



# **FINTECH REGULATION: KEY AUTHORITIES IN THE US, UK, EU, AND AU MARKETS**



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# INTRODUCTION

As a part of financial markets, trading platforms are subject to strict regulations by state authorities. While financial laws vary from country to country, they all have common goals:

- oversee functioning and fairness of market players' activity
- keep financial markets efficient and transparent
- prevent and investigate fraudulent activities (including anti-money laundering policies)
- ensure trading platform clients and customers are served fairly

This ebook provides a list of key prudential authorities in the United States, the United Kingdom, the European Union, and Australia with a brief description of their functions. The goal is to help [potential FinTech newcomers](#) be informed of the industry's global state in the legal context.

# FINTECH REGULATION IN THE US

Financial markets in the US are regulated by various authorities, federal agencies, commissions, associations, and legal acts. The following list provides you with the most essential.

## REGULATORY LEVERAGES OF FINANCIAL MARKETS IN THE US



Government authorities



Federal agencies



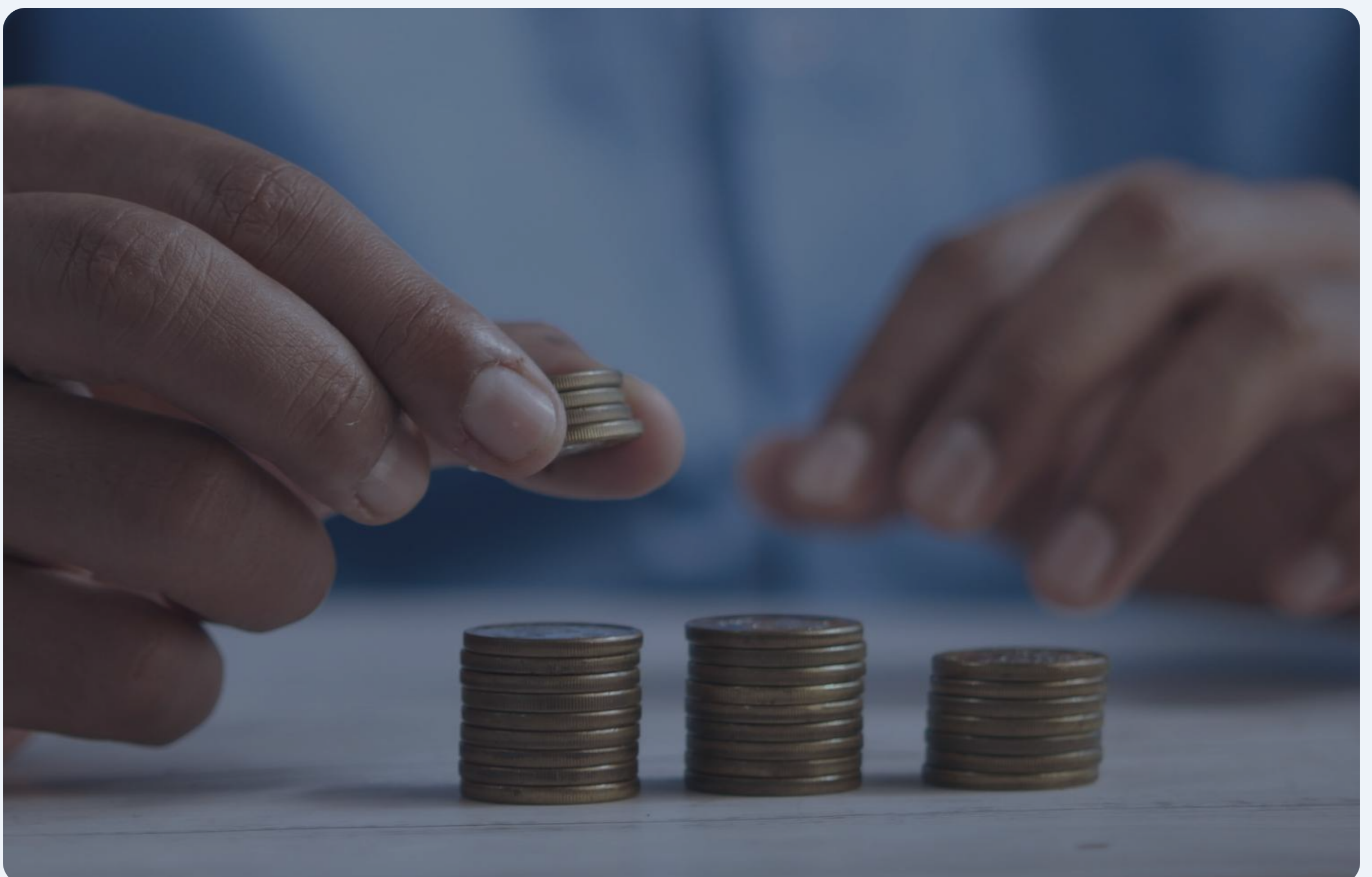
State commissions



Legal acts



Associations



# FEDERAL TRADE COMMISSION (FTC)

FTC is a bipartisan entity of the US government enforcing civil (non-criminal) US antitrust law. Together with the Department of Justice Antitrust Division, the FTC promotes consumer protection through advocacy, research, and education.

