



Introduction to

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ASSOCIATION OF  
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# Start-up 4.0 – FinTechs and the Online World

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- Overview of main FinTech applications and technology
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# Introduction

## *What is FinTech*

### Definition

- “Fintech is a portmanteau of financial technology that describes an emerging financial services sector in the 21st century. Originally, the term applied to technology applied to the back-end of established consumer and trade financial institutions. Since the end of the first decade of the 21st century, the term has expanded to include any technological innovation in the financial sector, including innovations in financial literacy and education, retail banking, investment and even crypto-currencies like bitcoin.”  
(Investopedia)

# Introduction

## *Global overview of the FinTech market*



Jurisdictions began to realize importance of FinTech innovations



Financial institutions invest in technologies



Partnering and integration narrows the gap between financial institutions and FinTech companies



New technologies (such as Blockchain) tend to become mainstream

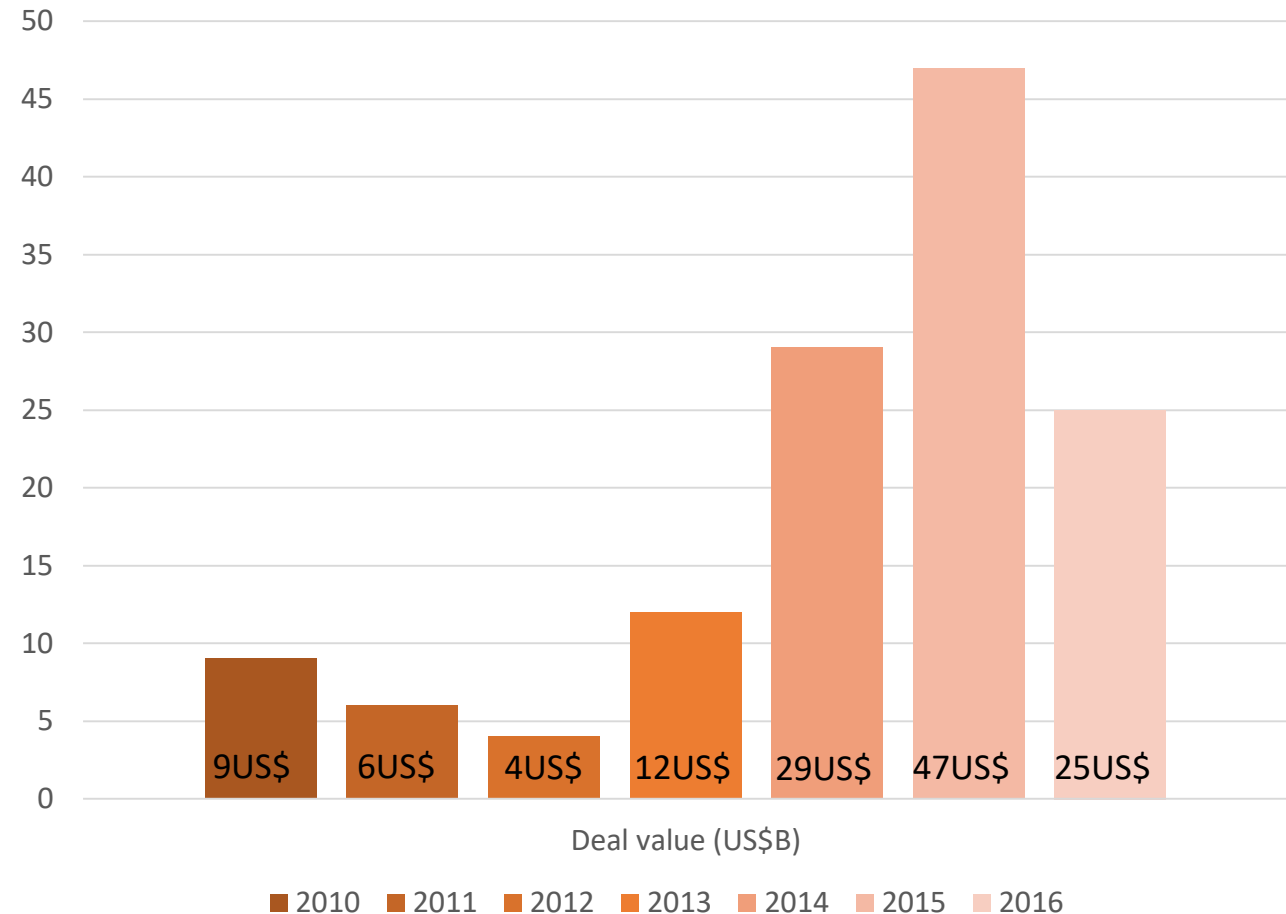


# Introduction

## *Global overview of the FinTech market*

### Market tendencies of 2016:

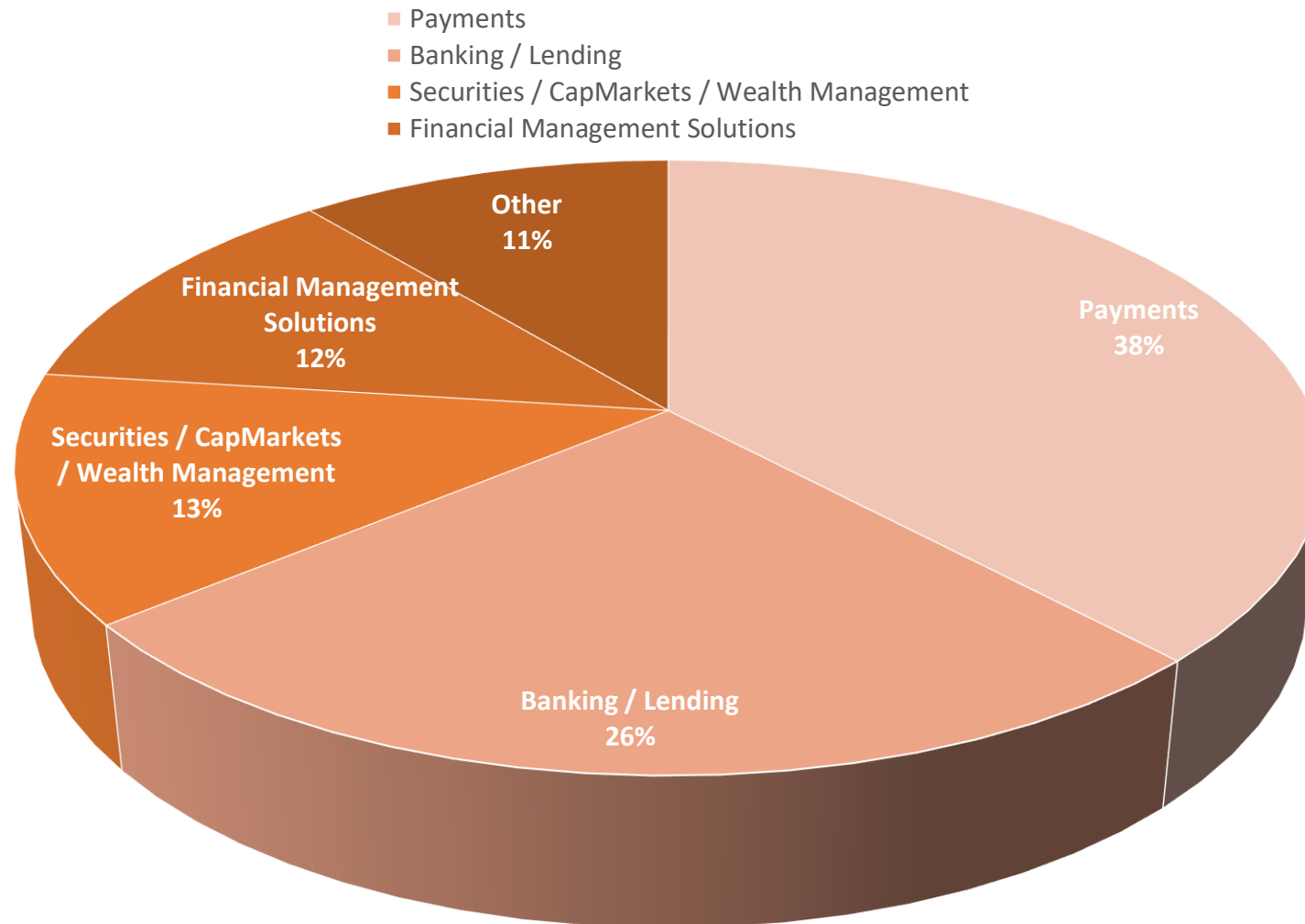
- FinTech investment volume declines comparing to 2015
- Investors tend to search for proof that innovative solutions can be monetized
- Venture capital invested in FinTech no less than 13,6 billion US\$ while 2016 (comparing to 2015 – 12,7 billion US\$, 2014 – 6,7 billion US\$)



