

June 1, 2016

Via Electronic Submission

Office of the Comptroller of the Currency (the “OCC”)
Washington, D.C.
innovation@occ.treas.gov

Re: Coinbase Response to OCC’s Innovation Initiative

Ladies and Gentlemen:

This comment is submitted on behalf of Coinbase, Inc. (“Coinbase”) in response to the OCC’s paper, “*Supporting Responsible Innovation in the Federal Banking System: an OCC Perspective*.” Coinbase offers a suite of services that make it easy for customers and businesses to buy, sell, and use distributed digital currency, such as Bitcoin and Ethereum. With nearly four million customer accounts around the globe, Coinbase and affiliated entities comprise the world’s largest retail digital currency business. Although Coinbase is not an OCC-regulated financial institution¹, we have worked closely with our bank partners to process approximately \$4 billion in U.S. Dollar (“USD”) payments among Coinbase and its customers since our inception in 2012. We have developed an appreciation for the challenges that can arise at the intersection of the heavily regulated banking sector and relatively lightly regulated fintech firms, and we thank the OCC for the opportunity to contribute to the development of its innovation framework.

I. Executive Summary

Our main points are summarized as follows:

- **First**, the OCC’s framework should acknowledge that most financial innovation will arise initially *outside* the federal banking system, driven by technology firms that require routine banking services and access to the payments systems. We urge the OCC therefore to include in its framework persistent and conspicuous policies that encourage banks to provide core banking services to lawfully-operating fintech firms, that facilitate partnerships between banks and nonbank fintech firms, and that establish decisively that OCC-regulated banks are not liable to supervise the lawful operations of their fintech

¹ Coinbase is a registered Money Services Business (“MSB”) and licensed to engage in money transmission in thirty-five U.S. jurisdictions.

clients.

- **Second**, the OCC's framework should provide for issuance of plain, public guidance to describe precisely when a bank's adoption of a new technology, platform integration, or service relationship, in the OCC's view, does or does not constitute responsible innovation. In particular, when the OCC determines that certain fintech is untenably risky, we urge the OCC to substantiate its determination with a precise description of the aggravating risks. Otherwise, ambiguous invocation of OCC guidance—or OCC silence—may serve to cloak ulterior motives, encourage unreasonably categorical exclusion of fintech from the federal banking system, and will ultimately stifle development and adoption of promising new technologies which do not pose a significant risk to the banking system or to consumers. In our experience, for example, the general dearth of clear, authoritative digital currency guidance for banks has resulted in substantial uncertainty among prospective banking partners to Coinbase and has impeded those relationships.
- **Third**, we urge the OCC to implement its framework throughout all levels of the OCC, including at the local, bank supervisory level. We believe it is imperative that bank supervisors apply the framework in a consistent manner to facilitate banks' reasonable determination to partake in responsible innovation consistent with the OCC's framework. Moreover, we encourage the OCC to coordinate its framework with other federal and state banking agencies whose shared commitment is necessary to achieve the OCC's ultimate goal of supporting a financial system that innovates responsibly.
- **Fourth**, and finally, we urge the OCC to explore opportunities to allow eligible nonbank entities to provide services or access information which historically has been provided by or made available only to banks. We offer two examples under active consideration by policymakers in competing jurisdictions: First, the OCC should consider whether non-depositories may gain efficient, direct access to the U.S. payments systems without passing through a bank chartering process oriented towards conventional banking services not relevant to most fintech firms' businesses—*e.g.*, deposit taking, fractional-reserve lending. Second, the OCC should encourage the opening of bank APIs to allow controlled access to bank customer data and remote transaction capability that will facilitate the provision of a wider variety of financial planning or management services to bank customers. We encourage the OCC to seek these and other opportunities to encourage a healthy competition among bank and nonbank entities for the provision of innovative financial services.

* * *

II. Detailed Responses to Select Questions

How can the OCC enhance its process for monitoring and assessing innovation within the federal banking system?

Although many banks commit resources and highly-capable staff towards innovation, we believe the majority of financial innovation is likely to occur, at least initially, *outside* the federal banking system. As the OCC has observed, nonbank fintech firms—often VC-backed startups—are not encumbered with legacy operating systems, often operate nimbly online, may experiment in an unregulated or (relatively) lightly regulated environment, and are typically focused narrowly on the provision of particular new technologies. The OCC’s framework would therefore be remiss if it did not consider technology in use outside the banking system but which could be made readily available to banks and their customers. In fact, more often than not we believe the OCC will be introduced to new fintech via prospective partnerships between banks and fintech firms who share customers. We encourage the OCC to monitor the emergence of new services or products which may arise from such partnerships and to facilitate, where feasible, a permissive approach that distinguishes between services offered by a bank and services offered (more dynamically) by nonbank fintech firms.

How would establishing a centralized office of innovation within the OCC facilitate more open, timely, and ongoing dialogue regarding opportunities for responsible innovation?

We believe the financial services industry at large will benefit from the OCC providing an official, central channel for banks and even nonbank entities to request interpretive guidance regarding new technologies or proposed partnerships. In truth, “fintech” is an extremely broad concept that touches on myriad technologies, companies, and products. Some of these products and services are conceptually familiar to the banking sector (mobile payments, peer lending), others less so (blockchain asset transfer, in-browser micro transactions). Digital currency and distributed ledger technology, in particular, is likely to give rise to a rapidly-evolving set of new products and technologies whose ultimate impact and utility is impossible to predict and whose intersection with the regulated banking sector is extremely uncertain. No prescriptive policy can effectively anticipate this impact and so it is critical that informed specialists within the OCC are positioned **(a)** to swiftly identify whether substantial risks are, in fact, posed by the underlying technology, **(b)** to plainly and publicly articulate such risks to the federal banking sector, and **(c)** to plainly state whether and how such risks can be mitigated through implementation of appropriate risk protocols or procedures.

