



Client Alert

Americas FS Regulatory Center of Excellence



OCC Seeks Comment on a Possible FinTech Charter

Comptroller of the Currency Thomas Curry announced on December 2, 2016 that the Office of the Comptroller of the Currency (OCC) has decided to proceed with offering a special purpose national bank charter for innovative financial technology (FinTech) companies.¹ The charter would be available to companies that conduct at least one of three bank-permissible activities: i) receive deposits, ii) pay checks, or iii) lend money, subject to the agency's standard chartering process.

An OCC paper outlining the issues that the agency will consider in granting such charters was released the same day.² The agency is seeking comment on all aspects of the paper as well as on certain specific questions that will be used to inform a formal agency policy for evaluating applications for "FinTech charters." Comptroller Curry stated the policy would ensure that approvals consider "safety and soundness, financial inclusion, consumer protection, community reinvestment, and corporate responsibility." The comment period will close on January 15, 2017.

The OCC's baseline supervisory expectations for any nationally chartered bank, including special

purpose national banks, stress the importance of a well-developed business plan, appropriate governance, capital, liquidity, compliance risk management, financial inclusion, and recovery and resolution planning. The OCC would work with FinTech applicants to develop and tailor supervisory standards based on the applicant's circumstances including its size, business model, complexity and risk profile. Chartered FinTech firms would likely still engage with other federal regulators, including the Consumer Finance Protection Bureau and the Federal Reserve, as appropriate.

Under the proposed requirements, FinTech companies would not be required to apply for a special purpose national bank charter but would have the option to do so rather than seeking charters on a state-by-state basis or partnering with a bank. The OCC perceives this option as promoting "responsible innovation" and ensuring increased safety and soundness and regulatory consistency across the FinTech industry. From a public interest perspective, Comptroller Curry noted that FinTech firms have the potential "to expand financial inclusion, empower consumers,

¹ See Remarks of Thomas J. Curry, Comptroller of the Currency, Regarding *Special Purpose National Bank Charters for FinTech Companies*, delivered at the Georgetown Law Center, December 2, 2016.

² See *Exploring Special Purpose National Bank Charters for FinTech Companies*, OCC, December 2016.

and help families and businesses take more control of their financial matters.”

The decision to move forward with a FinTech charter follows the OCC’s September release of a proposed rule outlining a receivership framework for uninsured non-depository national banks. The proposed rule was seen as a major step towards development of a federal FinTech bank charter. KPMG’s Client Alert on that proposed rule is [attached](#) for reference. In October, the OCC announced that it would implement a “formal framework to improve the agency’s ability to identify, understand, and respond to financial innovation affecting the federal banking system” and establish an Office of Innovation to serve as “the central point of contact and clearinghouse for requests and information related to innovation.”³ The Office will be a non-supervisory forum for both banks and nonbanks. It is expected to be fully operational in the first quarter of 2017.

³ See OCC News Release 2016-135, OCC Issues Responsible Innovation Framework, October 26, 2016.

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