PREFACE

FinTech has become an inescapable buzzword in the last few years: the term is popularly used to describe internet- and smartphone-enabled financial innovations that have risen to prominence since the 2008 global financial crisis. Just as with other sectors, the tentacles of technology have coiled their way into the financial services industry. Agile disruptors in the form of innovative start-ups have been joined by large technology companies as they seek to take market share from incumbent financial services providers. In this context, there are new opportunities for innovation and growth, but also new challenges, particularly for regulators, who are often struggling to apply laws crafted decades ago and, in many cases, built on the assumptions now being challenged by technology.

The second edition accounts for recent and, in some areas, extensive developments in this dynamic and fast-moving field. This edition captures new legislative guidance on the treatment of cryptoassets and smart contracts, the European Commission's Digital Finance Strategy and FinTech Action Plan, together with other recent consultation papers and guidelines on data protection, payments, cybersecurity, anti-money laundering, tokenisation and blockchain, as well as significant cases, including *Ramona Ang v Reliantco Investments Limited*, *CFTC v 1pool Ltd.* and *SEC v Telegram Group Inc. and TON Issuer Inc.* It also addresses the impact of Brexit and the Covid-19 pandemic on the development and adoption of FinTech products.

This edition follows the same structure as the first edition and falls into four parts. The first part explains what FinTech is, and examines legal and regulatory aspects of technology-enabled developments in the areas of banking, payments and fundraising – from open banking and alternative funding platforms, such as crowdfunding, to cryptoassets and initial coin offerings.

The second part focuses on blockchain, which is often held up as a signifier for innovation and is seen by many as the door to a distributed, decentralised internet. This part of the book examines potential blockchain applications in the financial services industry, with a particular focus on smart contracts. It

also analyses legal and regulatory challenges to widespread adoption of blockchain – from data privacy and cybersecurity concerns to uncertainties about applicable law and allocation of liability in a decentralised ecosystem.

While some may argue that the promise of FinTech and blockchain is blindingly bright, regulators around the world are facing a heightened pressure to strike a sensible balance between, on the one hand, supportive space for innovation and, on the other hand, adequate consumer protection. In that context, the third part of the book examines the main regulatory and compliance issues surrounding FinTech developments – from the challenges of patenting FinTech inventions and regulating robo-advisors and e-commerce companies entering the financial services sector ('TechFins'), to the use of innovative solutions by both supervisory agencies and regulators to support innovation, including through regulatory sandboxes.

The fourth part examines the impact that the speed of technological change and the range of new entrants in the financial sector will have on the legal profession. The two chapters in this part suggest that, while lawyers should not feel threatened by these developments, it will not be possible for law firms to rise to the new challenges purely by looking within. Rather, lawyers will need develop at least a basic understanding of technology, while law firms will have to move away from traditional decision-making structures and practices if they want to secure access and exposure to the technologies and skillsets required to operate successfully in the marketplace of the future.

As this area of law is not free of jargon, the book includes a glossary of terms, which I hope the readers will find helpful. All websites cited in the book were live as at 1 April 2021.

There is no doubt that the debate around the complex legal and regulatory issues surrounding FinTech has only just begun, but I believe that, equipped with the background that the chapters in this book offer, readers of this book will be able to follow this debate in the future, regardless of what policymakers ultimately decide.

Finally, I would like to acknowledge each and every author and co-author of this work for their contribution to a unique enterprise: the effort to analyse cutting-edge and often uncharted territory of FinTech laws and regulations. All of the 33 contributing authors, who come from four continents and ten countries, have worked towards a common project that I hope we will be able

to develop over time as the technology-driven metamorphosis of the financial services sector continues to push boundaries of the traditional areas of law.

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