We acknowledge the practical limitations on the capacity of the OCC to issue guidance in every case, and so we encourage the OCC to identify categories of fintech products or fintech integrations into existing bank systems which, by their nature, do not necessarily entail high consumer risk or systematic banking risks and which may be eligible, therefore, for categorically more rapid development without heightened OCC scrutiny. To offer two simple examples: fintech applications which involve only the transfer of specified user data with customer consent, or which may allow remotely-authorized payment functionality below a certain USD threshold may be viewed as categorically lower risk and prone for more rapid development.



How could the OCC provide guidance to nonbank innovators regarding its expectations for banks' interactions and partnerships with such companies?

First, we encourage the OCC to continue to maintain open dialogue and outreach to nonbank innovators and the banks that partner with them. In so doing, the OCC will be best positioned to issue actionable guidance to the federal banking system.

Second, it is invaluable to the nonbank sector to understand the OCC's perception of risks associated with a certain technology and to engage in dialogue with the OCC about methods to mitigate such risks. In particular, federal issuance of authoritative guidelines for banks considering the adoption of certain new fintech can facilitate a well-coordinated and responsible approach towards adoption of innovative new technology.² Such guidelines shed light on perceived risks and allow fintech firms to focus resources towards risk mitigation while avoiding unnecessary and potentially debilitating delay that may choke the technology. When given clear guidance, we believe fintech firms will prove extremely adaptable and accommodating to appropriate bank supervision, effective risk monitoring programs, and consumer protection obligations, among other important priorities. By the same token, it is important that banks are provided some form of reasonable assurance, subject to existing consumer protection laws, that responsible innovation will not lead to disciplinary action if some aspect of the technology fails through no fault of the banks'.

What forms of outreach and information sharing venues are the most effective?

We have found informal meetings with bank regulators to facilitate an effective and productive exchange of views around the use of new technology. In our experience, these meetings are most effective when the parties engage in a frank and candid discussion of the key challenges that may impede broader adoption of a technology by the federal banking system or by consumers at large.

Joint industry / regulator workshops, attended both by banks and fintech firms, have also proven effective at surfacing concerns which may not be visible to one sector or another, to exchange views, and to lay groundwork for subsequent adoption of fintech by banks.

What additional guidance could support responsible innovation? How could the OCC revise existing guidance to promote responsible innovation?

In addition to the items described throughout this letter, we urge the OCC to consider whether and under what circumstances nonbank fintech firms may gain more direct access to the U.S. payments systems in support of products that do not involve core banking activity and which do not pose a systematic risk to the federal banking system. Coinbase, for example, is a non-depository, fintech Money Services Business and a licensed money transmitter. We rely heavily

² See, for example, "Banking Bitcoin-Related Businesses: A primer for Managing BSA/AML Risks," Retail Payments Risk Forum Working Paper, Federal Reserve Bank of Atlanta, Douglas King, revised February 2016 and available at https://www.frbatlanta.org/-/media/Documents/rprf/rprf_pubs/2016/banking-bitcoin-related-businesses.pdf



on the banking system to processes substantial volumes of Automated Clearing House (“ACH”) transactions in settlement of digital currency purchase or sale transactions among Coinbase and our customers. Coinbase, and we expect many similarly-situated fintech firms, would seriously consider an OCC chartering structure **(a)** that could alleviate fintech firms’ reliance on banks for access to the payments systems, **(b)** that could serve to centralize certain fintech firms’ U.S. licensure obligations under a single, federal authority, and **(c)** that would not require radical business changes to accommodate the design of a conventional banking charter and conventional banking services not pertinent to the firms’ value add or mission. We acknowledge that any such path forward is in the extremely preliminary stages and would require broader coordination among the federal government.

We also urge the OCC to consider issuing guidance to encourage banks to establish open application programming interfaces (“APIs”) to allow third-parties to offer services to consenting bank customers through existing bank web or mobile platforms. Open bank APIs can lead to greater developer interest in fintech, the development of more nimble and varied fintech applications, and ultimately an app rich environment that will improve the utility of existing bank platforms.

What should the OCC consider with respect to innovation?

To summarize, we urge the OCC to consider the following goals when establishing its framework for evaluating new and innovative financial products and services:

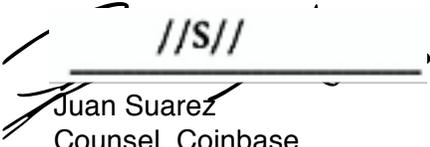
- Establish policies that encourage partnerships among banks and fintech firms, including partnerships that may result in fintech firms offering separate products to shared customers with the bank.
- Delineate circumstances in which adoption of fintech would be viewed as irresponsible, and articulate the perceived risks associated with particular technologies.
- To the greatest extent possible, identify categories of fintech products or fintech / bank integrations which, on the whole, may be eligible for more rapid development.
- Facilitate continued interaction among the OCC, banks, and fintech firms and facilitate frank and candid discussion around obstacles to adoption of fintech.
- Consider whether and under what circumstances fintech firms could gain more direct access to the U.S. payments systems.
- Consider whether to encourage the more systematic opening of bank APIs.

* * *



We thank the OCC for its effort to develop a responsible innovation framework. Coinbase is committed to working with the OCC and other federal and state financial regulators in promoting responsible innovation of digital currency and distributed ledger technology, and fintech more broadly. Please do not hesitate to contact us anytime if we may be of any assistance.

Regards,

A handwritten signature in black ink, appearing to read "J/S/J", is written over a horizontal line. The signature is slanted and has a casual, cursive style.

J/S/J

Juan Suarez
Counsel, Coinbase
San Francisco, California