Based on The Pulse of Fintech Q4 2016, KPMG

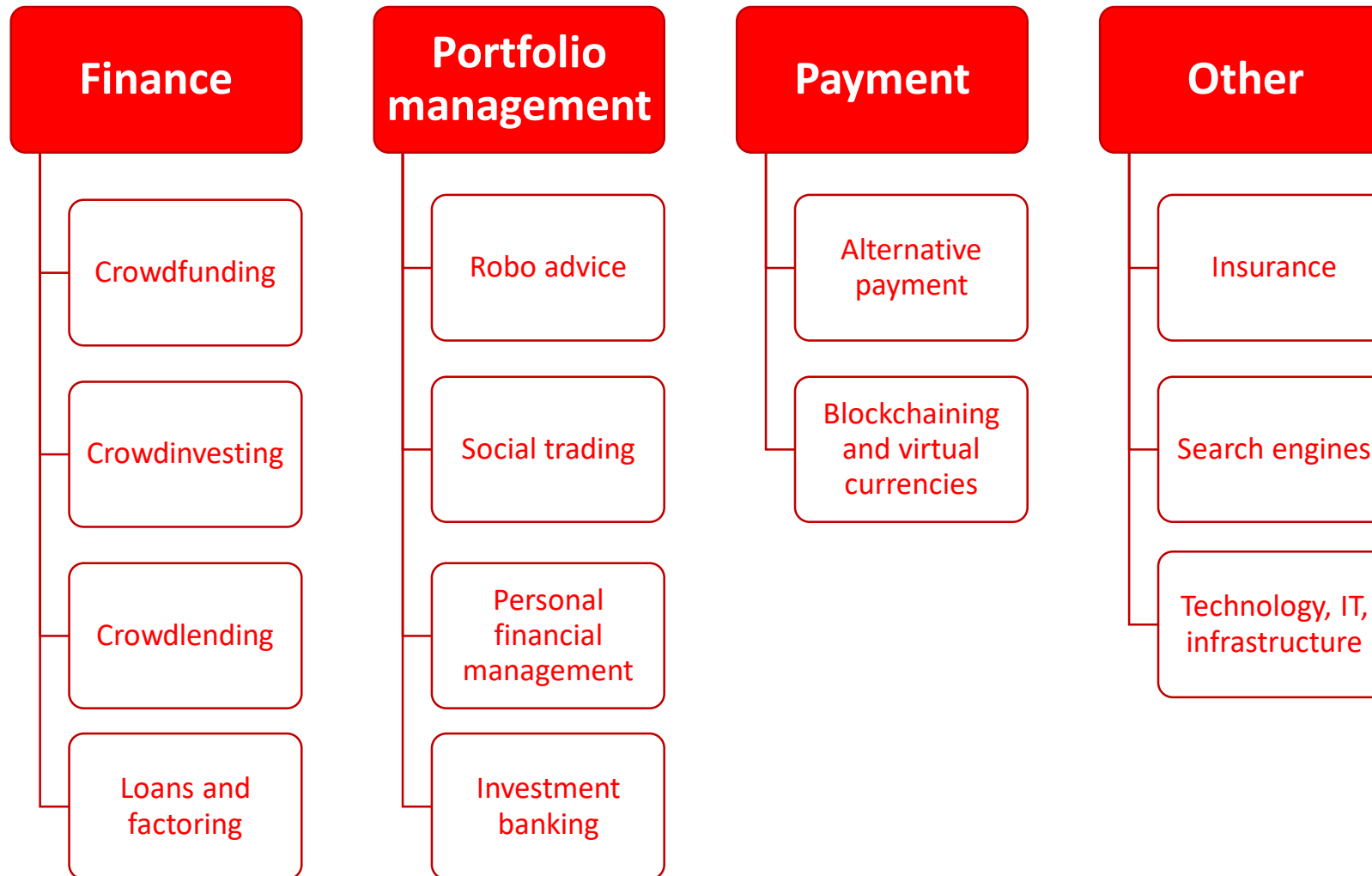
# Overview of main FinTech applications and technology

