

The Technological Risks of Fintech and its Legal Governance

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Abstract

The innovative application of financial technology in the financial market to bring huge opportunities but also there are certain technical risks, the legalization of technical rules can improve its own risk regulation, at the same time should be in accordance with the institutional rationality and technical rationality to do a good job of the unified logic of related content, and then combined with the current law to do a good job in its content governance, so as to provide a better legal protection for the effective application of financial technology. In the context of the rapid development of financial technology in China at present, it is necessary to fully grasp the risks of related technologies, and in accordance with the corresponding principles, coordinate the corresponding goals of innovation, establish the main system of financial science and technology, strengthen the evaluation and daily supervision of its content through risk assessment and system flexibility principles, and give play to the role of natural rules and technical standards, so as to better share responsibility. This paper analyzes the current technological risks of financial technology and proposes corresponding legal governance methods for reference.

Keywords

Fintech; Technology Risk; Legal Governance.

1. Introduction

With the continuous development of underlying technologies such as big data, cloud computing, blockchain and artificial intelligence, the technologies of financial institutions and fintech-related companies have been better improved and applied. The accelerated application of financial technology has become the formula and realistic trend of the current industry, and the pattern of the financial industry has ushered in a comprehensive change. Nowadays, financial technology is still erupting into a strong energy, but related technical risk problems continue to emerge, which has become the biggest obstacle to the development of financial technology. In the specific development, it is necessary to continuously optimize its technology, and at the same time, it is necessary to take precautions from the legal system and related levels, so as to make a comprehensive improvement for the financial system and achieve an important guarantee for the development of financial science and technology.

2. The Opportunities and Risks of Financial Technology

Fintech or through the transformation of scientific and technological tools can promote the innovation of the financial system, so as to form a new business model that combines financial markets and financial services, which also makes new technologies and new products continue to appear, financial technology emphasizes the combination of finance and technology, through technology to give financial services a certain improvement, thereby improving the overall financial service efficiency, avoid financial risks. The understanding of fintech usually includes the following two aspects: (1) specific technologies that enable financial innovation, more

commonly such as artificial technology and the use of big data. (2) Give specific technology business forms, more common such as intelligent input, online lending, etc. From a macro point of view, financial technology has gone through three stages of development, one of which is the stage of financial information technology, in this stage, most of them are mainly based on the development of information technology, and the integration of electronic and information technology is realized, which is the hardware belt of the financial industry To better support, ATMs, sales terminals and electronic registration calculation systems are all products of this stage. The second substantial Internet finance stage, this stage can be network technology and related business deep integration, so as to achieve a unique channel of business and technology, in this case the formation of the Internet and mobile terminals of a new carrier and business form, network lending, mobile payment, equity crowdfunding are all Internet financial models, are through the application of Internet technology to achieve business and information technology, so that the traditional financial industry has been improved. The third is the real financial technology stage, through large data, cloud computing, artificial intelligence and block connection to achieve the application of a new generation of information technology, which can change the traditional financial information processing process, but also to achieve the application of decision-making, through automation, intelligence and centralization to achieve the form of the traditional financial market transformation, thereby greatly improving financial efficiency and improving the current financial services. The transactions and intelligent investments that occur at this stage can reflect the profound changes brought by the application of new information technology to the financial industry.

3. The Legal Response Logic of Technological Risks

(1) Technology belongs to technology, and law belongs to law

From the perspective of the current path of technological risk generation, the technical risk of financial technology comes directly from the financial technology itself, and the cause of technical risk is the current inherent defects or technical characteristics Fan needs to carry out risk governance in accordance with technical logic, and through the corresponding technology research and development and application, to achieve extreme optimization and improvement, so as to better fill the existing loopholes, improve the current technical solutions, block the emergence of risks, as far as possible to avoid the emergence of some other problems, so as to reduce technical risks. In which form this will easily lead to a misunderstanding, it is enough to respond to technological risks with technical means, as the current law to adjust social relations cannot solve the current technical problems, so the technical risks of financial technology should rely on technical governance rather than legal governance. In fact, the technical risk prevention of fintech is not only a technical issue, but also a legal issue. Relying only on technological optimization to prevent the technological risks of financial technology, underestimating or even ignoring the important role of the legal system in technological risks. Fintech is not a static technology alone, but also dynamically applied to specific scenarios in the financial industry, which needs to involve social interests and public interests, and then trigger laws to adjust it. Understanding the technical risks of fintech is not limited to fintech itself, but also needs to pay attention to all aspects and processes of fintech operation. The new technologies designed by financial technology, in addition to their own loopholes and defects may lead to technical risks, but also may cause financial business risks due to the spillover of technical risks, thereby impacting the normality of financial markets or defects leading to various problems in their technology. For example, the use of technology leads to a reduction in transparency and information asymmetry, which also makes various problems due to technical risks. There are also problems such as system crashes or algorithm errors caused by overload, which makes the problems in financial markets continue to appear. In the current

credit report, the imperfection of big data and artificial intelligence algorithms in the intelligent investment advisor will lead to some decision-making problems. In the current credit reporting, the algorithms of big data and artificial intelligence are not perfect, resulting in various types of financial risks, thus forming systemic risks. The imperfection of big data and artificial intelligence algorithms in credit information and intelligent investment will lead to problems in their decision-making, thus making them face new challenges, which requires legal governance to improve and respond to financial technology.

