Via Electronic Submission
United States Department of the Treasury
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Secretary Mnuchin:

The U.S. Department of the Treasury's (Treasury) review of current regulatory frameworks and their impact on innovation is timely and important to the future of the financial sector. Technological innovation is changing the face of industries and governments and improving our daily lives at an exponential pace.

Not only is the pace of technological change in the broader economy quickening, but so is the velocity inside financial services. Much of the existing framework for financial regulation was established before the development of the Internet, mobile banking, and other innovations that define our modern age. The availability of financial services and products on-demand and with the convenience of a few finger swipes reflects how consumers' expectations for product experiences are not shaped by financial providers alone, but by the incredible experiences they discover in their daily lives online.

While innovation in the financial industry may not appear as dramatic as the self-driving car, it is rapidly offering new opportunities to expand access to credit, reduce fraud, strengthen cybersecurity, revolutionize the customer experience, and even offer new forms of currency. For example, financial firms are seeking to use new technologies like blockchain to improve digital identity management and to speed up transactions, or apply Artificial Intelligence and machine learning to protect customers' accounts from cyber-crime and to offer customized products and services. Consumers increasingly demand new means of accessing financial services and managing their financial lives in real-time with the touch of a button. Regulated institutions should have the same ability to keep pace with that demand and not be left behind as those firms unencumbered by significant regulatory scrutiny are free to innovate.

Creating a safe place for responsible innovation, where due diligence is proportionate to the risks, is essential to building partnerships between financial institutions and non-bank innovators and better serving the millions of global customers that rely on this industry to be cutting edge and provide top notch services.

Regulators can make changes that foster innovation without jeopardizing financial stability and consumer protection[1]. As Treasury finalizes its report on technology and innovation, we encourage you to consider the following:

1) **Innovation Requires Risk-Taking and a Cultural Shift** – Fostering innovation will require a cultural shift within government agencies, regulators and firms that challenges traditional notions of risk.

2) **Modernizing Regulations Requires Greater Coordination** – A coordinated review of regulations across agencies could help eliminate duplication and ensure current frameworks and guidelines reflect today's technological era, ensuring that outdated rules don't discourage innovation.

3) **Expanding Technology Education** – The fast pace of technological change will require regulatory examiners to have a deeper understanding of technology and its impact on firms and consumers.

These themes have been informed by a series of conversations among BITS/Financial Services Roundtable members and reflect input from business, technology and innovation leaders at the nation's largest financial services firms. Through several years of investment, partnership and collaboration, what started as "Silicon Valley versus Wall Street" is rapidly becoming, simply, the new competitive baseline in banking. As this evolution continues, we believe these recommendations are essential to driving competitive positioning that yields positive outcomes for the industry and the customers we serve.

Innovation Requires Risk-Taking and a Cultural Shift

Regulators should evaluate innovation risks by looking not just at the risks of a new innovation, but also at the risks of *not* innovating, as failure to innovate poses safety and soundness risks not only to the specific bank but also to the banking system as a whole.

Many of the leading technology innovators cultivate an environment that allows room for creativity and taking risks. With this creativity also comes an acceptance that new innovations may fail. For financial firms to compete and safely offer financial products and services, they too must have room to experiment and sometimes have their innovations fail.

The fragmented nature of the current regulatory framework holds back innovation and inhibits the financial sector's ability to remain globally competitive. Technology innovators, unencumbered with layers of regulation, operate in an environment of rapid change, product testing, and risk taking that enables them to more quickly bring products to market. This model has fostered important

[1] FSR has previously submitted extensive commentary on innovation related topics including data aggregation and the development of a FinTech Charter. Those comment letters may serve as helpful background as the Treasury works to develop recommendations on enabling innovation and can be found here: http://www.fsroundtable.org/fsr-innovations-in-data-aggregation-are-positive-developments-for-consumers-and-financial-industry/ , https://financialservices.house.gov/uploadedfiles/hhrg-115-ba15-wstate-jkratovil-20180307.pdf , and https://www.occ.treas.gov/topics/responsible-innovation/comments/comment-fsr-bits.pdf

technological advances, increased consumer access to financial services, and delivered new products and services that are reshaping the industry. Creating a similar environment where financial institutions can experiment on small-scale pilot projects without the undue burden of exhaustive due diligence will further enhance our global competitiveness as a nation and propel advancements in access to products, customer service, security and efficiency.