## *FinTech funding in 2016 by spheres*



# Overview of main FinTech applications and technology

*Which kind of FinTechs do we see in the market?*





# Certain FinTechs and the legal challenges they pose

## *Crowdfunding / Crowdinvesting: Types*



Donation with no expectation of financial return



Delivering an object to donors (rewards system)



Sharing of part of profits generated by project



Becoming equity participants in funded business

# Certain FinTechs and the legal challenges they pose

## *Crowdfunding / Crowdinvesting: Donation*

### *Donation*

*No reward  
beyond the  
gratitude of the  
project creator  
or beneficiary*

*Used to raise  
money for a  
non-profit*

*Small amounts  
(between \$1  
and \$1,000, but  
sometimes  
more)*

# Certain FinTechs and the legal challenges they pose

## *Crowdfunding / Crowdfunding: Reward*

### *Reward*

*Value of reward  
is equivalent to  
investment  
made or has a  
comparable  
value*

*Project owner  
offers to  
produce an  
object to its  
donors*

*Good start for  
further  
financing of  
investors*

# Certain FinTechs and the legal challenges they pose

## *Crowdfunding / Crowdinvesting: Sharing of profit*

### *Sharing of profit*

*Used for specific project or for specific business of company*

*Without sharing ownership project owner shares profits*

*Funders bear risks as they don't get "immediate" effect of sharing*

*Usually limited in time*

