

6 KEY TAKEAWAYS

The Importance of Insurance for Fintech Companies

Kilpatrick Townsend Partner [Mary Craig Calkins](#) spoke at an American Bar Association Section of Litigation Insurance Coverage Litigation Committee Annual CLE Conference on “*Money, Money, Money, Money In Today’s World: Insurance Implications for the Evolving Fintech Industry*,” focusing on the following key takeaways:

1

Fintech companies must consider insurance as an important and valuable asset to protect against loss.

2

Update insurance packages to address the rapid changes in the industry, and purchase policies with enhancements that will provide money for judgments and settlements, and pay the fees and costs of defending against pre-claim governmental and regulatory investigations, enforcement actions, civil demands, and costly lawsuits.

3

Tailor policies to address potential responses to consumer protection bureaus that oversee financial products or services, failures of compliance management systems, cyber intrusions, protections against fraudster and other financial claims, misrepresentations and anti-money laundering, bank secrecy laws and decentralized vendor or merchant-customer exchanges as well as more typical business policies.

4

Use sophisticated insurance professionals to purchase specialized coverage for trading platforms, forex platforms, peer-to-peer crowd funding and other unique financial transactions in addition to policies covering directors and officers liabilities, professional errors and omissions liability (including bad advice, poor servicing and programming errors as well as data- or cyber- breach costs), employee fraud, general liability issues, payment of investigation and defense costs, first party losses, and protections against theft, among other issues.

5

Hire knowledgeable coverage counsel to conduct a pre-purchase (and pre-claim) audit of proposed policies with an eye to potential litigation, ensuring broad coverage, clear and conspicuous exclusions, and a product designed for your Fintech business.

6

Don’t forget important post-claim insurance requirements, such as timely notice of claims or facts and circumstances that could give rise to covered claims. Fintech policies often require prompt reporting during the policy year in place at the time of the demand or suit, cooperation with investigations, and consent before incurring costs (attorneys, consultants and experts) or settling a claim. Engage coverage counsel to contest denials of coverage and insurer position letters purporting to reserve rights. Keep the insurer informed, make timely demands for participation, and take the steps necessary to make sure your insurance is there when you need it.