## FTC'S CORE FUNCTIONS:



- ▶ Tackles anticompetitive, unfair, or deceptive practices
- ▶ Investigates consumer complaints
- ▶ Creates and improves standards regulating consumer privacy and data protection



## OVERSIGHT FOCUS:

- ▶ Data security breaches
- ▶ Advertising claims
- ▶ Identity theft
- ▶ Do not call violations\*

\*The Do Not Call Registry is a list of phone numbers that telemarketers are prohibited from calling in most circumstances. A person can register his or her number at the U.S. Federal Trade Commission's website at [www.donotcall.gov/](http://www.donotcall.gov/).

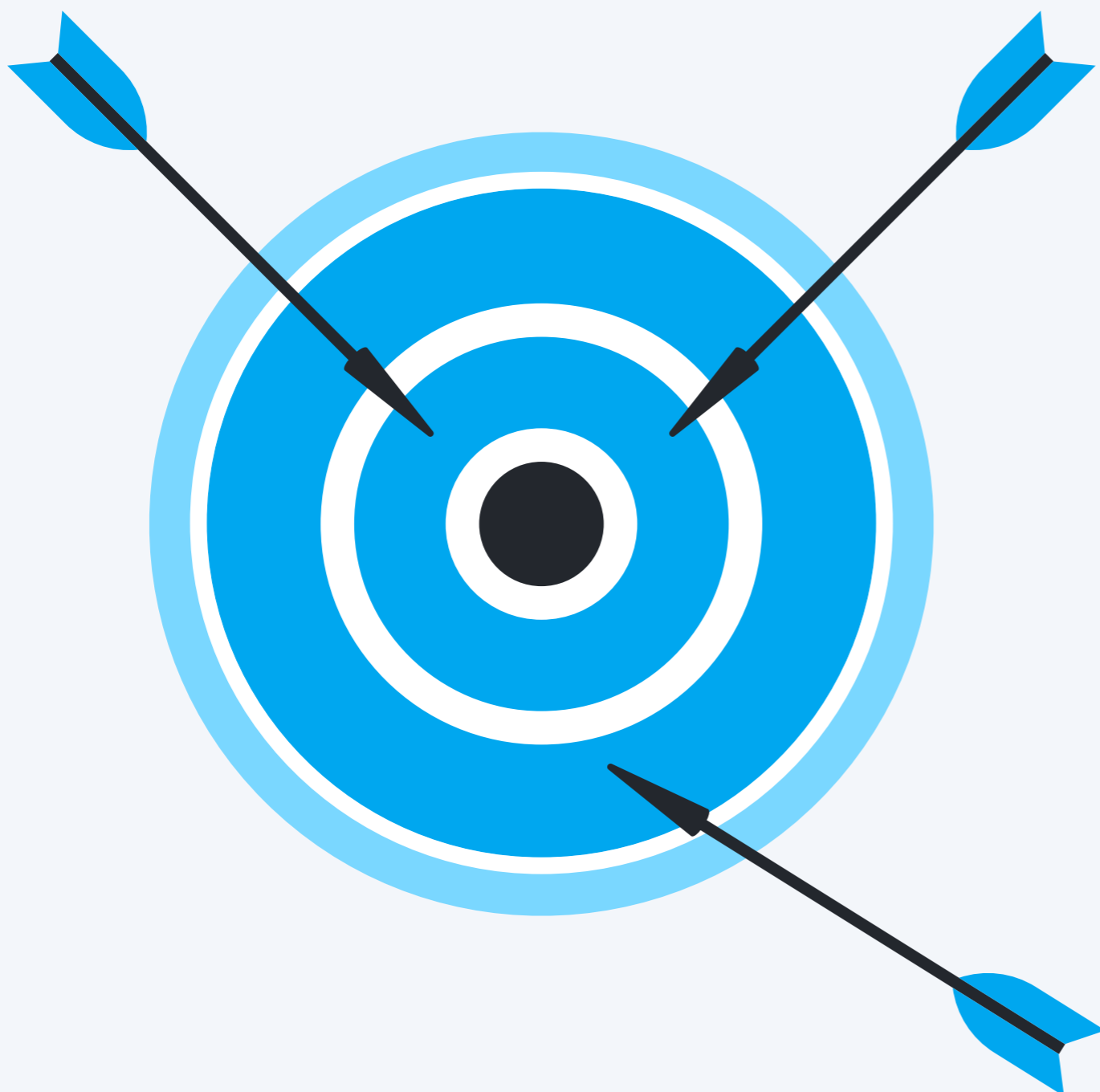
# SECURITIES AND EXCHANGE COMMISSION (SEC)

