VIEWPOINTS

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FinReg21

Modernizing Financial Regulation for the 21st Century

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Introduction

Regulation has a vital role in any financial system—and changes to U.S. financial regulation were clearly needed in the wake of the financial crisis. However, in a constantly evolving economy, discussion over the proper calibration of financial regulation should never really stop. Because banking and other financial services cannot be entirely de-risked, at least not without losing the benefits that we as a society expect from the financial sector, completely eliminating risk is not a plausible goal of regulation. Banks and other financial intermediaries need to take on risk to support a growing and dynamic economic engine.

A key challenge with regulatory policy is to ensure that financial institutions cannot put taxpayers or the broad economy in a precarious situation when their business decisions do not work out. Shareholders, rather than taxpayers, expect to reap the rewards of private institutions' activities, and shareholders, not taxpayers, must bear the risks and consequences of a financial firm's actions. A key role for regulation is to ensure that risk-taking financial institutions are not imposing risks on taxpayers to create short-term income by free-riding on taxpayer-provided guarantees. Put more simply, regulation should minimize externalities.

The challenge that we as a society face is to find the balance between safety and risk-taking. Just as we must continue to oversee our banks and financial institutions to ensure that they do not shunt their risks off onto the taxpayer and the broader economy, we must also continue to oversee our regulatory regime to maintain a strong financial sector that contributes to growth in the real economy.

The start of a new administration is a natural time to assess the U.S. financial regulatory structure. The goal of our analysis here is to help ensure that the regulatory system protects consumers and the broader economy without putting unnecessary downward pressure on economic growth and financial innovation. We believe that improvements can be made to America's regulatory infrastructure, and here we suggest 10 policy changes as a start.

The 10 sensible steps discussed below can help to achieve a modernized financial system that serves the needs of America's 21st century economy, and they can form the foundation of an ongoing evaluation of America's financial regulatory regime.

10 Proposed Steps for Financial Regulatory Modernization:

(1) **Volcker Rule Reform**. *Regulators should let banks intermediate (e.g. trade) securities again.*

If ever there was a place where regulation tried too hard to reach a goal of "eliminating risk" without analyzing the consequences, the Volcker Rule might just be it. Any review of our financial regulatory regime should begin here, as the combination of politically appealing yet operationally challenging encapsulates so much of today's debate on the role of financial regulation.

The Volcker Rule prohibits banks from trading securities on their own account and limits their investments in certain kinds of managed funds. But recognizing that banks traded securities to manage risks arising from their other activities (such as making loans that might not be repaid), the Volcker Rule allowed banks to trade securities if those trades were undertaken for the purpose of "hedging." Trading in Treasury securities is also exempted, even though such trading poses risks of losses just as with any other asset. Presumably, policymakers understood that inadvertently reducing the liquidity of Treasury securities would increase borrowing costs for the U.S. government.

The Volcker Rule combined incredibly simple politics with enormously complex mechanics. Selling the rule to the public was quite easy—proprietary trading was portrayed as "banks gambling with their customers' money." Implementing the Volcker Rule in a way that achieves the goal of a less risky economy, however, has proven quite difficult. The problem is that drawing a line between prohibited "proprietary trading" and permissible "hedging" has frustrated both regulators and banks.

Looking at the rule favorably, one could argue that the new regulations have had the useful effect of ensuring that deposit-taking institutions undertake appropriate risk management vis-àvis their trading operations. Banks should be doing risk management on their own—indeed, requiring banks to fund themselves with considerable amounts of capital as discussed below provides the appropriate incentive for risk management. One could argue that the focus on the risks of proprietary trading in the Volcker Rule helps to provide a framework for this risk management to happen more effectively. It is good that regulators and bank managers are more aware today of the risks inherent in this business.

The problem, however, is that the Volcker Rule in reality does little to improve the overall stability of the financial sector. A fundamental challenge with the Volcker Rule is that it is not so easy to know when a trade or a series of trades are so-called "prop trades" or instead are merely ways of hedging a position with whatever instrument is available in the marketplace. For example, if a trader buys a 10-year corporate bond from a client, but cannot easily re-sell that bond and instead sells a 10-year Treasury—meaning the trader is long a corporate note and short the 10-year Treasury note. Is this a "prop trade," or is it simply appropriate risk management in a rapidly moving market? How long can the trader hold this position before it becomes a "prop trade?" This is a simple trade but not a simple question in the context of the Volcker Rule. And yet it seems obvious that this series of events should constitute allowable market-making—the normal activity of a broker-dealer in carrying out trades for customers and offsetting the resulting risks on its own books—in today's financial markets.