*Provision with additional rights with respect to company*

# Certain FinTechs and the legal challenges they pose

## *Crowdfunding / Crowdfunding: Equity participant*

### *Equity participant*

*Securities as consideration for financial contribution*

*Rights to control / participate in company's business*

*Funders bear risks, including illiquidity, lack of dividends and dilution*

*Similar to buying shares in any private company*

*Provision with additional rights with respect to company*

# Certain FinTechs and the legal challenges they pose

## *Crowdfunding / Crowdinvesting: Legal implications*



Licensing / registration



Tax implications



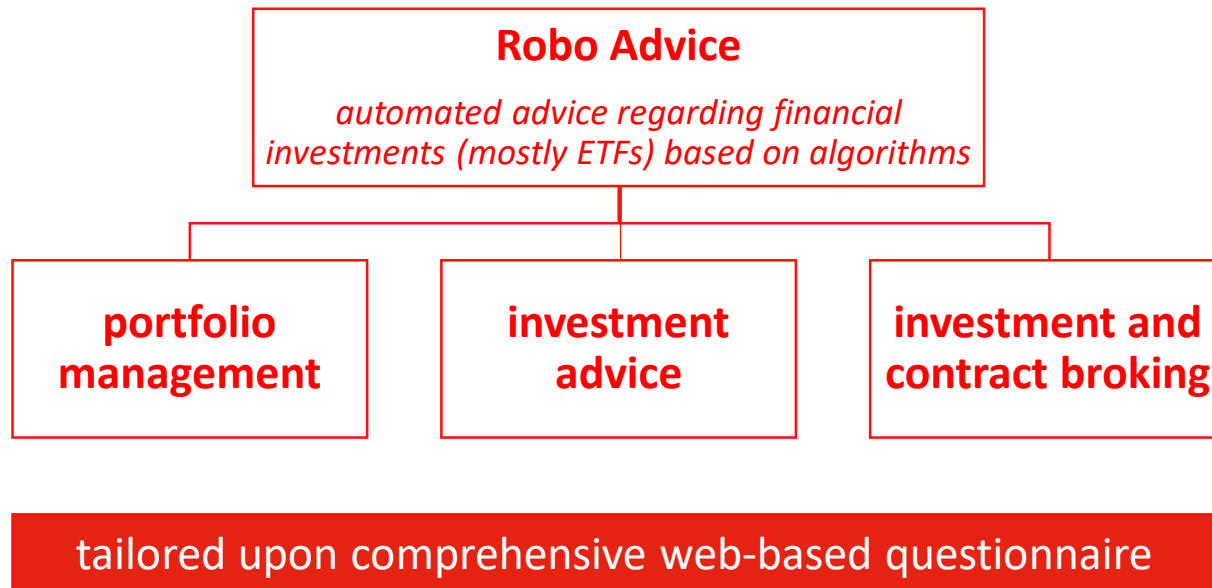
Court disputes



IP protection

# Certain FinTechs and the legal challenges they pose

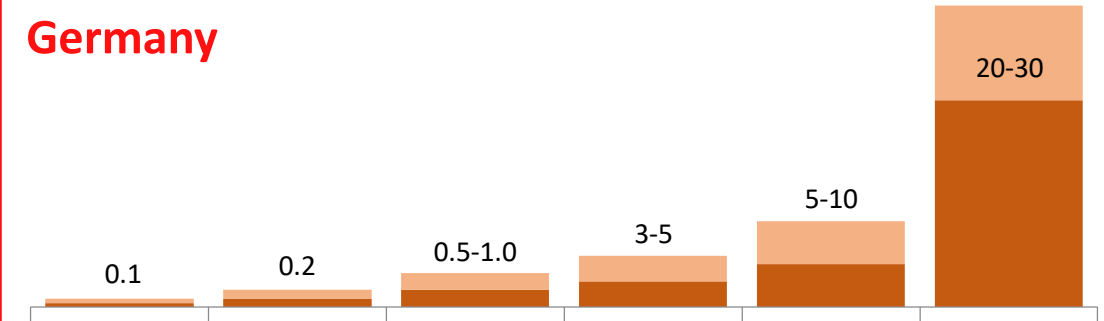
## *Robo Advice: Key Facts*



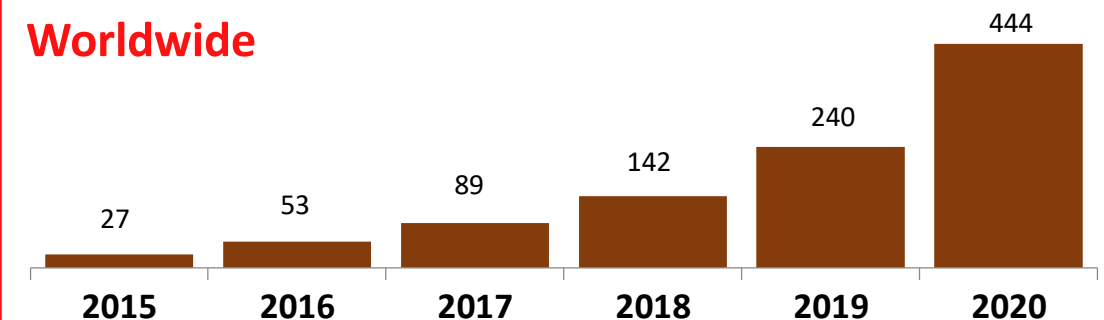
### Rapid market growth expected:

Prognosis of digitally managed assets (in billion EUR<sup>1</sup>)

#### Germany



#### Worldwide



<sup>1</sup> Estimations; Source: Oliver Wyman

# Certain FinTechs and the legal challenges they pose

## *Robo Advice: Characteristic features*

### Compared to traditional investment advice:

- No human interaction necessary – no human errors
- More cost-efficient
- More user-friendly, no longer location-dependent – broader audience
- More up-to-date information
- Fully accountable decisions