SEC governs securities markets in the US. Investment advisors, mutual funds, securities exchanges, brokers, and dealers are all under this regulatory authority.

## SEC'S CORE FUNCTIONS:

SEC curates three strategic directions in financial markets.

- ▶ Maintains fair and orderly functioning of the securities markets
- ▶ Protects investors
- ▶ Facilitates capital formation



## OVERSIGHT FOCUS:

- ▶ Securities exchanges
- ▶ Securities brokers and dealers
- ▶ Investment advisors

# CONSUMER FINANCIAL PROTECTION BUREAU (CFPB)

CFPB is a government agency responsible for protecting the rights of consumer financial services. This agency educates consumers about financial products and services and monitors businesses to ensure they follow its laws and standards.

## CFPB'S CORE FUNCTIONS:

- ▶ Advises consumers regarding agreements they can make with financial companies
- ▶ Creates and enforces financial laws
- ▶ Processes consumer complaints



## OVERSIGHT FOCUS:

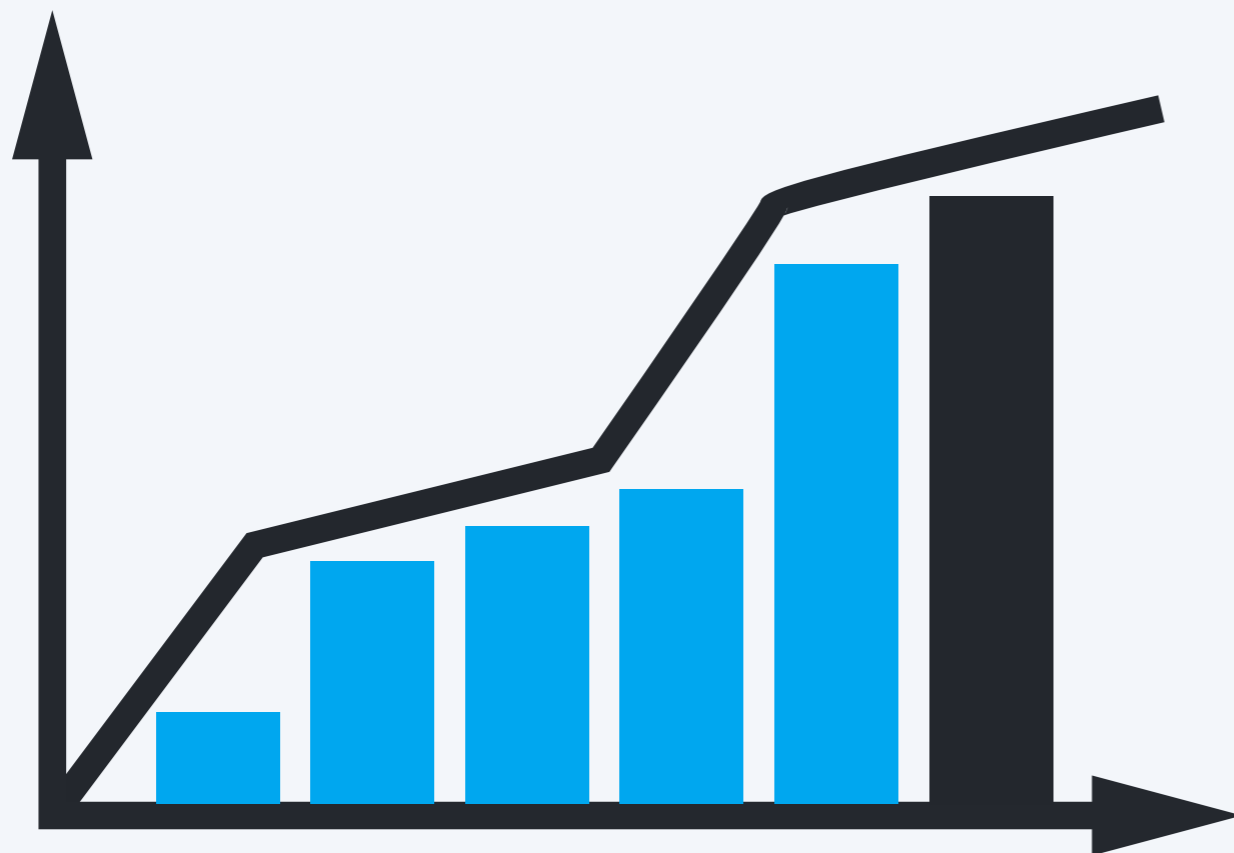
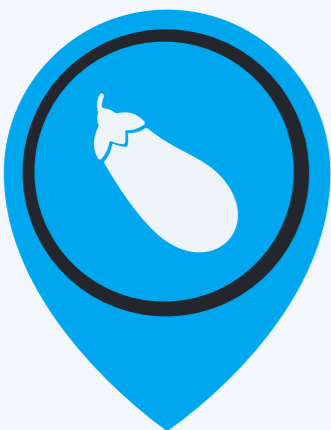
- ▶ Banks
- ▶ Credit unions
- ▶ Financial companies

# COMMODITY FUTURES TRADING COMMISSION (CFTC)

CFTC oversees the US commodities markets and businesses including trading platforms and brokerage houses.

## CFTC'S CORE FUNCTIONS:

- ▶ Promotes integrity, resilience, and vibrancy
- ▶ Creates and enforces financial laws
- ▶ Regulates agricultural, energy, metal, and other commodities markets



## OVERSIGHT FOCUS:

- ▶ Derivatives
- ▶ Contract markets
- ▶ Swap execution facilities
- ▶ Futures commission merchants