Regulators and policymakers need to appreciate the challenge of financial intermediation in modern markets. As a first step, policymakers should clarify the Volcker Rule so that the burden is on the regulator to demonstrate that a transaction is proprietary trading rather than requiring banks to prove the negative that a transaction is not a "prop trade." Setting the regulatory bar higher for the Volcker Rule prohibitions will reduce uncertainty and improve liquidity in financial markets, increasing beneficial risk-taking in the regulated banking sphere. This in turn would mean greater liquidity and lower costs for families and businesses looking to borrow.

Eliminating much of the Volcker Rule's regulatory overreach can be done via a regulatory approach focused more on simplicity. In addition, legislation should clarify that "nothing in the rule should be interpreted as limiting a bank from providing liquidity to its customers, clients, and counterparties." By adding this language—which is simple yet powerful—to the Volcker Rule statute, we can likely bring regulated banks back into this important business while maintaining some of possible benefits at which the rule was aimed.

(2) **Basel Reform***. Regulators should keep what works—including a focus on liquidity risk—but examine where Basel III is harming business lending, and offer a simpler alternative to smaller institutions.*

International capital standards are important, particularly for globally active financial institutions, and most especially in a world in which financial institutions work across country lines. A race to the bottom could ensue if global financial regulators did not align on capital regimes at some level. Adopted in the wake of the financial crisis, Basel III was the latest in a series of international accords agreed to by banking regulators from the world's largest economies. Basel III set global standards for capital and liquidity requirements at banks. Coming in the wake of the financial crisis, Basel III was a useful attempt at regulatory harmonization.

Basel III attempted to correct many of the problems of the earlier Basel II agreement by more aggressively risk-weighting certain assets, adding liquidity requirements on global banks, adding some leverage ratios, and focusing on multiple forms of capital and loss absorption capacity. Some of these changes in the third Basel agreement are welcome, while others may have made the system overly complex without much benefit—and it remains unclear whether some of the additional loss absorption capacity will really do its job when the next crisis hits. In other words, Basel III is a mixed bag.

A key issue is that every individual country has unique market structures. The United States has a more vibrant community and mid-size banking industry than European or Asian economies. This diversity in the U.S. banking system is a strength that is hindered by an overly careful adherence to global capital rules. A tailored approach to bank regulation would be especially helpful for activities that finance lending to local businesses—a key role for smaller banks in the United States.

Basel III's attempt to ensure that liquidity is available at banks to meet redemption demands even in a time of extreme market stress is a sensible idea, since otherwise banks will turn to the Fed. This goes for banks of all sizes. Liquidity is the proverbial Achilles heel of a fractional reserve banking system—that is, a system which relies on market confidence to function well. Basel III's attempts to quantify and regulate liquidity risks are useful.

For capital, though, the record is less certain. Basel III efforts to ensure that institutions cannot evade capital requirements via structured transactions are likely overly restrictive. Structured transactions have a place in the financial system and to wholly discourage these transactions impedes the ability of banks to make funding available to those who can use it productively. The goal is for banks to fund themselves with ample high-quality capital. To be sure, common equity is the most important part of this (and below we express skepticism on the idea that TLAC bonds are equal to capital), but each such transaction should be assessed on its own merits.

More importantly, the complexity of the rules that assign risk weightings is enormous, and it makes little sense for institutions that are not behemoths to be forced to abide by them entirely, especially if such institutions maintain suitably high leverage ratios. We propose that institutions below a threshold of $100 billion in total assets should be able to avoid Basel III's risk weightings if they fund themselves with ample equity capital via a high leverage ratio.

(3) **FSOC Reform**. *Regulators and policy-makers should convert the FSOC into a truly cooperative working group of regulators focused on risks arising from market dynamics and activities.*

The Financial Stability Oversight Council (FSOC) was intended to be a working group that helped regulators to share information, analysis, and concerns about system-wide risks that might lie beyond the responsibility of any single regulator or fall within the jurisdiction of several. FSOC was meant to ensure that institutions and issues did not fall between the cracks of the U.S. regulatory and supervisory systems, as was widely believed to be the case with AIG. This is sound in principle.

