

Fintech regulation in China

Fintech Regulation in China: Principles, Policies and Practices. By Robin Hui Huang. Cambridge: Cambridge University Press, 2021. 314 pp. Hardcover \$110

doi:[10.1017/als.2022.11](https://doi.org/10.1017/als.2022.11)

Fintech, a portmanteau combining “finance” and “technology,” has been a buzzword in recent years, due to its great potential for reshaping the financial landscape and society in general. The important question is thus how to develop a fintech market. The influential “law and finance” literature has taught us that law matters.¹ Indeed, one of the key success factors for developing a robust fintech market is an effective regulatory regime that ensures investor protection while encouraging market innovation. As a leader in fintech and the second largest economy in the world, China’s regulatory experience is of both academic and practical significance. There are a number of interesting questions to be answered: What are the factors that have contributed to the growth of the Chinese fintech market? Are the lessons from the Chinese model replicable in other markets? Is the growth in the Chinese fintech market sustainable? If so, how?

In *Fintech Regulation in China*, Professor Robin Hui Huang has done a sterling job of answering the questions above. As a leading authority on Chinese corporate and financial law, Professor Huang masterfully provides a comprehensive examination of China’s fintech regulation in a clear and convincing manner. The book not only examines the black-letter law, but also analyses the interactions between factors that contribute to the formation and implementation of China’s fintech regime. Moreover, in evaluating fintech regulation in China, the book undertakes a comparative analysis to cover some other major fintech markets, such as the US, the UK, Singapore, and Hong Kong. It is an extraordinary endeavour to do so, as fintech regulation is highly complex and rapidly evolving. In China, for example, the fintech regime comprises many national laws, regulatory rules issued by a multitude of regulators at the national and local levels, guidance documents of various self-regulatory organizations, as well as court cases. Professor Huang beautifully accomplished the otherwise formidable task, thanks to his rich diversity of backgrounds and experiences in China and overseas. He has an admirably deep and sharp understanding of how Chinese law functions as well as how it compares to the rest of the world.

The book is well organized with nine chapters. Chapter 1 usefully introduces the Chinese regulatory framework for the fintech market, including the central bank, namely the People’s Bank of China, the national sectors-based regulators such as the China Banking and Insurance Regulatory Commission, the China Securities Regulatory Commission, as well as the self-regulatory organizations and local regulators. As fintech is an evolving concept and covers a wide range of sectors, the book carefully selected some more significant fintech sectors as case-studies, namely online P2P lending, cryptoassets, initial coin offerings, mobile payments, data protection, robo-advisory, equity crowdfunding, and central bank digital currency. They are all well chosen because there are examples of success stories as well as lessons of failures, so as to present a multifaceted view of China’s fintech regulation.

Chapter 2 focuses on the regulation of online P2P lending in China. China’s online P2P lending business, as an important component of fintech market, was once very popular with more than 3,000 platforms at its height, but by the end of 2020, it had been completely wiped out from the Chinese financial landscape. This chapter traces the development and regulation of online P2P lending in China, with a view to finding out what factors

¹ La Porta et al. (1997); La Porta et al. (1998); La Porta et al. (2000).

contribute to its rise and fall. I agree with Professor Huang that the central-local co-regulatory regime be reflected and lessons be learned.

Chapters 3 and 4 are devoted to the hot topic of cryptoassets, also known as cryptocurrency or virtual assets. They are structured along two phases of the cryptoasset development: one is about its offerings, namely initial coin offerings (ICOs), and the other is about its trading or use as a medium of exchange and value storing. The ICOs underwent a period of explosive growth in China since the second half of 2016 and then were banned in September 2017. Professor Huang pointed out that the outright ban on ICOs may hamper fintech innovation and technological developments in China. The broad ban on ICOs has a follow-on effect of inhibiting the mining and trading of cryptoassets in China. As such, the book chooses to discuss the regulation of cryptoassets in Hong Kong. Two months after the publication of the book, in September 2021, China issued rules to completely close down the cryptoasset market once and for all.² Professor Huang's decision is thus very smart, showing his insightful judgement about the future of cryptoassets in China.

The book then turns to the business of mobile payment in Chapters 5 and 6. To date, mobile payment has been the most successful sector in China's fintech market. The book forcefully demonstrates that it can be explained by several factors, such as technological advancement in China, mobile payment's competitive advantages over the traditional payment, as well as the distinctive Chinese local context in which the people are more receptive to mobile payment due to the lack of credit card and relative insensitivity to data protection issues. From a comparative perspective, the Chinese regulatory regime is then evaluated with the identification of both strengths and weaknesses.

