

A relationship that clicks

FCA and SFC sign FinTech co-operation agreement between the UK and Hong Kong

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The FCA continues to voice its commitment to innovation in FinTech with overseas authorities in a new 'co-operation' agreement with the Hong Kong Securities and Futures Commission

On 12 May 2017 the Financial Conduct Authority (FCA) and the Securities and Futures Commission operating in Hong Kong (SFC) entered into an agreement for the purpose of encouraging FinTech innovation in their respective financial services markets.

This co-operation agreement is the latest in various agreements entered into by the FCA with other jurisdictions (most recently China, Japan and Canada), showing the FCA's approach to establishing common interests to foster innovation internationally.

What does the agreement cover?

The co-operation agreement covers how the FCA and the SFC plan to share and use information to aid innovation in the financial services markets in the UK and in Hong Kong. The terms of mutual co-operation include:

- referrals for innovating businesses looking to navigate the regulatory framework of the other authority's jurisdiction

- information sharing in respect of:
 - emerging trends and developments
 - regulatory issues which affect innovation in financial services
 - information on organisations or bodies which lead efforts to promote innovation in financial service
- potential for joint innovation projects – the authorities have stated that they would consider participating in projects for the application of novel financial technologies. It is yet to be seen how such joint projects would operate in practice

The agreement does not create any legally binding obligations but it does operate as a statement of intention from both parties as to their commitment to innovation in the financial markets.

Breaking down barriers to innovation

Businesses providing FinTech solutions and services could benefit from the co-operation agreement as follows:

- both authorities have expressed that they want to stay abreast of innovation in financial services in their respective markets, and to meet the objective of encouraging innovation in the interests of consumers and to enhance understanding of the applicable regulatory frameworks in the FinTech community
- businesses identified by the FCA or SFC as ‘Innovator Businesses’ that would like to expand to the other authority’s jurisdiction can be referred to the other authority, who will assist that business in understanding the regulatory framework of that jurisdiction. This may be incredibly helpful to businesses operating in the UK considering selling to Hong Kong or vice versa
- mutual information sharing provisions may mean that the FCA is likely to react quicker to facilitate and support new innovations
- the potential involvement in joint innovation projects facilitated by the FCA and the SFC could give a business access to both financial services markets, whilst also being given the benefit of support from each authority to help a business navigate each regulatory framework
- the co-operation agreement carries a message that the financial regulatory framework should not hinder competition

What next?

Businesses can also expect to see further such co-operation agreements between the FCA and international authorities (for example, the FCA is currently in discussions with counterparts in India). Such mutual co-operation can lead to an increased understanding in other regulatory frameworks and aid the expansion for innovative FinTech technologies internationally.

Eversheds Sutherland has a dedicated global Digital Financial Services and FinTech team, drawing together lawyers and consultants from across our practice areas, and we have a strong presence in the UK and Asia. We would be delighted to assist you with navigating the regulatory framework and helping your business to take advantage of new technologies.

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