In practice, however, these lofty goals have not been realized. FSOC has evolved into an institution whose focus is designating institutions as "systemically important" (SIFIs) and then handing the prudential safety and soundness regulation of these institutions over to the Fed. Allowing the FSOC's focus to narrow from system-wide risks to the systemic designation of institutions squanders the opportunity that the FSOC offered as a way of bridging the moats that the regulatory agencies have dug around themselves. Moreover, the FSOC's designation process has done little to address system-wide risks: after more than five years, the FSOC has designated four institutions. Of those, it subsequently "de-designated" one; another has successfully challenged its designation in court; and for the two remaining firms—which happen to be insurance companies—the Fed, whose regulatory mandate and expertise does not encompass insurance, is now writing regulations. The designation process has proven difficult and time-consuming, and has done little to identify and address system-wide risks.

But the FSOC's energies can be re-directed to a more productive purpose. Through a combination of new cultural approaches to the FSOC and perhaps legislative clarity, the FSOC process should be reworked so that the FSOC is a place for information sharing on activities and dynamics that threaten financial stability, rather than a place where firms simply are tagged for Fed oversight. Perhaps it is because the FSOC is made up of regulators, it appears to have a narrow view of its role. Regulators are adept at "checklist manifestos"—that is, a focus on a series of clearly defined steps rather than a fluid program of analysis and dialogue. This narrow-minded regulatory cultural dynamic is in fact the situation that raised the need for an FSOC in the first place. But such culture may have permeated the FSOC now as well. New leadership and a focus on candid information sharing can go a long way to transitioning this institution into something more promising and functional. The FSOC should focus less on its annual report and more on regular communication both among its members and with the public.

The FSOC should focus its attention on the types of activities that it believes may present broad, systemic risk, and should work with all firms involved in such activities to find ways of mitigating these risks. Legislative language that clarifies the role of the FSOC, and clarifies the type of dynamic it is meant to have with both its members and regulated entities, can help it better fulfill its worthwhile macroprudential intent.

At the same time, the considerable overlap in some areas between regulators should be addressed. The Fed, for example, has created a unit that essentially does the same work as the Office of Financial Research, and similar capabilities exist in other agencies. Only one of these is needed—and its work should be jointly shared with all regulators who will benefit.

By focusing on systemic activities, increasing the candid dialogue, and looking for ways to streamline oversight across regulators, the FSOC can evolve into a more productive entity.

(4) **Reform of the Qualified Mortgage rule**. *Policy should not discourage institutions from holding mortgages they originate as opposed to selling them to taxpayer-backed entities.*

Dodd-Frank, in creating the Consumer Financial Protection Bureau (CFPB), gave the new agency authority to write rules around a borrower's ability-to-repay (ATR) a mortgage. As the CFPB describes it, these rules *"generally require creditors to make a reasonable, good faith determination of a consumer's ability to repay any consumer credit transaction secured by a dwelling."* Among other things, this rule is designed to prevent predatory lending.

Dodd-Frank also created a category of mortgage called a "qualified mortgage" or "QM," which is a set of terms that, if met, deem a loan automatically within the sphere of ability to repay. Essentially these rules require that loans be fully underwritten and not have debt-to-income ratios above 43 percent, ensuring that a borrower has a high likelihood of repayment. In return for meeting these standards, financial institutions can rely on a clear standard as to what may be predatory and what is definitely not. Put another way, QM gave lenders a legal safe harbor from liability arising from ability to repay litigation.

All of this makes sense, especially on the heels of an expansion of credit reflecting loose underwriting and lending standards that ended in financial crisis and economic recession. But a perversion of these rules has led to the QM "patch" evolving from a temporary palliative into a permanent crutch. The QM patch applies to loans approved for purchase by Fannie Mae or Freddie Mac, which are the two government-sponsored enterprises, or GSEs, involved in housing finance. Under the QM patch, any loan purchased by Fannie or Freddie, regardless of the borrower's debt-to-income ratio, is automatically deemed to be within the safe harbor from legal liability against ability to repay litigation. Nowhere else in Dodd-Frank has a rule had more of a backward and illogical outcome.

Under the QM patch, regulators have decreed that a loan will automatically be a qualified mortgage if it is purchased by Fannie or Freddie. The QM patch thus incentivizes banks to make loans that they can sell to the GSEs rather than hold on their own balance sheets. The QM patch thus aids and abets moral hazard: it incentivizes banks to offload loans that would otherwise be outside the legal safe harbor for liability onto GSEs—who are backed by taxpayers—rather than holding these loans on their balance sheets where banks would have a greater stake in the homeowner's success.

