**Arizona Technology Council (AZTC)**

**Public Policy Guide 2022**

**State and Federal Fintech Sections (Final)**

**State Section: Financial Technology (Fintech)**

**Principles**

Arizona’s financial technology (fintech) sector is among the most promising and fastest growing in our technology community. The broad and robust fintech community offers a diverse range of products and services with the potential of disruption for traditional financial services companies and markets. Arizona has shown leadership in breaking down regulatory barriers that could inhibit fintech innovation and emerging business models. To continue cultivating a fintech-friendly environment, our goal is to help drive state regulatory reform allowing use of virtual currency that meets the needs of Arizona’s fintech sector where innovations primarily rely on this type of currency. Arizona must provide a robust, streamlined regulatory experience for virtual currency and non-bank firms that is transparent, allows or better encourages innovation, provides a level playing field for businesses that does not favor larger players over small ones and appropriately protects consumers from harm.

**Positions**

**Digital Signatures and Smart Contracts –** Continue easing regulatory hurdles by updating Arizona statutes and regulations to enable and encourage broad adoption and use of digital signatures, as well as drive innovation in smart-contract applications. Traditional paper contracts can be quite inefficient and prone to fraud, which is why digital contracts tied to immutable blockchains are emerging as an alternative. Arizona lawmakers previously enacted groundbreaking legislation that amended the Arizona Electronic Transactions Act to include digital signatures recorded on a blockchain, enshrining their validity and enforceability for records or contracts, and additionally empowering use of blockchain technology for state corporate filings. These regulatory innovations have helped Arizona emerge as a choice location for companies that develop applications utilizing blockchain and smart-contract technology. We should continue to evolve and reform our fintech regulatory environment to stay on the forefront.

**Fintech Regulatory Sandbox –** Continue positioning Arizona as an innovative hub for financial technology while helping prove that lighter regulation and consumer protection can coexist. Fintech startups are particularly disadvantaged by the difficulties and costs of complying with conventional state money transmission licensing regimens. Legislation adopted during the 2018 session created the nation’s first state-level regulatory sandbox allowing limited access to Arizona’s market for testing innovative financial products or services without first obtaining full state licensure or other required authorization. In 2019, additional legislation provided important technical corrections and clarifications to the law to ensure efficient administration and robust oversight of the program. Innovative initiatives are allowed to germinate through creation of an on-ramp or regulatory sandbox with exceptions to licensing rules for new companies based on low volumes or limited business activities that pose a lower risk to consumers. To date, 10 companies have participated in testing a wide array of innovations. The Arizona Technology Council will work with the Arizona Fintech Council, a joint venture between the Arizona Bankers Association and CCG Catalyst Consulting, to publicize the sandbox to help attract new participants and leverage successful outcomes while supporting further efforts of Arizona’s attorney general and the Legislature to evolve and improve the program over time. For example, the fintech sandbox should be expanded to permit testing of select insurance offerings and other financial products and services that can benefit from technological innovation.

**Proptech Regulatory Sandbox –** Help improve and evolve the property technology, or proptech, sandbox so Arizona can continue to lead in fostering innovation across the real-estate industry. Continue to allow the Arizona Commerce Authority (ACA) to operate the proptech sandbox that enables companies to test innovative products or services in the real estate and smart-property industries in a lighter regulatory environment. Approved in the 2019 legislation session, HB2673 established the nation’s first proptech sandbox. By reducing costly barriers to entry, the sandbox promotes the development of disruptive technologies affecting the way we rent, sell, buy, develop and manage commercial and residential property.

**Blockchain Research Funding –** Allocate state funds annually to recapitalize and sustain the Blockchain Research Grant Program to applied research centers going forward. The Legislature recently recapitalized the ACA’s Applied Research Centers and Institutes program, including $2.5 million in funds toward development of applied research in support of defined blockchain products or services for commercial use to help drive research and innovation that will assist Arizona’s becoming a leader in this emerging technology sector.

