

Proposal to Support FinTechs within the ADGM

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June – July 2016

FinTech companies pride themselves on having two main functions, which over the past decade have pushed them to the forefront of venture capitalists' 'must have' investments. These two functions are: (1) better use of data and (2) effortless customer experience. In 2015, Goldman Sachs estimated that FinTech companies could make up to US\$ 4.7 trillion in annual revenue and around US\$ 470 billion in profit. Santander InnoVentures estimated that US\$ 23.5 billion of venture capital investment in 2013 – 2014 was in FinTech companies. Such figures are, naturally, making this growing industry extremely attractive to venture capitalists, governments, banks, and entrepreneurs.

Existing FinTech companies include: 'Lending Club', 'OnDeck Capital', 'Kabbage', 'Kickstarter' and 'Indiegogo'. These FinTechs all operate slightly differently from one another but, in essence, they all have one thing in common: they connect directly to the consumer and they are quick and easy to use in comparison to traditional financial options.

Abu Dhabi is proposing to offer a zone for FinTechs within the ADGM and has proposed a prospective policy to entice FinTechs to come to the region. The Paper, which was circulated on 10 May 2016, proposes to create a 'Regulatory Laboratory' ("RegLab") that will 'provide a safe environment, within controlled boundaries, for businesses to test, develop and provide innovative FinTech products'.

It is proposed that the RegLab will operate and provide a framework that will adjust the current ADGM requirements so that FinTechs are offered a sustainable environment in which they are able to operate. The Paper has offered some broad examples of what may be included in the conditions imposed under the RegLab, including:

- requiring appropriate disclosures to, and consent of, FinTech clients willing to participate. In order for clients to make an informed decision, it is important for there to be clear disclosures on the risks involved with FinTech, the regulatory safeguards clients are foregoing by utilising a FinTech under the RegLab, and the possible outcomes at the end of the FinTech test;
- limiting the impact or reach to consumers. For example, the RegLab may prohibit the FinTech from handling clients' money, restrict the clientele base, cap the size of investments, restrict the marketing channels, etc; and/or
- appointing established financial institutions as sponsors to undertake responsibility for compliance assurance or resolution of any client issue if a FinTech test does not perform as expected. For example, the trial deployment of a robo-advisor may be excluded from Anti Money Laundering/Know Your Client due diligence if the consumer opens an investment account with a sponsor bank, which takes on the corresponding regulatory obligations.

These examples show the direction in which the RegLab proposes to be a satisfactory entry into the market but, there needs to be a more robust system in place to show the core framework in which the

RegLab will operate. FinTechs largely operate in a similar manner therefore, providing a bespoke analysis of each particular FinTech on a case by case basis may not be the most efficient way in which to assess the FinTechs viability for the zone.

Two year exemption period

FinTechs would be given a two year period in which the FSRA will 'actively engage the FinTech participant so as to stay abreast of, and support, the FinTech innovation'. During these two years, FinTechs will be given added benefits, such as not having to lease an office within the ADGM in order to benefit from the ADGM freezone.

During the two year period, the FSRA will actively engage the FinTech so as to assist and support FinTech innovation, not only with the grant of authorisation under the RegLab but also to ensure that they continue to be 'fit and proper' to operate within the ADGM.

Dedicated online FinTech portal

The Paper proposes that there should be a dedicated online FinTech portal. This will be greatly beneficial to FinTechs as, traditionally, FinTechs have not been given the support needed due to the competition that they pose to traditional financial services. The Paper proposes that the FinTechs will have 'direct engagement with FSRA' in order to help assist in the development of their business plan scope and ultimately assist the FinTechs with achieving final authorisation by the RegLab, giving the FinTechs the support needed to establish a base in the region.

Authorisation criteria

The FSRA has proposed that the authorisation criteria for FinTechs under the RegLab will be based on the following three pronged approach and will be assessed after the two year period:

1. the FinTech project should promote novel innovation, in terms of the business application and deployment model of the technology;
2. the FinTech project should have the potential to:
 - promote significant growth, efficiency, or competition in the financial sector;
 - promote better risk management solutions and regulatory outcomes for the financial industry; or
 - improve the choices and welfare of consumers; and
3. the FinTech project should be in a sufficiently advanced stage of development to mount a live test. If the FinTech participant is at an early stage of product development, it will not be permitted to conduct regulated activities, hence, it will not need to be authorised under the FSMR.

Further, the FinTechs would be required to:

- explain and demonstrate how it satisfies the authorisation criteria;
- demonstrate the test parameters, milestones and outcomes;
- detail the safeguards that have been put in place and demonstrate how they are appropriate to the FinTech position being tested and the risks that are posed to the consumer; and
- set out a clear and fair exit strategy for consumers.

The FSRA may be able to extend, in exceptional circumstances and on a case by case basis, some FinTechs two year validity period but, it is not yet detailed under what circumstances this would be the case.

The interest in FinTechs is undeniable and the proposed RegLab supports the growth of FinTechs , however, it is equally important to create a framework that is adequately structured to support this growing industry and a the correct legal and financial framework to provide a stable environment in which FinTechs can achieve their full potential.