The QM patch for loans sold to a GSE has turned the intellectual concept behind risk retention on its head. Dodd-Frank recognized that a mortgage ecosystem in which lenders and securitizers have skin in the game and a stake in the performance of the loans they originate is a healthier system. The desire to require lenders to have such an incentive gave rise to the risk retention rules in the Act, under which firms undertaking securitization are required to retain a slice of a security they issue if the loans fall outside certain guidelines. The intellectual underpinning of risk retention is that if a lender has a stake in the performance of a loan, the loan is likely to be better underwritten and managed. This is sound logic.

But the QM patch for loans runs directly counter to this logic. Because of the GSE QM patch, mortgages outside of the 43 percent debt to income cap that a bank can sell to Fannie or Freddie qualify for the safe harbor from liability. Loans approved by the GSEs' underwriting systems are automatically deemed to be "qualified mortgages."

It should be the reverse. The QM safe harbor should be limited to loans that mortgage originators keep on their own portfolios. Unfortunately, by deeming loans sold to a GSE as QM, the safe harbor for banks has become another risk for taxpayers. We should encourage originators to hold loans they originate, rather than selling them into a government enterprise with the attendant risk to the taxpayers who today backstop Fannie and Freddie. Giving automatic QM to a loan sold to a GSE but not to a loan held in a bank's portfolio makes no sense. The QM safe harbor should encourage portfolio lending, not discourage it. Phasing out the QM patch for loans sold to GSEs while simultaneously allowing it for portfolio loans irrespective of the debt-to-income ratio is a sensible policy change.

(5) **Tax Reform for Financials**. *Aspects of the tax code that incentivize financial institutions to fund themselves with debt rather than equity should be changed to level the playing field between debt and equity financing.*

Decisions regarding the funding of investment should be made on market considerations rather than tax considerations. The current corporate tax system is heavily tilted to debt financing because net interest is deductible while the return on corporate equity is highly taxed (and taxed twice). As a result, the tax system subsidizes the issuance of debt, which encourages financial institutions to borrow more than they otherwise might. This increased borrowing, in turn, makes the financial system more fragile by increasing leverage and reducing capital. Tax reform should correct this situation.

A consequence of our tax code's preference for debt is that increased capital requirements impose considerable costs, driven by the tax disadvantage of equity financing. A basic idea in finance known as the Modigliani-Miller Theorem provides that an institution's mix of equity and debt funding should have no effect on the firm's total cost of funding because a firm that funds itself with more equity should be safer, and thus have a lower cost of, raising equity. But allowing corporations to deduct interest paid on their debt means that borrowing will be a less expensive funding source than equity. Put more simply: tax reform focused on leveling the playing field between debt and equity could make Modigliani-Miller more of a practical reality.

We have never really been able to have a debate as to whether or not Modigliani-Miller works in practice because of our tax system. Tax reform plans that target the subsidy that debt funding enjoys would go a long way in rebalancing debt and equity. Such reform would help financial institutions to make liability side decisions based on considerations other than taxes, which in turn could help financial stability. Such reform should be embraced, as it would make the tax system that does not penalize equity funding relative to leverage. This reform need not only apply to financial institutions. Homeowners would benefit if some of the gains from the mortgage interest deduction were instead focused on the payment of principal, and hence the building of home equity as well.

(6) **Trading Reform**. *Regulators should allow market intermediation to take place again inside regulated financial institutions such as banks, while simultaneously getting their arms around new trading technology and strategies.*

As discussed above, the Volcker Rule has proven difficult for regulators to implement because the line between prohibited proprietary trading and permitted hedging and market-making has been difficult if not impossible to draw. Apart from these implementation difficulties, the Volcker Rule has pushed risk-taking in financial market intermediation outside the banking sphere. Ostensibly this was a goal of Dodd-Frank. Yet this pushing of risk into non-bank financial institutions has had significant consequences for systemic risk that were not anticipated and should be evaluated.

The most notable of these unintended consequences comes in the form of the rise of algorithmic trading operations at hedge funds that now fill in where regulated market-makers used to operate. According to some studies, high frequency traders (HFTs) account for over 70 percent of intermediation in such critical securities as U.S. Treasuries. The ascendancy of high frequency trading may be not be cause for immediate alarm, but the magnitude of the evolution in our trading markets cannot be understated. As more and more trading becomes faster with less human involvement, the possibility grows that a technical glitch could throw these markets into turmoil. The various “flash crashes” and “flash rallies” that have been reported over the past few years show that these are not merely hypothetical concerns, even while the contribution of high frequency trading to each such episode remains a subject of debate.