# Certain FinTechs and the legal challenges they pose

## *Robo Advice: Legal implications*



### 1. Regulatory challenges for robo advisors

- Authorisation from the Federal Financial Supervisory Authority (BaFin) necessary for:
  - ✓ Portfolio management (robo advisor “has” discretion in decision-making)
  - ✓ Investment advice (in case of individual and specific proposals)
  - Investment broking – authorisation not always required
- Central requirements for authorisation:
  - Sufficient initial capital
  - Professional qualifications / managerial experience of the management board members

# Certain FinTechs and the legal challenges they pose

## *Robo Advice: Legal implications*



### 2. Legal framework: Analog-to-digital transposition

- Rules of conduct designed for human advisors need to be adapted
- Conflict of interests for an algorithm?
- Organisational duties
- Transparency demands
- Personal data protection

# Certain FinTechs and the legal challenges they pose

*Blockchain – from cryptocurrency to revolution of the financial system and trade*

- The Blockchain hype
  - “The biggest innovation since the internet”
  - From the “internet of information” to the “internet of value”
  - Revolution of the financial and legal world
- What is the Blockchain technology?
  - Software-based technological concept developed by Satoshi Nakamoto for Bitcoin
  - Basis “Bitcoin - A Peer-to-Peer Electronic Cash System” (White paper, 2008)
  - Goal was a peer-to-peer network enabling direct payments between the users without going through an intermediary
  - Technology to do it: Blockchain


# Certain FinTechs and the legal challenges they pose

*Blockchain – from cryptocurrency to revolution of the financial system and trade*

- How does the Blockchain technology work?
  - Blockchain is a decentralized database (ledger) that keeps immutable record of all digital transactions made by the users of a network
  - Identical copies of the ledger are maintained on each of the network's members' computers
  - All users can review previous entries and record new ones.
  - Transactions are grouped in blocks, recorded one after the other in a chain of blocks (the 'blockchain').
  - The links between blocks and their content are protected by cryptography, so previous transactions cannot be destroyed or forged. This means that the ledger and the transaction network are trusted without a central counterparty

# Certain FinTechs and the legal challenges they pose

*Blockchain – from cryptocurrency to revolution of the financial system and trade*


- The key advantage
  - Blockchain technology allows to immutably store data in chronological order visible for all parties
    - Double Spending is not possible
    - Blockchain proves that transactions have occurred
    - Transactions become cheaper, safer and faster (“Automatisation of Trust”)
    - Users of a network can transact peer-to-peer without intermediary
- Limits
  - Counterparty risk (except for risks in connection with intermediary)
  - Risk of losing the digital signature (private key)
  - Loss of trust in a Blockchain (see )
  - Use of storage and energy

# Certain FinTechs and the legal challenges they pose

*Blockchain – from cryptocurrency to revolution of the financial system and trade*

- Potential applications

- Cryptocurrency

- Ideal because currency exists only on the Blockchain
    - No emission by central bank / no intermediaries (such as banks)
    - More than 600 cryptocurrencies, Bitcoin the most popular  **bitcoin**
    - Cross-border payments – expensive and slow process
    - E.g., transfer from Europe to local bank account in India
      - Bank transfer: various banks (and currencies, expensive)
      - Western Union: faster but even more expensive
    - Selected legal issue: ownership v. contractual rights

# Certain FinTechs and the legal challenges they pose

*Blockchain – from cryptocurrency to revolution of the financial system and trade*

- Potential applications
  - Share trading / settlement
    - Stock trading traditionally involves intermediaries and services
    - Blockchain based trading could cut out these intermediaries and reduce services
    - Selected legal issue: licensing requirements (securities settlement system)
  - Commodity Trade
    - Commodity and other trade: paper work and timing extremely burdensome
    - Blockchain could allow all parties to work on same database in correct order
    - See Natixis, IBM and Trafigura blockchain solution for US crude oil market
    - Selected legal issue: enforcement



# Thank you !

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