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**Crowdfunding and alternative finance;
Dalí and the fintech disrupting industry
Girona, 16 November 2017**

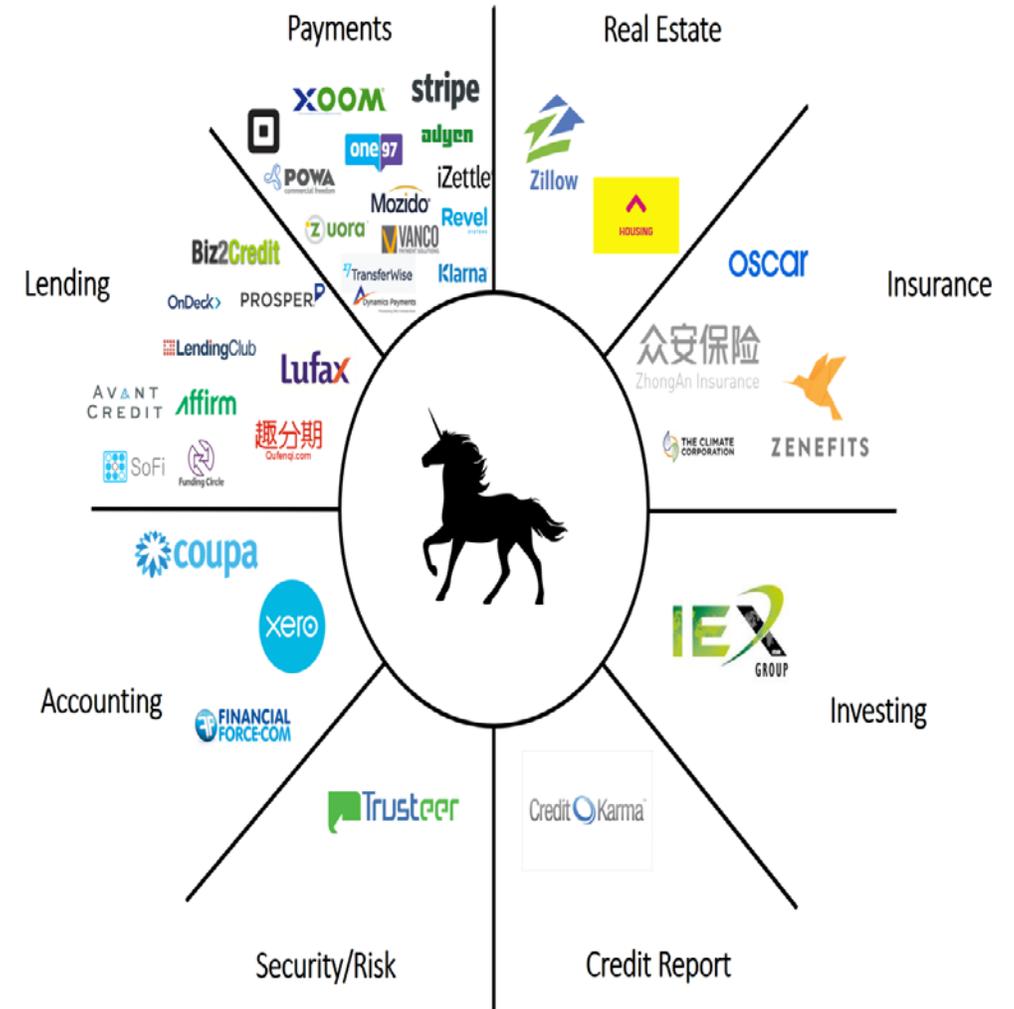
Dalí and the fintech disrupting industry