Financial firms of varying size are increasingly exploring partnerships to test and evaluate new ways to extend credit, provide financial advice or simply access financial account information. The ability to quickly evaluate technologies in a controlled setting is often challenging due to third party risk management processes and the fear of regulatory scrutiny. With examiners that may begin an on-site exam by asking for a list of "exceptions", many proof-of-concepts or initiatives in testing may be immediately put under a microscope that impedes innovation.

Rather than requiring firms to implement full-scale risk management procedures for innovations that are being tested, regulators should allow greater flexibility for firms to experiment and quickly ascertain whether a technology has promise or should be put to bed. While the current regulatory guidelines may allow for this, firms often report that on-site examiners and the review process cast an unduly negative light on innovation that reverberates throughout the firm.

Just as regulators could help foster innovation by recognizing the need to move quickly and experiment, firms must also adjust their processes and procedures. As business lines look to use new technologies, they must have active partners in technology, information security and enterprise risk that recognize the imperative to experiment. Working together, these leaders can help find ways to support innovation in a safe and timely manner that finds a balance with regulatory expectations.

Modernizing Regulations Requires Greater Coordination

As Treasury and the regulatory agencies review existing rules and guidelines, we encourage an approach that creates greater clarity and uniformity of rules and expectations around technology innovation, as well as a mechanism to allow regulators and firms to more freely interact throughout the iterative process of innovation.

Many regulations affecting bank and nonbank financial companies are based on outdated technological assumptions. Regulatory agencies have acknowledged that some of the technology-related guidelines (e.g. the Federal Financial Institutions Examination Council's technology handbook) are due for an update to ensure they reflect the digital era. The best approach to new guidance or rule making is working in collaboration with industry stakeholders with an eye toward filling overt regulatory gaps that could expose consumers or the broader economy to manifest harm.

We welcome a full review by the agencies of these guidelines, and encourage a coordinated approach among federal and state regulators that provides greater clarity and uniformity while avoiding duplication that impedes innovation. Given that technology and innovation are by nature fast-paced, we recommend more frequent updates to these guidelines. We also recommend creating a mechanism that allows regulators and firms to exchange perspectives and technology expertise more regularly.

There are several ways to expand coordination around innovation. The creation of a FinTech Subcommittee of the Financial Stability Oversight Council (FSOC), as noted in the Securities Industry and

Financial Markets Association's recent report[2], could help drive innovative practices across the financial sector. An FSOC Subcommittee would serve as a central coordination point to help regulatory agencies enhance and coordinate their expertise around innovation and avoid unnecessary duplication that places a burden on regulated firms.

Another method would be using a similar approach to what is underway to coordinate cybersecurity oversight. At present, the industry is coordinating on a uniform approach to cybersecurity oversight, bringing a solution to the table and leveraging agency feedback in order to streamline and strengthen security and compliance, while providing a common lexicon to foster consistency, clarity and efficiency across regulatory bodies. A similar coordinated approach to technology and innovation would benefit regulators and the financial industry.

To help identify regulatory requirements in need of modernization, we encourage regulators to consider an "EGRPA for Innovation" using the Economic Growth and Regulatory Paperwork Reduction Act (EGRPA) public notice and comment process to "identify outdated or otherwise unnecessary regulatory requirements" that are tied to outdated technology or unnecessarily hamper responsible innovation. This should be a regular and ongoing process. Agencies should perform periodic look-backs, at least every three years, to ensure that regulations and guidance have not become obsolete due to the speed and velocity of new financial innovations.

