace and not a universal bank.

Goodbye bank clerk, hello robot

The growth of artificial intelligence (AI) has significant legal and ethical implications. Al tools make unpredictable decisions and can be biased. We have already seen Al engage in anti-competitive, unethical and potentially (market) abusive behaviours. The adoption of Al and automation within the financial industry is set to boom... and so are the risks of getting it wrong.

What's next?

- Soft law measures such as the setting of standards, codes of conduct and ensuring that data scientists are trained in data ethics will be introduced to regulate AI but don't be surprised to see more extensive regulatory intrusion.
- Watch out for a consumer backlash. A lack of effective regulation and the threat of widespread job losses will turn the public against Al (Ned Ludd 2.0).
- Our friendly personal digital assistant (let's call her Alana or Sigrid) will soon become our personal financial advisor at home but at what cost?

The rise and rise of shadow infrastructure

Many institutions, shackled by legacy systems, are forced to outsource IT on a grand scale. As more banks become reliant on "shadow infrastructure" — cloud computing, data analytics, AI and key functions — maintained by third party providers, operational and contagion risks are multiplying. The Financial Stability Board (FSB) warns that the interdependency between the financial sector and a dominant few players could cause an "IT risk event to escalate into a systemic crisis."

What's next?

- The next financial crisis may result from institutions being "too connected" by shared technologies, software use and common vendors.
- Regulators will strictly enforce current outsourcing rules and will develop a greater appetite for regulating service providers but will need to balance this in a way which does not inhibit innovation.
- Banks will be more forceful in negotiating technology outsourcing arrangements. Understanding what happens within the service provider's black box and testing often for disaster recovery and cyber defenses will become an imperative.

Cryptocurrencies will explode (one way or another)

The size of the global virtual currency market has now reached around US\$700 billion. Bitcoin and other cryptocurrencies, neither issued nor backed by any national government, promise to reduce institutional intervention, offer a means of borderless, anonymous international transfers and, for some, the opportunity for investment in a new asset class. But they are also complex, volatile, prone to fraud, potentially high-risk and, at the same time, are becoming a mass market phenomenon – a fact that hasn't escaped the attention of regulators.

What's next?

- 2018 will be the year of global cryptocurrency regulation. Expect to see regulators forced out of sheer necessity to take a more active role in shaping cryptocurrency markets.
- Expect your taxi driver to have a view on Bitcoin: cryptocurrencies have captured widespread interest and credibility. This will continue, particularly as geopolitical uncertainty and high inflation fuels demand for alternative currencies.
- As gatekeepers for large sections of the investor population, cryptocurrency exchanges will become critical infrastructure providers and existing financial institutions will offer services in response to client demand for this new asset class.

Data is valuable but dangerous

Data is the oil fuelling the digital economy. As consumers become increasingly aware of the value of their data, they are becoming more aware of their need to protect it from leaks and hacks, and so we should expect to see a growing movement against data retention by individuals, consumer groups and the media.

What's next?

- Businesses who have not fully understood the ramifications of how they obtain and use customer data will be caught out. For some, the ensuing fines and reputational damage will have catastrophic consequences.
- Consumers know that their data is valuable and may be willing to sell it.
- Watch out for new cross-sector customer data standards and the race for ever advanced encryption tools.
- In this vein, we could see regulators requiring "free" services to be unbundled from data access rights potentially spelling the end of free email, cloud storage, etc.









R D

ΗΑ С N Ε С

CONTACTS

Marc Benzler Partner Frankfurt T: +49 697199 3304 E: marc.benzler@ cliffordchance.com

Kate Gibbons Partner London T: +44 207006 2544 E: kate.gibbons@ cliffordchance.com

Steve Jacoby Partner Luxembourg T: +352 485050 219 E: steve.jacoby@ cliffordchance.com

Paul Landless Partner Singapore T: +65 6410 2235

E: paul.landless@ cliffordchance.com

Robert Villani Partner New York T: +1 212 878 8214 E: robert.villani@ cliffordchance.com Peter Chapman Senior Associate I ondon T: +44 20 7006 1896 E: peter.chapman@ cliffordchance.com

Megan Gordon Partner Washington D.C. T: +1 202 912 5021 E: megan.gordon@ cliffordchance.com

Jonathan Kewley Partner London T: +44 207006 3629 E: jonathan.kewley@ cliffordchance.com

Frederik Mühl Partner Frankfurt T: +49 697199 1743 E: frederik.muehl@ cliffordchance.com

David Felsenthal Partner New York

T: +1 212 878 3452 E: david.felsenthal@ cliffordchance.com

Jack Hardman Senior Associate Dubai T: +971 4503 2712

E: jack.hardman@ cliffordchance.com

Oliver Kronat Partner Frankfurt T: +49 697199 4575

E: oliver.kronat@ cliffordchance.com

Nikhita Suria Lawyer

London T: +44 207006 6214 E: nikhita.suria@ cliffordchance.com This publication does not necessarily deal with every important topic nor cover every aspect of the topics with which it deals. It is not designed to provide legal or other advice.

www.cliffordchance.com

Clifford Chance, 10 Upper Bank Street, London, E14 5JJ

© Clifford Chance February 2018

Clifford Chance LLP is a limited liability partnership registered in England and Wales under number OC323571 Registered office: 10 Upper Bank Street, London, E14 5JJ

We use the word 'partner' to refer to a member of Clifford Chance LLP. or an employee or consultant with equivalent standing and qualifications.

If you do not wish to receive further information from Clifford Chance about events or legal developments which we believe may be of interest to you, please either send an email to nomorecontact@cliffordchance.com or contact our database administrator by post at Clifford Chance LLP, 10 Upper Bank Street, Canary Wharf, London E14 5JJ.

Abu Dhabi • Amsterdam • Bangkok Barcelona • Beijing • Brussels Bucharest • Casablanca • Dubai Düsseldorf • Frankfurt • Hong Kong Istanbul • London • Luxembourg Madrid • Milan • Moscow • Munich New York • Paris • Perth • Prague Rome • São Paulo • Seoul • Shanghai Singapore • Sydney • Tokyo • Warsaw Washington, D.C.

Clifford Chance has a co-operation agreement with Abuhimed Alsheikh Alhagbani Law Firm in Riyadh.

Clifford Chance has a best friends relationship with Redcliffe Partners in Ukraine.

J20182301182043