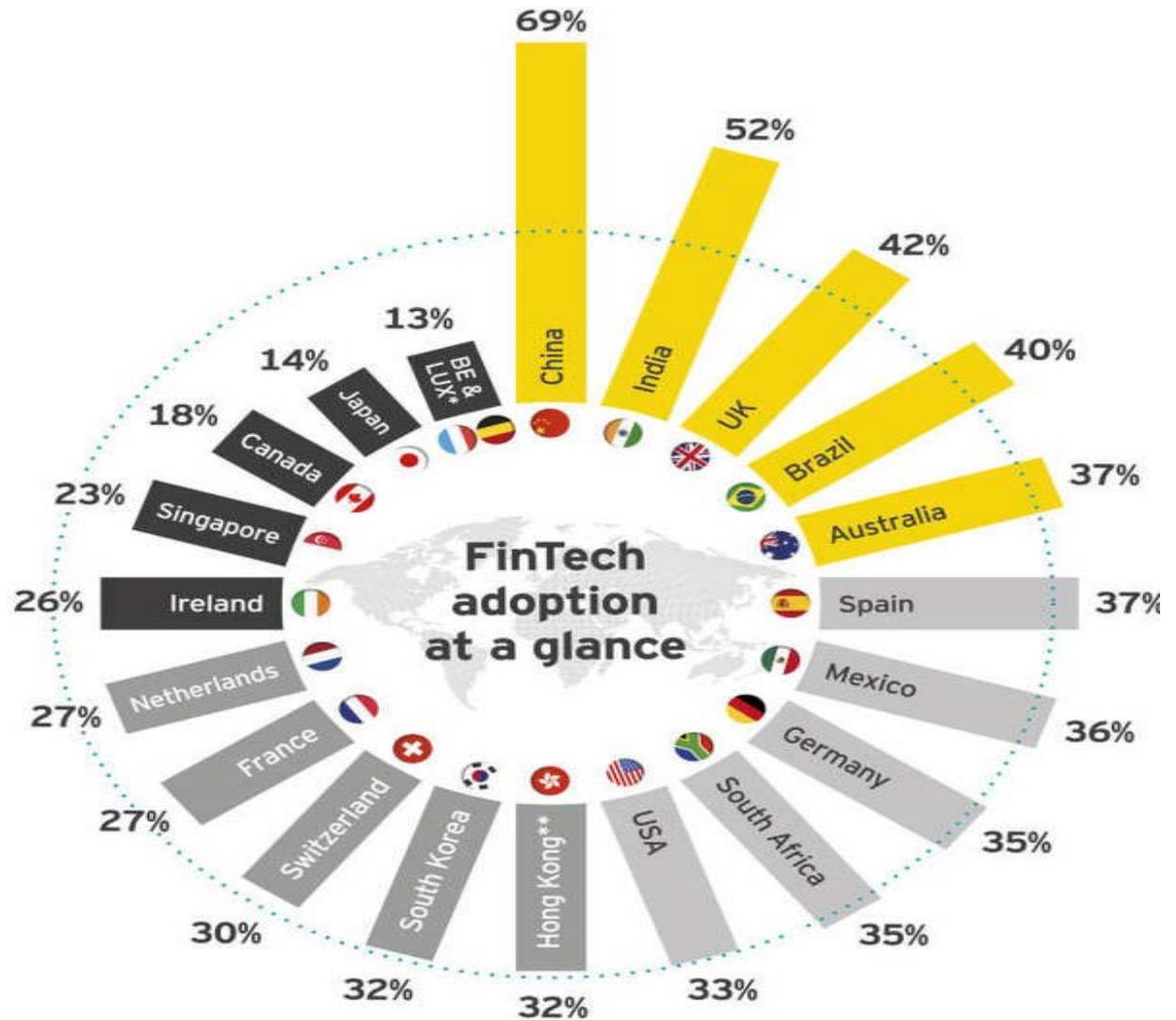
Natalia Danilova
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Introduction

- Fintech is already present in our lives
- Fintech start-ups are no longer always start-ups
- Traditional banking services are now provided by many



- Fintech is impacting all jurisdictions
- Speeds and approach are different
- Lawyers as always must adapt.





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Regulatory Sandboxes in the U.K.

Rizwan Qayyum, K&L Gates
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What is a Regulatory Sandbox?