We also encourage regulators to clarify expectations and share insights on emerging trends or best practices across firms. Banks are challenged to innovate today due to the regulators' practice of using privately developed best practices based off the review of other firms. Examiners' use of privately developed guidance as enforceable rules creates uncertainty and imposes excess conservatism on firms. Rather than measuring firms against this guidance, we encourage greater communication between regulators and the industry writ-large around trends and effective practices using one of the proposed methods discussed above.

Expanding Technology Education

Innovating in a heavily regulated industry requires significant technical expertise on the part of regulators. Just as a regulated company cannot adapt to innovation without the skills and technical knowledge to experiment, prototype and understand it, regulators cannot address the potential risks of innovations without understanding the technology and development process behind them. A high baseline of knowledge can both empower innovation and experimentation on the part of regulated firms, and ensure that those tasked with protecting the safety and soundness of the banking system have the tools they need to balance both.

Misaligned conservatism on the part of examiners can be especially harmful to innovation when applied to innovation that both (1) requires participants to act quickly and boldly, and (2) lacks the scale to pose the safety and soundness concerns of more traditional banking activities. It is important that field examiners across federal agencies have a solid understanding of emerging technologies to be able to

[2] Promoting Innovation in Financial Services. Securities Industry and Financial Markets Association. April 6, 2018. Available at: https://www.sifma.org/resources/submissions/promoting-innovation-in-financial-services/

evaluate the benefits and risks and put them in the appropriate context. It is equally important that examiners review technological innovation with a consistent, common language and approach.

As noted earlier, given the rapid pace of change, firms and regulators would benefit from closer coordination on technology innovation throughout the entire development lifecycle. Joint advisory committees or working groups of regulatory agency and industry representatives could help share information and foster a productive dialogue around emerging technologies, risks, and opportunities to address them.

Changing the approach to how regulators and firms interact on an ongoing basis would help equip examiners with critical expertise and help firms navigate some of the regulatory uncertainty that comes with testing new technologies. This will require a cultural shift in how the industry and regulators view the imperative to innovate and interact. Fostering this dialogue, however, will be necessary to enable businesses to be as efficient and competitive as possible on a global scale, while maintaining the high degree of customer protection and risk management regulators expect.

Driving Innovation Forward

Creating a safe place for responsible innovation within financial services firms is essential to the future of the industry and its ability to remain globally competitive. Federal and state financial agencies should ensure that laws and regulations support both established financial services firms actively engaged in the digital transformation, as well as newer market entrants that are increasingly partnering with the traditional players, to ensure the industry can innovate and work together in the best interest of customers.

It is vital that regulation is flexible and proportionate to the risk to allow innovation to be driven from within traditional financial institutions, or FinTech investment and talent will continue to flow to countries where the regulatory environment better enables innovation. Financial institutions should be able to adopt the same innovative design practices followed by technology companies that can develop products through short, iterative releases in a testing environment with a limited number of customers in order to ensure product-market fit. This critical advantage allows firms to develop products quickly and efficiently without having to prematurely overinvest in a fully developed risk infrastructure.

Misaligned conservatism on the part of regulators who may not have the benefit of the same technology expertise as the firms they oversee also poses a risk to the industry. Overcoming this challenge will require that regulators as well as the financial industry shift how they think about the risks of innovation, keeping up with market trends and meeting consumer needs. It will also require a greater level of coordination and interaction among regulators and between regulators and industry than ever before.

Change takes time, energy and a willingness to collaborate but the risk of not innovating is high. Federal and state regulators and financial firms share the same goals of fostering economic growth and opportunity while providing safe and secure products and services to consumers. We look forward to working with Treasury and the regulators to foster innovation and meet the financial needs of customers today and into tomorrow.

Thank you for considering our views. If you have any questions or would like to discuss further, please do not hesitate to contact us.

Respectfully,

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