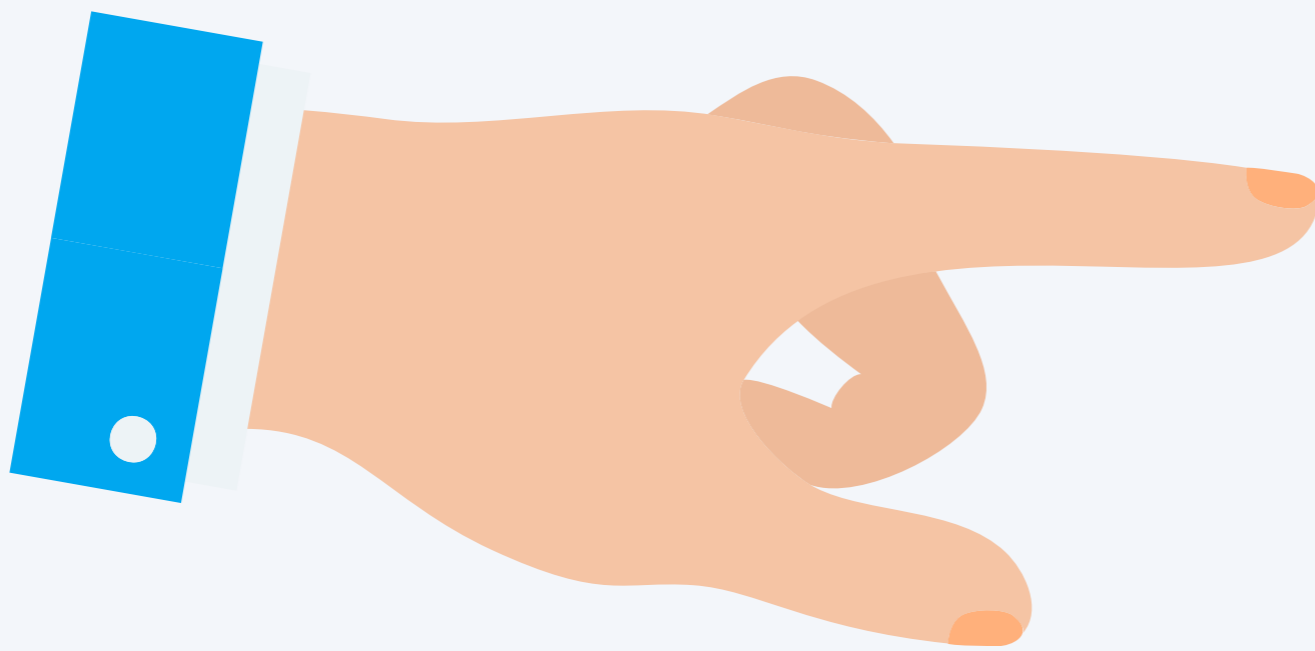


# FINANCIAL INDUSTRY REGULATORY AUTHORITY (FINRA)

FINRA, an independent, nonprofit agency, writes and enforces regulations that govern licensed brokers and broker-dealer businesses in the United States.

## FINRA'S CORE FUNCTIONS:

- ▶ Administers qualifying exams for securities professionals
- ▶ Ensures disclosure of information
- ▶ Protects investors by providing resources such as [BrokerCheck](#)
- ▶ Enforces rules that govern registered brokers and broker-dealer firms



## OVERSIGHT FOCUS:

- ▶ Brokers
- ▶ Broker-dealer firms

## AS OF 2021, FINRA OVERSEES:

**3,394**

security firms

**149,887**

branch offices

**612,457**

registered securities  
representatives

# OFFICE OF THE COMPTROLLER OF THE CURRENCY (OCC)

OCC regulates operations of regional banks, federal savings banks, and foreign bank branches that hold federal banking licenses and FinTech firms that take deposits and pay employees or engage in lending activities.

- ▶ OCC regulates and oversees both domestic and international banks operating in the United States
- ▶ OCC has the authority to reject requests for new bank branches, dismiss bank directors, and even institute supervisory proceedings against banks

## LEGAL ACTS

### 01 **Gramm-Leach Bliley Act (GLBA)**

GLBA, a component of the Financial Modernization Act, requires all financial institutions to inform their clients about data sharing and to take reasonable precautions to protect that information.

### 02 **Fair Credit Reporting Act (FCRA)**

FCRA establishes methods through which financial organizations have permission to gather information about consumer credit and expands consumer rights concerning access to credit reports.

### 03 **US Anti-Money Laundering regulations (AML)**

The US Patriot Act and Bank Secrecy Act are the two principal AML Acts in the US. These regulations call for such AML approaches as customer due diligence, risk management plans for combating money laundering, and suspicious activity reports. The Patriot Act has provisions that address international business dealings.

### 04 **The Jumpstart Our Business Startups (JOBS) Act**

The JACOB Act is a law designed to promote funding of small- and medium-sized businesses in the United States and to set fundraising standards. According to the JOBS Act, crowdfunding websites and other financial services must register with the SEC and FINRA. Such businesses are subject to further obligations and demands under the JOBS Act, including mandatory disclosures and raising sum limits.

