Briefing Note | **DataTalk**

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Regulation of the Digital Economy

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Senior industry executives convened to discuss trends in digital regulation and what they mean for data professionals and policymakers. There was broad consensus on the complexity of the issue and the need for an approach that addresses the cross-sectoral nature of many digital products and services. Yet many key issues – including how data can be used both across sectors and borders – remain uncertain. That suggests policymakers should focus on developing proportional regulation based on principles rather than detailed rules, and aim to promote safety without stifling innovation and growth. This note provides a brief summary of the key themes from the discussion.

Policymakers need to frame the issue correctly. Data brings new opportunities and new challenges. Many digital companies operate across industry lines with existing regulatory boundaries, such as consumer products, telecoms, and financial services. Their products and services can similarly blur existing lines, such as buy now, pay later offers that resemble loans but currently get little regulatory attention. And digital competitors can range from big tech players that are among the largest and most valuable companies in the world to bootstrapped startups. An effective regulatory approach needs to account for these factors, and be clear about the objectives of new rules, acknowledging that implicit assumptions regarding financial services regulation may no longer apply in the evolving digital ecosystem. In particular given the flow of data-driven nudging and relative market power imbalance inherent in new models.

Be open to different approaches. Today's entity and activity-based regulatory architecture needs to change to reflect the nature of the digital economy but it's unlikely that any single alternative can or should replace it. A more proportional and risk-based approach that takes account of the scale and market impact of tech giants may be appropriate in some cases, to ensure new entrants are able to take root and scale with oversight reflective of their risk. In other areas an outcome-based approach, such as ensuring that credit decisions aren't discriminatory, may be more relevant for consumers. To make these approaches work together, clarity about the objectives and close coordination between various regulatory bodies will be essential. Policymakers should seek to create as level a playing field as possible and avoid giving an unfair advantage to either incumbents or new entrants.

Focus on principles at the global level. New regulatory approaches are bound to increase complexity, and different societies will reach different conclusions about the best way to proceed. Countries also are moving at different paces, with Europe taking the lead on many digital issues. To prevent the fragmentation of data-based activities and markets, regulators should seek to forge a global consensus on broad principles. The Financial Stability Board has been doing this in the financial sector since the global financial crisis and could take the lead on financial data regulation.

Talent will be crucial. Having the right skills and ensuring close collaboration between the public and private sectors will be critical for providing effective data regulation. Most existing financial regulators employ armies of lawyers and economists, for example, but far fewer data scientists and engineers. Regulators need to move quickly to fill those talent gaps, and to bring their existing staff up to speed on issues surrounding digital innovation. This applies to technology as well given that tools like artificial intelligence can analyze data and effectively carry out some existing supervisory tasks.

Safeguard innovation and nimbleness. In seeking to provide clarity, order, and safety to digital markets, regulators should recognize that too heavy a hand could stifle innovation. Cloud-based services have made the financial sector more resilient while new digital entrants are extending financial services to the under-banked and making cross-border payments easier and cheaper to access. The industry appears to be more comfortable with digital disruption along the value chain, investing heavily to remain digitally competitive. However, digital ecosystems which attempt to capture as much of the consumer and producer surplus may not provide beneficial outcomes to consumers or to the stability of the financial system. The approach of policymakers should seek to preserve those benefits and maintain innovation through things like regulatory sandboxes for upstarts. They also should avoid layering too many new rules on top of already highly regulated financial organizations, which are striving to become more agile and digital to meet customer demands and respond to the fintech threat. That requires a delicate balancing act.