**Arizona Corporation Commission (ACC) –** Encourage the ACC to work towards utilizing blockchain for corporate records and filings initiating trials and pilots to develop capabilities, gauge future direction and, when appropriate, inaugurate full-scale initiatives. Examine the potential to issue and trade securities on a blockchain platform. The ACC has opened a docket to examine the use of blockchain technology in Arizona’s energy industry to help manage the distributed power generation and storage, transactive energy with more granular transactions, renewable energy credits, tokenization, IoT, cybersecurity and other applications for distributed ledger technologies on the grid.

**State Government Records –** Examine potential use cases and drive the application of blockchain by the Arizona executive branch for the management and storage of state government records for cost, efficiency and security considerations, initiating trials and pilots to develop capabilities, gauging future direction and, when appropriate, inaugurating full-scale initiatives. Offer leadership and assistance to Arizona’s cities, counties and tribes in digitizing, normalizing and consolidating property records following best practices and ensuring compatibility with other jurisdictions and open-data protocols.

**Regulatory Reciprocity Between States –** Join some two dozen states already in the Multistate Licensing Agreement for Financial Services Companies to eliminate redundancies in state licensing of money service businesses, which streamlines cumbersome regulations relating to virtual currencies. Arizona stakeholders should engage with other state and national organizations working to establish common multistate MTL and virtual-money regulation and licensure that would ensure legal and regulatory reciprocity between participating jurisdictions. Companies involved in virtual-currency activities are multi-jurisdictional by nature. Any artificial restraints on their ability to operate without regard to geographical boundary within the United States adversely impacts the significant cost-effectiveness and efficiencies that their business models offer to other companies and consumers.

**Decentralized Corporate Structures –** Continue to craft an Arizona policy foundation for decentralized companies and initiatives that break many of the legacy tenets of traditional corporate structures, identity frameworks and governance constructs, and help transcend legacy geographic boundaries. Our global economy and enterprise ecosystem has been pushed into a new realm of decentralization as the global pandemic is forcing new ways of conducting commerce and organizational interactions through a daily routine of virtual communications and media. As contemporary decentralized constructs emerge and attempt to reconcile with legacy centralized constructs (e.g., cryptocurrency versus fiat currency) across the globe, it is important that Arizona continues to form alliances strengthening trade and technology bonds with foreign municipalities and sovereignties, such as those formed with Israel, Germany, Mexico and Taiwan and which should be emulated and expanded going forward. States such as Wyoming, Texas and Nevada have announced their commitments to be leaders in the blockchain and decentralized Web 3.0 realms, so Arizona needs to continue to drive deregulation, fund research and encourage industry innovation to sustain a competitive advantage in attracting commerce from around the world as organizations actively seek policy-friendly locations with clearly defined and innovation-enhancing public policy where they can establish and grow fintech businesses.

**Federal Section: Financial Technology (Fintech)**

**Principles**

Distributed ledger technology (DLT), otherwise known as blockchain, is perhaps the most talked about yet most misunderstood emerging technology in the world today. Since its inception, secure DLT has widely been viewed through the lens of virtual currencies, particularly the hype surrounding the buying and trading of Bitcoin and other digital coin offerings. Indeed, surveys have shown that consumers are largely aware of what Bitcoin is but do not know about or understand the blockchain technology that powers it.

Blockchain has the potential to revolutionize many sectors of the U.S. economy if the proper legislative and regulatory measures are taken to enable and foster its development. The technology brings significant efficiencies to not only currency and financial transactions but also asset ledgers, global supply chains, IoT data collection and decentralized social networking.

**Positions**

The Arizona Technology Council suggests U.S. policymakers consider developing policies and regulatory structures for fintech and blockchain environments that encourage developers and market participants to continue innovating and providing solutions that will aid the public sector in achieving its mission and goals. To do so, policymakers should understand the promise, the uses and the questions that blockchain currently presents. The Council supports:

**Securities Law Clarification –** The linchpin for tokenized projects in the United States is the application of federal securities law to token sales. Initial coin offerings (ICOs) have arisen as forms of crowdfunding for blockchain projects through the sale of digital tokens, many without adherence to federal securities law. However, if conducted properly, they are legitimate forms of crowdfunding. Additionally, not all initial token sales are ICOs but merely a means of getting a new good or service to the market. Unfortunately, the U.S. Securities and Exchange Commission’s Framework for Investment Contract Analysis of Digital Assets does little to clarify the circumstances in which a token sale will be treated as a security offering. While some in Congress have recognized that our antiquated securities laws simply do not fit the modern-day use of digital assets, little has been done to provide the statutory clarity the industry is desperately seeking. In the absence of such clarity, many innovators have left U.S. markets to launch their projects overseas. Congress, the SEC and other financial regulators should work with stakeholders to create a responsible framework for regulating ICOs, as well as non-security token sales.