### 05 **Securities Exchange Act**

Securities Exchange Act regulates securities transactions on secondary markets, assuring increased financial integrity and transparency and reducing fraud and manipulation. FinTech companies that want to release Initial Coin Offerings and perform on secondary markets must pass [the Howey Test](#). Companies that meet the test requirements become subject to the Securities Exchange Act.

## **INDUSTRY ASSOCIATIONS**

Besides federal regulation, financial markets are subject to be monitored by industry associations. The associations encompass credit card corporations and the National Automated Clearing House Association.

### **THINKING OF BUILDING A LEGAL-COMPLIANT TRADING PLATFORM?**

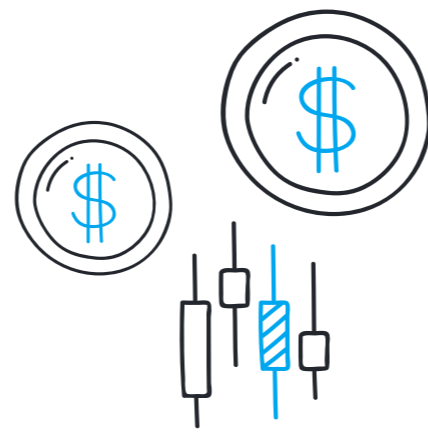
Start transforming your idea to a reality now.

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# FINTECH REGULATION IN THE UK

In the UK, the financial industry is supervised by three main regulators:

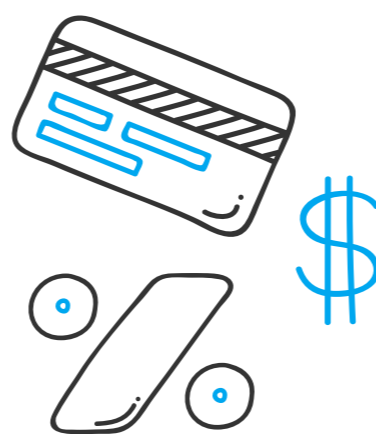
## REGULATORY LEVERAGES OF THE UK FINANCIAL MARKETS



Financial Conduct Authority



Prudential Regulation Authority



Payment Systems Regulator

# FINANCIAL CONDUCT AUTHORITY (FCA)

FCA is responsible for overseeing the UK financial sector. This authority leads financial companies offering consumer services and upholds the integrity of the UK financial markets.

## FCA'S CORE FUNCTIONS:

- ▶ Ensures adequate consumer protection
- ▶ Safeguards and strengthens the integrity of the UK financial system
- ▶ Encourages efficient competition regarding consumer interests

## FCA IN FIGURES:

- ▶ Regulates the conduct of ±50,000 businesses
- ▶ Supervises 48,000 firms
- ▶ Sets specific standards for ±18,000 firms



# PRUDENTIAL REGULATION AUTHORITY (PRA)

PRA, a financial services regulatory organization, was established as one of the Financial Services Authority's successors (FSA). Yet as a part of the Bank of England, PRA sets statutory requirements for financial institutions called Threshold Conditions. The conditions include requirements for the quality of capital and liquidity and expectations for the board of directors' responsibilities. The core functions of PRA are similar to the core functions of FCA.

## PRA IN FIGURES:

PRA supervises 1,500+ financial institutions

- ▶ Investment companies
- ▶ Banks
- ▶ Insurance companies
- ▶ Credit unions



# PAYMENT SYSTEMS REGULATOR (PSR)

Per Section 40 of the Financial Services (Banking Reform) Act 2013, the FCA established the PSR in April 2015 as an independent subsidiary of the FCA. PSR focuses on maintaining stability of all payment systems operating in the country. PSR is focused on the promotion of competition and innovation in payment systems and ensures they work correctly for both businesses and individual consumers.

## PSR'S FEATURES:

- ▶ Independent, with a managing director and board of directors
- ▶ Charged with solid competition and regulatory powers
- ▶ Funded by the industry
- ▶ Accountable to Parliament

## PSR'S REGULATORY COMPETENCIES:

- ▶ Elaborate on prudential standards
- ▶ Curate payment systems
- ▶ Investigate fraudulent activities (including anti-money laundering policies)
- ▶ Support and promote fair competition on financial markets



# FINTECH REGULATION

## IN THE EU

The primary FinTech regulatory body in the EU is the European Securities and Markets Authority (ESMA). By increasing investor protection and fostering stable and orderly financial markets, ESMA helps maintain stability of the EU's financial system. There are two primary directives covering the EU FinTech: 5th Anti-Money Laundering Directive of the European Union, General Data Protection Regulation (GDPR).