Chapter 7 looks at the regulation of robo-advisers, which is a promising fintech business in China due to the sheer size of the wealth management service market there. Again, as the book points out, regulation is key to the long-term healthy development of the business. The book makes several well-considered suggestions for improvement of China's regulation, in relation to the market access, the fiduciary duty, the regime for information disclosure, and the power for asset management.

Chapter 8 examines two fintech sectors, namely equity crowdfunding and central bank digital currency (CBDC). According to the book, equity crowdfunding is unlikely to be legalized in China in the foreseeable future, which justifies a half-chapter treatment for it. On the other hand, CBDC is of highly practical significance and again China has been a leader in this area. It receives a half-chapter treatment largely because China's CBDC was at its early stage of development when the book was written. In fact, even today, China's CBDC is still on trial and it is not fully clear how it may look like in the future. Nevertheless, the book gives a very helpful account of the key features of China's CBDC and insightfully notes some regulatory issues that China will need to heed in the course of developing its CBDC. To be sure, this is an area that requires further research in the years ahead.

Unlike many conclusion chapters that are little more than a summarization, Chapter 9 delves into some fundamental issues about the theoretical underpinning of fintech regulation, drawing upon the case-studies in the previous chapters. For instance, the overarching goal of regulation is to strike a balance between facilitating financial innovation and market development on the one hand while ensuring risk control and investor protection on the other. Moreover, the regulatory balance is a delicate and dynamic one, which needs to be carefully designed and adjusted according to the local conditions of any given jurisdiction. This chapter also makes some thought-provoking remarks about the regulatory approach. For instance, given that the current financial regulatory tools were developed in the

² Guanyu Jinyibu Fangfan he Chuzhi Xuni Huobi Jiaoyi Chaozuo Fengxian de Tongzhi (关于进一步防范和处置虚拟货币交易炒作风险的通知) (Notice on Further Prevention and Management of Risks of Trading Cryptoassets) (issued by the People's Bank of China and others on 15 September 2021).

twentieth century, do they remain fit to apply to fintech emerging in the twenty-first century? Do we need to think outside the box and introduce a new one specifically for fintech?

Overall, by carefully choosing several representative fintech sectors for detailed case-studies, Professor Huang should be given credit for skilfully setting forth a line of inquiry that is well balanced and thus could produce very interesting insights. Indeed, the real world is always as rich in failures as it is in success stories. It is particularly so for fintech, which represents a disruptive form of innovation and an uncharted territory of regulation. As a pioneer in this field, China has to follow the teaching of its former paramount leader, Deng Xiaoping, namely “crossing the river by groping for stones.” Those case-studies represent the stones in China’s efforts of exploring the way to regulate fintech. They are in-depth studies of specific fintech sectors on their own rights, while at the same time sharing a common purpose of contributing to theoretical debates on the grand design of fintech regulation.

Another feature that makes this book particularly interesting and useful is that it covers not only black-letter law, but more importantly institutions that underpin the markets and shape the law. True to its title, *Fintech Regulation in China: Principles, Policies and Practices*, the book aims to “identify and analyse factors the interaction of which has contributed to the constitution of the institutional environment in which China’s regulation of fintech has been made and enforced” (Preface). To this end, Professor Huang adeptly utilizes materials from a variety of sources, including scholarly studies in the form of journal articles and books, media reports, official sources, as well as personal interviews, which provides invaluable perspectives not available elsewhere. As the Chinese fintech regulatory landscape evolves rapidly with new rules and regulations being issued or updated constantly, it is of vital importance to understand the principles and policies behind the regulatory regime. Hence, although the book was written before China’s recent scrutiny over big fintech firms such as Alibaba, readers may find it useful in making sense of the Chinese policy change as a later development.

In sum, *Fintech Regulation in China* provides a comprehensive and fascinating analysis of Fintech regulation in China. As the very first English book-length treatment of the regulation of fintech in China, it will be both the starting point and the reference point for future studies on its important subject matter. The well-informed discussion of legal rules and political-economic factors affecting them, coupled with a comparative perspective, would command more long-lasting and more universal interest and utility. Professor Huang is to be congratulated for adding to the literature a scholarly book that is well researched and written. This is a book recommendable for anyone interested in the development and regulation of the fintech market in China and beyond.

Li GUO

Peking University Law School, China

References

- La Porta, Rafael, Florencio Lopez-de-Silanes, Andrei Shleifer, et al. (1997) “Legal Determinations of External Finance,” 52 *Journal of Finance* 1131–1150.
- La Porta, Rafael, Florencio Lopez-de-Silanes, Andrei Shleifer, et al. (1998) “Law and Finance,” 106 *Journal of Political Economy* 1113–1155.
- La Porta, Rafael, Florencio Lopez-de-Silanes, Andrei Shleifer, et al. (2000) “Investor Protection and Corporate Governance,” 58 *Journal of Financial Economics* 3–27.