At the same time, more importantly, technological development itself does not need legal response and regulation, and when the rapid development of technology can be effectively regulated by the existing laws in Chaohu, it cannot be too blind the purpose is managed, but at the same time, it cannot be left alone. In the future, financial technology innovation will not increase, its own will become more and more complex and diversified, in order to further avoid the emergence of technical risks, the relevant personnel should do a good job in the application of financial technology in a timely manner, while also formulating corresponding rules, so as to better cope with the challenges brought by the current technological risks. At the same time, the legal system also needs to bring a certain amount of innovation space for the current financial technology innovation, so as to better adapt to technological development and industry progress. In view of the current technological risks of financial technology, it is necessary to improve the legal system, and at the same time to build a regulatory system that takes into account inclusive prudence and effective regulation, and then take effective methods to improve financial efficiency, so as to better protect the legitimate rights and interests of financial consumers and the stability of finance itself. Therefore, the application of the targeted financial technology and its technical risk prevention not only requires technical rationality, but also fully combines technical governance and legal governance.

(2) Technology-neutral rethinking

Law can play an important role in the prevention and governance of financial technology risks, and the law needs to do a good job in the current financial technology and technological risks, and at the same time take effective methods to do a good job. On the one hand, financial technology can bring help to financial institutions and financial consumption, and at the same time can provide better technical support for their markets, so as to give play to their own advantages and roles, and the legal system should provide a better institutional environment for the current development of financial technology. On the other hand, financial technology is only an optimization solution at the technical level, and at the same time has an irreplaceable function in the current financial system, which cannot change the current financial system's own operating laws and its own risk attributes. Fintech can bring about greater changes to the financial markets, but it depends on how the relevant businesses in financial institutions use fintech. The laws and regulations and regulations of the current financial technology are formed into corresponding principles and effectively applied to the relevant systems.

Technology itself is inherently neutral, but the transmission of technical risks in financial technology leads to financial risks and even social risks in the financial system. From the perspective of social interests and public interests, the law also needs to actively integrate some financial and technical risks with higher conductivity and coverage. Therefore, compared with general commercial activities, financial activities need to be subject to stricter supervision and basic logic, and financial technology cannot be integrated with innovation in the general sense, but needs to comprehensively consider the financial risks and social risks it brings, so as to achieve the desired effect. In view of the current technical attributes of financial technology, the legal system should not have too much judgment on the technology itself, but should adopt a gravity attitude and respect for restructuring, so as to achieve innovative development.

4. The Institutional Construction Path of Financial Technology Risk Prevention

(1) Establish technical risk prevention rules for financial technology application entities

The main body of financial technology application is the most direct party of financial technology from research and development to application, and it is also the most direct responsible entity for the risk of financial technology, so it is currently given priority to the most direct regulatory object of the legal system. Since the financial technology application subjects grasp and immediately related technical information, robo-advisors know their arithmetic design better than anyone, and the comparison of these entities is conducive to better helping regulators identify relevant risks, so it is prevented by clear rules of subject behavior of financial technology applications, so as to achieve a direct and effective way. The internal control mechanism for determining fintech risks in the legal system can be realized, so that fintech risks can be controlled at the source. At this stage, China attaches more importance to the information technology of financial institutions, and also puts forward some corresponding rules and regulations and guiding documents, but at present, there are still deficiencies in all aspects of the coming year: (1) The system rules formulated by the regulatory authorities are only for financial institutions, and their overall form is not standardized enough, and it is necessary to adjust the information application behavior of their financial institutions and formulate corresponding effective regulations. (2) Take traditional information as the rule of the technical adjustment system, and make comprehensive adjustments for it, which is conducive to financial technology innovation and meet future needs, so as to form a comprehensive financial technology application system, so as to form the corresponding technical risk prevention rules.

(2) Improve the risk supervision system that adapts to the laws of financial technology

The rise of financial technology to the current regulatory authorities to bring great challenges, for financial technology, whether it is the regulatory system or regulatory experience, the regulatory authorities in various countries do not have the corresponding experience reference, the corresponding legislative departments and regulatory departments need to continuously strengthen the understanding and cognition of financial technology, so as to improve their own regulatory capabilities and regulatory capabilities. From the perspective of the current financial regulatory goals, maintaining financial stability and protecting financial consumers is what needs to be focused on at present, so preventing risks brought by financial technology is the main issue that needs to be paid attention to at present. China needs to further improve the corresponding regulatory system framework, so as to integrate it into the current innovation system, and do a good job in combination with the actual situation, so that China's financial regulatory system and regulatory model can be improved, in this way to make it improve, and stipulate that the regulatory authorities cannot use without authorization, in this case can do a better job of coverage, in order to integrate its regulatory system into the entire link.

5. Conclusion

In summary, the wide application of financial technology will open a new era in the financial market, and under the rapid development of the current era, we should pay attention to the integrity of China's financial system. The technical attributes of fintech mean that financial transactions and financial services are built accordingly on the technology. Due to the incompleteness of technology and the unknowability of letters, constraints can only be formed in the innovation process of fintech. The legal governance of fintech technology risks should follow the corresponding logic and be well constrained by corresponding rules and legal responsibilities, so as to ensure the stability and development of the financial market.

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