

BEIJING BOSTON BRUSSELS CHICAGO DALLAS GENEVA HONG KONG HOUSTON LONDON LOS ANGELES NEW YORK PALO ALTO SAN FRANCISCO SHANGHAI SINGAPORE SYDNEY TOKYO WASHINGTON, D.C.



Current Regulatory Issues Affecting Payment Innovation

Joel Feinberg
(202) 736-8473
jfeinberg@sidley.com
October 14, 2014

ANALYZING A NEW DEVELOPMENT



Key diagnostic questions:

- Is it a new product/service, or is it an innovation on an existing product/service?
- Does it present the same or similar risks as an existing product/service?
- If so, do we already have a workable public policy to address those risks?
- If not, do we have a starting point in existing policy tools? Are there laws that apply to an analogous product/service to address the new risks?

REGULATORY OBJECTIVES

Principles to guide next steps:

- Protect the public
- Attention to systemic risks
- Promote innovations that advance goals of safe and efficient payments and financial inclusion -
 - Consider who opposes innovations and carefully evaluate opposition views
 - Are those views consistent with public policy goals?
 - Do they promote entrenchment of status quo for the sake of preserving market share?

FROM OBJECTIVES TO IMPLEMENTATION

"First Do No Harm"



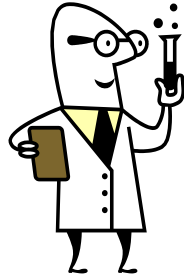
- Test hypotheses
- Consider alternatives
- Keep a level playing field -
 - be mindful of tools that can have market-distorting effects (e.g., price regulation)
 - be measured and balanced – consumers do not benefit from ‘perfect’ consumer protection (e.g., the remittance rule)

FROM OBJECTIVES TO IMPLEMENTATION (cont'd)

- Regulation should follow risk –
 - the wrong solution may solve one problem and create another (e.g., market inefficiency)
 - Consider which party is in the best position to mitigate risk

IDEAS IN PRACTICE

Application of Principles to Latest New Payment Technology – Virtual Currency



- What is it?
- How does it behave, and does it look like anything we know?
- If yes, what is it similar to, and how do we regulate it?
- If no, what new or unique risks does it present?
- What manner of existing or new regulation is appropriate?
- Regulatory objectives?
- Thoughtful implementation strategies?

World Offices

BEIJING

Suite 608, Tower C2
Oriental Plaza
No. 1 East Chang An Avenue
Dong Cheng District
Beijing 100738
China
T: +86.10.5905.5588
F: +86.10.6505.5360

BOSTON

60 State Street
34th Floor
Boston, Massachusetts 02109
T: +1.617.223.0300
F: +1.617.223.0301

BRUSSELS

NEO Building
Rue Montoyer 51 Montoyerstraat
B-1000 Brussels
Belgium
T: +32.2.504.6400
F: +32.2.504.6401

CHICAGO

One South Dearborn
Chicago, Illinois 60603
T: +1.312.853.7000
F: +1.312.853.7036

DALLAS

2001 Ross Avenue
Suite 3600
Dallas, Texas 75201
T: +1.214.981.3300
F: +1.214.981.3400

GENEVA

Rue du Pré-de-la-Bichette 1
1202 Geneva
Switzerland
T: +41.22.308.00.00
F: +41.22.308.00.01

HONG KONG

Level 39
Two Int'l Finance Centre
8 Finance Street
Central, Hong Kong
T: +852.2509.7888
F: +852.2509.3110

HOUSTON

1000 Louisiana Street
Suite 6000
Houston, Texas 77002
T: +1.713.495.4500
F: +1.713.495.7799

LONDON

Woolgate Exchange
25 Basinghall Street
London, EC2V 5HA
United Kingdom
T: +44.20.7360.3600
F: +44.20.7626.7937

LOS ANGELES

555 West Fifth Street
Los Angeles, California 90013
T: +1.213.896.6000
F: +1.213.896.6600

NEW YORK

787 Seventh Avenue
New York, New York 10019
T: +1.212.839.5300
F: +1.212.839.5599

PALO ALTO

1001 Page Mill Road
Building 1
Palo Alto, California 94304
T: +1.650.565.7000
F: +1.650.565.7100

SAN FRANCISCO

555 California Street
Suite 2000
San Francisco, California 94104
T: +1.415.772.1200
F: +1.415.772.7400

SHANGHAI

Suite 2009
5 Corporate Avenue
150 Hubin Road
Shanghai 200021
China
T: +86.21.2322.9322
F: +86.21.5306.8966

SINGAPORE

Level 31
Six Battery Road
Singapore 049909
T: +65.6230.3900
F: +65.6230.3939

SYDNEY

Level 10, 7 Macquarie Place
Sydney NSW 2000
Australia
T: +61.2.8214.2200
F: +61.2.8214.2211

TOKYO

Sidley Austin Nishikawa
Foreign Law Joint Enterprise

Marunouchi Building 23F
4-1, Marunouchi 2-chome
Chiyoda-Ku, Tokyo 100-6323
Japan
T: +81.3.3218.5900
F: +81.3.3218.5922

WASHINGTON, D.C.

1501 K Street N.W.
Washington, D.C. 20005
T: +1.202.736.8000
F: +1.202.736.8711

Sidley Austin refers to Sidley Austin LLP and affiliated partnerships as explained at www.sidley.com/disclaimer.