### ESMA'S CORE FUNCTIONS:

- ▶ Evaluates any threats to markets, investors, and financial stability
- ▶ Elaborates on single standards for EU financial markets
- ▶ Encourages [supervisory convergence](#)

### OVERSIGHT FOCUS:

- ▶ Trade repositories
- ▶ Securitization repositories
- ▶ Credit rating agencies



*The 5th Anti-Money Laundering Directive of the European Union, published in January 2020, states that all trading platforms that allow exchanges for digital currencies or cryptocurrencies, including e-wallet providers, would be subject to EU regulation.*

The General Data Protection Regulation ([GDPR](#)) impacted FinTech companies in terms of the following aspects:

- ▶ Customer consent
- ▶ Biometrics as identifiers for financial transactions
- ▶ Personal data storage ([Right to be forgotten](#))
- ▶ Informing about data breach
- ▶ Supplier management
- ▶ Pseudonymization
- ▶ Sanctions



# NEED TO CREATE A FINTECH PRODUCT FOR THE EU MARKET?

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# FINTECH REGULATION IN THE AU

The AU financial system is overseen by five regulators:



## AUSTRALIAN SECURITIES & INVESTMENTS COMMISSION (ASIC)

ASIC's core functions:

- ▶ Supports and improves efficiency of the financial system and its participants
- ▶ Minimizes bureaucracy when applying new financial-related laws
- ▶ Creates regulations to protect the integrity of financial markets
- ▶ Investigates suspicious activity with securities; initiates prosecutions
- ▶ Encourages investors and consumers to participate in the financial system and ensures information disclosure

## THE AUSTRALIAN COMPETITION AND CONSUMER COMMISSION (ACCC)

ACCC's core functions:

- ▶ Supports and promotes fair competition in financial markets
- ▶ Protects consumers rights with financial services
- ▶ Maintains efficiency, resilience, and integrity of financial system
- ▶ Carries out market research

## **THE AUSTRALIAN PRUDENTIAL REGULATION AUTHORITY (APRA)**

APRA supervises:

- ▶ Authorized deposit-taking institutions general insurers
- ▶ Life insurers
- ▶ Friendly societies
- ▶ Private health insurers
- ▶ Reinsurance companies, and
- ▶ Superannuation funds (other than self-managed funds)

## **THE RESERVE BANK OF AUSTRALIA (RBA)**

RBA's core functions:

- ▶ Manages AU foreign exchange reserves
- ▶ Sets monetary policy
- ▶ Operates AU payments system
- ▶ Provides financial stability
- ▶ Develops new payment platforms in cooperation with financial system participants

## **AUSTRALIAN TRANSACTION REPORTS AND ANALYSIS CENTRE (AUSTRAC)**

AUSTRAC's core functions:

- ▶ Processes data to create prudential insights
- ▶ Studies the financial system to mitigate economic risks
- ▶ Improves the financial industry risk management and compliance policies
- ▶ Ensures the country's financial security
- ▶ Supervises compliance of Anti-Money Laundering and Counter-Terrorism Financing Act 2006 by financial systems participants

## FINAL NOTES

Regardless of the country we review in this material, the sophisticated FinTech industry is subject to the primary state regulatory authorities. The global FinTech market capitalization size constitutes hundreds of billions of dollars. This is why it attracts bad actors and fraud. To mitigate risks of fraudulent activity and improve overall functioning of the industry, these countries meticulously elaborate on financial laws, prudential policies, and standards.

## ABOUT IT CRAFT

IT Craft is a full-cycle software development company operating in the market since 2001.

**300+** employees, **20+** years of experience, **2250+** projects delivered, and **300+** happy clients worldwide.

The company provides diverse expertise in different project types. It helps clients implement the best solution for their needs and budget.

IT Craft serves clients from all over the world, including the USA, Canada, the EU, Australia, and Singapore.

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