**Digital Currencies –** Often associated with blockchain and distributed ledger technology, digital currencies are entering a new and heightened era of importance. Central bank digital currencies (CBDC) are being launched, planned or researched by most governments around the world. China is one of the first countries to launch CBDC and lead this revolution in government monetary innovation. The U.S. Federal Reserve has announced active research for a United States central bank digital currency, articulating multiple advantages of CBDCs and the importance of this innovation within the roadmap for the Federal Reserve. Another rapidly developing realm called Decentralized Finance (DeFi) is an organic and global wave of innovation that introduces an advantageous alternative to almost every form of legacy financial instrument and is rapidly eclipsing FinTech. Institutional and retail investors are likely to use whatever platform is offering the greatest variety of services and assets. Because CBDC and DeFi innovation are driving powerful and fundamental shifts in the foundations of the global economy, it is important that U.S. policymakers continue to innovate with regulation and legislation that adjust to this new world of digital assets to prevent losing relevance and competitiveness.

**Non-Fungible Tokens –** A new and dynamic method of creating property rights known as non-fungible tokens (NFTs) has emerged and grown rapidly in popularity. NFTs are being applied to digital art, sports, real estate, documents and other forms of unique assets. They are created on blockchains and traded on various cryptocurrency exchanges, representing powerful versatility within the formerly static realm of asset ownership. While NFTs are still in their infancy, they represent an innovative alternative to traditional forms of property ownership and are challenging to regulate with legacy policies. Congress and federal regulators should evolve updated and innovative ways to blend NFTs into legacy approaches to property rightsthrough an approach that encourages entrepreneurial innovation while recognizing and fostering this new tokenization of assets.

**Regulatory Sandboxes –** Following on the heels of Arizona’s groundbreaking Fintech Regulatory Sandbox, regulatory sandbox proposals have been introduced or enacted in more than a dozen states. In addition, the Consumer Fraud Protection Bureau launched a sandbox for businesses subject to its regulations and the District of Columbia established the Financial Services Regulatory Sandbox and Innovation Council. The Council encourages additional state and federal blockchain and emerging technology regulatory sandboxes to reduce barriers to technological innovation and create an agile environment for the testing and offering of fintech and blockchain applications. By fostering innovation, the United States can keep pace in dynamic international markets and develop many new use cases. Federal agencies should issue broad regulatory waivers for state sandbox participants and exemptions for transactions occurring within state regulatory sandboxes, exerting a light regulatory touch on nascent state blockchain initiatives. We also encourage adoption of an agency-wide federal sandbox so innovators can take full advantage of this testing model nationwide and internationally, ensuring legal and regulatory reciprocity between participating jurisdictions.

**Creation of a Federal Blockchain Stakeholders Working Group –** The Council, along with a broad coalition of national, state and regional technology councils, strongly support the reforms codified in the Blockchain Promotion Act of 2019 and urge Congress to pass this or similar important legislation directing the U.S. Department of Commerce to establish a blockchain working group that recommends a consensus-based definition and regulatory framework for the technology. The working group should develop specific recommendations for the National Telecommunications and Information Administration and Federal Communications Commission to examine marketplace opportunities; support current and future security requirements, standards and interoperability; explore the potential impact of blockchain on spectrum policy; and promote the adoption of blockchain to promote efficiencies within the federal government.

**Federal Government Records –** Federal agencies and Congress should examine utilizing blockchain for the management and storage of government records for cost, efficiency and security considerations. Trials and pilots should be initiated to develop capabilities, gauge future direction and, when appropriate, inaugurate full-scale initiatives.

**Arizona Technology Council (AZTC) Public Policy Guide:**

[**https://www.aztechcouncil.org/public-policy/**](https://www.aztechcouncil.org/public-policy/)

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