Policymakers should work to get a better handle on these changes in general and on high frequency trading, in particular. HFTs are not universally bad. Computers replace humans in many facets of a modern economy. But regulators—including the FSOC—should continue to study and understand the impact of HFTs on markets and financial stability.

(7) **Capital Reform.** *Regulators must ensure that when banks claim to have capital it is of high quality.*

Capital is such a critical component of financial regulation that we discuss it twice. Here we discuss the way capital is defined.

When defining capital and capital ratios—that is the numerator and the denominator of the capital ratio of a bank—getting the balance right is important. Many have correctly pointed out that only tangible common equity can truly absorb losses in the most difficult moments. As financial crises have repeatedly demonstrated, the loss absorbency of other forms of capital can prove illusory in stressed situations.

The latest incarnation of a loss-absorbing but-not-quite-capital substitute is "total loss absorbing capacity," or TLAC. TLAC consists of capital and an additional layer of long-term debt. The theory is that because this debt is long-term, it cannot run in a crisis, which allows regulators to impose losses on its holders or convert the debt into equity to recapitalize an insolvent institution. TLAC has rightly been criticized as an illustration of the illusion that "capital-like" instruments can take the place of capital. Critics have pointed out that TLAC depends on the yet-to-be-vindicated belief that firms and regulators will convert debt to equity and actually absorb loss in a way that allows a firm facing failure to operate as a going concern. In all likelihood, this will not happen in the midst of a crisis when the loss-absorbing capacity is actually needed.

Imagine a situation in which a life insurance company purchases the TLAC securities, sold as debt. The TLAC may not be converted out of concern for the consequences on the counterparty—especially if the people relying on the life insurer are themselves sympathetic. Additionally, the fear of conversion could drive a run on the financial institution. Indeed, one need not imagine, but only look at the experience in Europe in which pledges of bail-ins have not been credible. TLAC looks good on paper. But in a financial marketplace in which fear can drive decisions, it very well might fail to produce the desired results, and at precisely the worst possible moment.

In our view, proposals to substitute long-term debt for capital do not go far enough in ensuring that banks fund themselves with high-quality capital that can truly absorb losses. On the other hand, some proposals on capital go too far. Requiring capital against gross derivative notional amounts, for example, makes little sense to us. Hedging and netting are, in fact, real things.

Banks should have robust capital against assets calculated in a sensible way. For capital to count it should be tangible common equity. No other form of capital truly stands up in the event of a crisis. But capital relief from trading and hedging activities should be encouraged, otherwise banks will hesitate to engage in these activities. So long as derivatives are centrally cleared, they should be netted. So long as hedging trades are cleared, these hedges should reduce asset sizes. And against this, banks should hold tangible common equity.

Once this is done, banks can be freer to take on lending risks where they see responsible opportunities.

(8) **Consumer Protection Reform**. *Give the CFPB preemption authority so that it can truly set national standards.*

Nothing else in Dodd-Frank conjures quite as much partisanship, rhetoric, and grandstanding than the Consumer Financial Protection Bureau, which has in true Washington style come to be known by its alphabet soup initials—the CFPB. While many Members of Congress have expressed concerns with regard to CFPB overreach, the solution, ironically, may lie in giving the CFPB more power.

Set aside, for a moment, arguments over commission structure and funding, as there are plenty of voices on all sides of those issues. An area in which the construction of the CFPB may have been flawed is that the bureau does not have the authority to set national standards. To make the CFPB truly effective, the rules it issues should preempt those of a state for any entity the CFPB regulates. The rules should be issued properly, through the same notice-and-comment process that other regulatory agencies follow. But then the rules should be national.

Prudential regulators prior to Dodd-Frank had important weaknesses in their roles as consumer watchdogs. Internally, the departments tasked with consumer protection were under resourced and undervalued. The regulatory agencies did as much to create the need for the CFPB as unscrupulous lenders.

But ironically, the CFPB is kept from achieving its best work because the CFPB's rules are not necessarily final. If lending institutions knew that by working with the CFPB they would obtain its stamp of approval on a new product, sales strategy, loan servicing process, or other consumer-facing issues, then banks and other financial institutions would be able to bring back responsible innovation to the financial marketplace. This would only be so if the CFPB had preemption authority over all aspects of consumer protection.