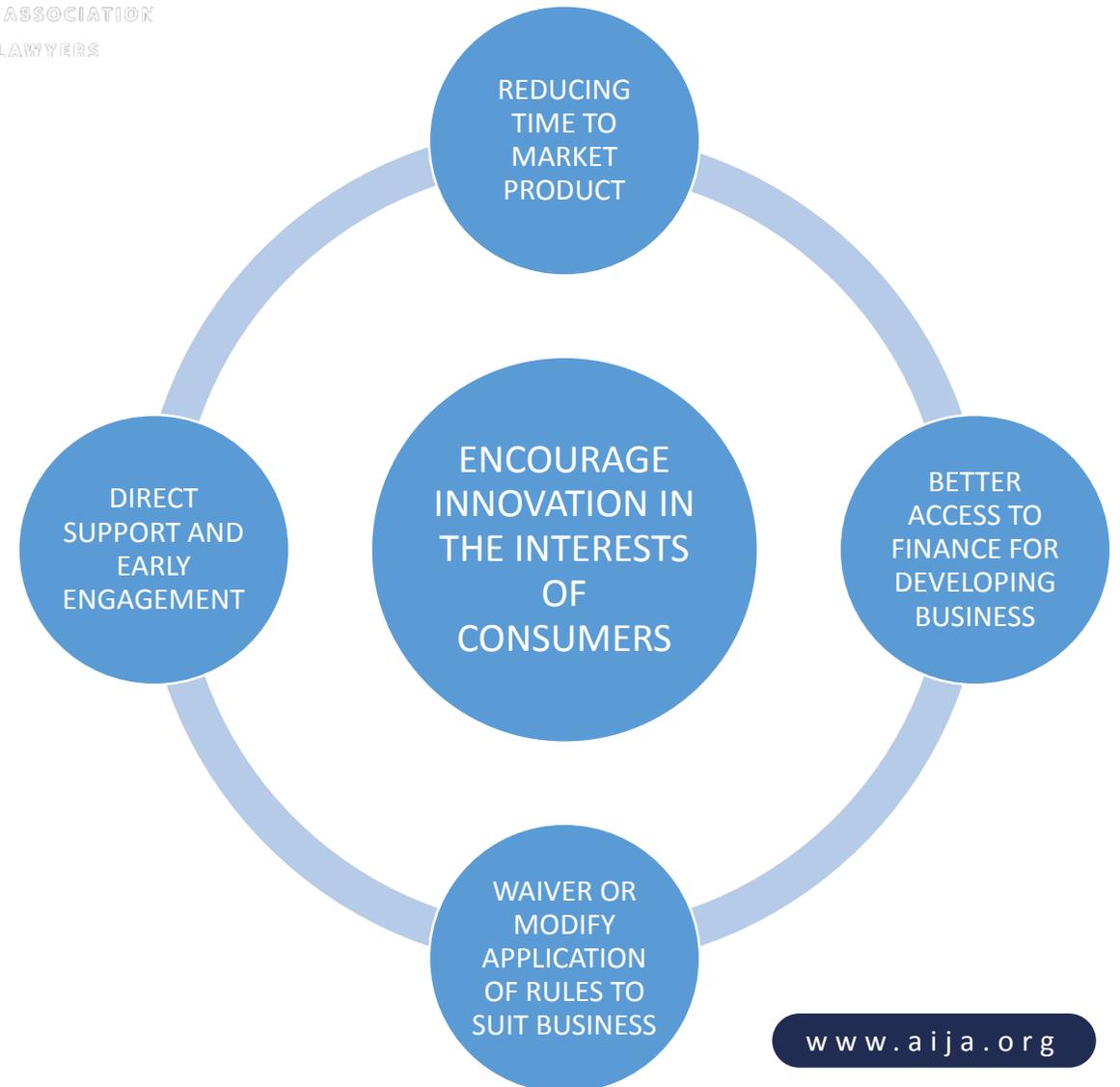
Regulatory sandbox – « safe space » for businesses to test out innovative ideas with real people

OBJECTIVES:

- Reduced time-to-market at potentially lower cost
- Better access to finance
- More innovative products reaching the market earlier
- Appropriate consumer protection safeguards built in to new products and services

“London has the world’s largest financial services sector, supported by a booming tech sector. The ecosystem has the “Fin” of New York, the “Tech” of the US West Coast and the policymakers of Washington, all within a 15 minute journey on public transport. These factors make London one of the greatest connected global cities in the world with the key ingredients for digital success; capital, talent, regulatory and government support and demographic diversity”

Deloitte “The Connecting Global FinTech Hub Review 2016”



**PROJECT
INNOVATE**





FCA REGULATORY SANDBOX

First set of applications in May 2016

All applications must demonstrate the following criteria:

- **Significant UK nexus** – *must be or wants to be regulated by the FCA*
- **Genuine Innovation** – *ground-breaking or significantly different from existing offerings*
- **Consumer Benefit** – *identifiable benefit to consumers; lower prices or higher quality of service*
- **A genuine need for Sandbox testing** - *Potential reasons include where the firm has no alternative means of engaging with the FCA or of achieving the testing objective, or where the full authorisation process would be too costly or burdensome for a short viability test.*
- **Readiness for testing in a live environment** – *have they had previous tests? You must be ready to take the test*





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Duration: Sandbox testing is intended for a limited duration. It appears that the FCA generally considers three to six months to be an appropriate duration.

Number of customers: The size of the test and the number of participating customers will be strictly limited. However, the FCA recognises that the number of customers should be big enough to obtain statistically relevant data.

Customer selection: The firm must find the customers for testing. The type of customers must be appropriate for the product or service to be tested, the intended market and the risk involved.

Customer safeguards: The firms must have appropriate customer safeguards in place. These will be agreed with the FCA on a case-by-case basis.

