



## FINTECHS - WITH CREDIBILITY COMES ACCOUNTABILITY

By Bahar Hafizi

### INTRODUCTION

The digital revolution is creating a major disruption in the financial sector. FinTechs, deploying innovative communication technology to better deliver financial services to millennials, have experienced explosive growth in recent years. FinTech's success is the ability to create less expensive alternatives to traditional lending and banking services, driving down prices and eroding profit margins. A report released by Citigroup in March 2016 quantified FinTech's impact on the incumbents, estimating that up to 30% of existing bank employees could lose their jobs by 2025 as a result of technological innovation.

FinTechs are diverse and include conventional online banking, digital wallets, crowdfunding, peer-to-peer or marketplace lending, mobile payments, ai-advice, and applications for blockchain technology. FinTechs, in particular start-ups, are subject to less onerous regulation than traditional financial institutions, making them desirable to investors. However FinTech's metamorphosis from a novel idea to a bankable business requires infrastructure to address the myriad of regulatory rules applicable to money services business ("**MSB**").

### AN OVERVIEW OF THE CURRENT REGULATORY LANDSCAPE

While there is currently no single Canadian FinTech regulator at either the federal or provincial level, some existing legislation does apply. Canada's anti-money laundering ("**AML**") regime and the federal *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (the "**Act**"), can have applicability to a FinTech that is a MSB. This summer the federal Department of Finance released amendments to regulations under the Act making material changes in the areas of client identification and verification. The amendments are designed to make on-line customer onboarding faster and less dependent on paper documents, thereby fostering growth and innovation in the FinTech space, yet they also serve as a reminder that FinTechs are not flying under the regulatory radar.

Consumer protection legislation also comes into play, mandating disclosure of the cost of borrowing for consumer loans for all lenders in the sector, including FinTechs. Finally, businesses must comply with the federal *Personal Information Protection and*

*Electronic Documents Act* or its provincial equivalents and Canada's Anti-Spam Legislation.

## THE WAY FORWARD

For many FinTechs success is found in partnering with large financial institutions for whom building in-house tech solutions is expensive. Outsourcing IT functions to innovative start-ups who are not subject to onerous regulatory requirements is attractive for a number of reasons including faster go-to-market strategies that reach more customers. Yet often financial institutions are nervous about the collaboration, noting that start-ups invest in R&D, not compliance.

The challenge for FinTechs is how to balance innovation and product development with regulatory compliance. FinTechs need to demonstrate that they are able to navigate the regulatory landscape by implementing an AML program, they need to review their products and services for potential AML (and other) risks and implement compliance management programs designed to address these risks.

MOI's FinTech team is here to help. Our team has extensive transactional and regulatory experience in the financial services industry. We are equipped to provide strategic and forward-thinking legal solutions to the new challenges presented by prominence of FinTechs.

The foregoing provides only an overview and does not constitute legal advice. Readers are cautioned against making any decisions based on this material alone. Rather, specific legal advice should be obtained.

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