The legal right to set real national standards would change this dynamic and should be adopted as part of regulatory reform. In this way, policy makers can build off the aspects of the CFPB that are sensible while eliminating some of the unnecessary duplicative consumer regulations and giving institutions the ability to innovate for their customers.

(9) **Streamlined licensing process for financial technology (FinTech) firms.** *The implementation of a uniform licensing regime at either the state or federal level would allow for greater innovation and benefits for consumers and businesses while also improving oversight and regulation.*

The rise of FinTech presents challenges to state and federal regulators and policymakers in applying current law and regulations.

There is no single dedicated regulator for financial technology firms. Instead, these firms must navigate a hodgepodge of state and federal regulations that present challenges to platforms that seek to market their products and services at the national level. For instance, certain FinTech platforms are regulated on a state-by-state basis, requiring platforms to adhere to each state's licensure requirements. This regulatory fragmentation complicates the ability of firms to offer their products and services across borders. Each state's requirements are often separate and distinct from other states, resulting in a convoluted and costly licensing process.

Efforts are under way to create a more uniform licensing environment. At the federal level, the Office of the Comptroller of the Currency (OCC) is expanding its existing chartering authority to allow certain FinTech firms to operate under a single national license with heightened regulatory requirements under the direct supervision of the OCC. This follows along the lines of the supervision of national banks. The Nationwide Multistate Licensing System & Registry (NMLS) launched by the Conference of State Bank Supervisors in 2008 was meant to streamline the licensing system for mortgage loan originators, but is increasingly being used to provide FinTech firms with a more uniform licensing process at the state level.

These efforts are useful but they are far from complete. For instance, the OCC has yet to define the parameters and standards to determine whether a FinTech platform is charter-worthy, and it remains to be seen how the costs compare to the benefits of a FinTech charter. Separately, outside of licensing of mortgage lenders, not every state uses the NMLS system to license various firms. Only one-third of U.S. states use the NMLS to license money services businesses, for example. In addition, the NMLS system was mandated by the SAFE Act of 2008 and sets a floor but not a ceiling for licensure requirements, allowing states to require additional information from firms beyond the information that applicants are required to furnish to the NMLS.

A uniform licensing framework at the state and/or federal level would better allow FinTech firms to operate across state borders. Instead of operating in an open, digital economy, FinTech platforms currently find themselves geographically handcuffed.

(10) **Regulatory Sandbox**. *Efforts to bring innovative startups together with regulators to test products under a controlled environment known as a "regulatory sandbox" should be encouraged.*

More than 10 regulatory sandboxes have been launched, or are in the planning stages, around the world, providing regulatory structures under which firms can explore the regulatory response to innovative products. Regulatory sandboxes are just one of the many efforts being made to attract financial startups and rework legacy structures to address issues arising from modern day finance. Efforts by regulators to create a safe space for FinTech firms to test a product or service, while simultaneously navigating the regulatory system, can lead to the responsible development of FinTech and a more informed and responsive regulatory system.

The fragmented and overlapping regulatory structures and jurisdictions in the United States pose challenges for establishing a national regulatory sandbox regime for U.S. FinTech. Finalized last year, the CFPB's Project Catalyst initiative and the No-Action Letter Policy attempted to provide a safe space for firms looking to bring financial innovations to market. However, with regulators at the state and federal level at times crisscrossing in their regulatory paths and, at times, expanding the bounds of their oversight, a designated safe space with one regulator does not mean that the other regulators that share oversight of a firm will share the same view of a product or service.

Despite legislative efforts to bring multiple federal regulators to the table to provide for a transparent and controlled process for both incumbents and startups to test innovative products and services, FinTech firms still find themselves subject to the whims of a balkanized regulatory system that has made it impossible to identify the responsible regulators, let alone communicate with them. Collaboration among and between regulators and firms would help stakeholders understand how innovative products and services fit into current regulatory structures, and foster engagement that inform regulators and result in appropriate regulations that foster financial innovation.

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About the FinReg21 Program

FinReg21 is a Milken Institute Center for Financial Market's program dedicated to advancing a pragmatic, non-partisan dialogue on modernizing financial regulation for the 21st Century by helping to ensure that America's regulatory architecture allows the financial system to safely and efficiently serve the real economy.

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