Disclosure: Firms should disclose information about the test and the available compensation (including in the event of firm failure) to customers who are engaging in the sandbox under informed consent.

Data: The FCA states that it is not responsible for the provision of data to firms testing in the sandbox.

Testing plans: Testing plans should clearly set out the timeline, key milestones, measures for success, testing parameters, customer safeguards, a risk assessment and an exit strategy for customers that participate in the test to avoid negative consequences for these customers.

FCA TESTING PARAMETERS



EXAMPLES OF COHORT 1 AND COHORT 2 IN THE REGULATORY SANDBOX

FIRM	DESCRIPTION
BITX	Cross border money transfer service powered by digital currencies
SETL	A smart-card enabled retail payment system based on their OpenCSD distributed
TRAMONEX	E-Money platform based on DLT facilitating the use of “smart contracts” to transfer donations to charity
DIBERSE	Monitor financial services for humanitarian aid through blockchain
ORACLIZE	Employs blockchain technology by using electronic identity cards as digital wallets using smart contracts
ZIPZAP	A platform that seeks the most efficient way to send money to a destination, using cryptocurrency

BANK OF ENGLAND FINTECH ACCELERATOR PROGRAM

Launched in June 2016 by Mark Carney, Governor of the Bank of England

The Bank will work in partnership with FinTech firms to develop new approaches to the delivery of the Bank's mission and operations

The Bank will appoint FinTech firms to run short Proof of Concept projects in a number of areas, including blockchain

Four cohorts of firms have been selected and have provided their Proof of Concepts, with the last selected in April 2017

Areas of priority for the Bank are:

- **Metadata Management Tools**
- **New Tools to manage and harvest business rules (including rule languages) that are embedded in systems**
- **Security tools that protect data at rest and in transit**
- **Innovative tools for data cleansing, for example for text strings, and anomaly, trend or changing behaviour detection, particularly in transaction reporting data sets**

No requirement for firms to be based in the UK





FINTECH BRIDGES - INTERNATIONAL ENGAGEMENT

Co-operation agreements between regulators aimed at:

- Encouraging direct investment flows in FinTech
- Improving information flows between regulators

UK currently has signed co-operation agreements with:

CHINA

DUBAI INTERNATIONAL FINANCIAL CENTRE

SINGAPORE

JAPAN

AUSTRALIA

SOUTH KOREA

HONG KONG MONETARY AUTHORITY



INTERNATIONAL REGULATORY SANDBOXES?

COUNTRY	INSTITUTIONAL ACCESS POINTS
AUSTRALIA	Australia Securities and Investments Commission (ASIC) launched a regulatory sandbox in 2017
CANADA	The Ontario Securities Commission (OSC) introduced the “OSC Launchpad” in 2017
CHINA	Regular outreach and support from to the FinTech sector from the National Internet Finance Association, which guides and implements national policies
FRANCE	June 2016 saw the Banque de France and ACPR create the ACPR Pole FinTech Innovation; AMF launched the FinTech, Innovation et Compétitivité to assist FinTech businesses
GERMANY	BaFin offers advice and support to FinTechs but no formal process or sandbox in place
HONG KONG	Sep 2017 – the Securities and Futures Commission (SFC) launched the Hong Kong regulatory sandbox
INDONESIA	Bank Indonesia established a dedicated hub for FinTch in 2016
JAPAN	Japan’s Financial Services Agency launched a FinTech Support Desk in December 2015
LUXEMBOURG	CSSF has a special department for financial innovation, established in early 2015, which functions as CSSF’s Innovation Hub
MALAYSIA	Bank Negara established the Financial Technology Enabler Group in June 2016
SINGAPORE	The Money Authority of Singapore launched a Regularory Sandbox in Sept 2017
SOUTH KOREA	FinTech Centre launched in 2016
U.S.	No formal sandbox as of yet but the OCC’s Office of Innovation serves as a point of contact for FinTech firms



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Thank you !

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Government's view of the economy could be summed up in a few short phrases: If it moves – tax it. If it keeps moving – regulate it. And if it stops moving – subsidize it.

Ronald Reagan





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Why Fintech is not regulated:

- volume of Fintech market is quite low (no regulation – no investment)
- cooperation VS opponency of state authorities
- regulation VS innovation
- standardization of institutions (USA experience)
- copying of foreign experience



What are the consequences of being unregulated:

- Non-compliance risk (what happens when you become finally regulated?)
- Anti-money Laundering concerns
- Breach of consumer right protection (trust to traditional companies on the market)





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Thank you !

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