

May 31, 2016

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Honorable Thomas J. Curry
Comptroller of the Currency
Office of the Comptroller of the Currency
400 7th Street, S.W.
Washington, D.C. 20219

Re: OCC White Paper on Supporting Responsible Innovation; Request for Comments

Dear Comptroller Curry:

On March 31, 2016, the Office of the Comptroller of the Currency ("OCC") published a white paper, entitled "*Supporting Responsible Innovation in the Federal Banking System: An OCC Perspective*" ("White Paper"), and a request for comments ("Request"). The White Paper sets forth principles that the OCC will use "to guide the development of its framework for understanding and evaluating innovative products, services, and processes that OCC-regulated banks may offer or perform." According to the White Paper, responses to the Request will inform the OCC's development of its framework to support "responsible innovation" in the federal banking system.

This letter is submitted on behalf of a diverse group of financial technology ("fintech") stakeholders, including banks and their non-bank partners (collectively, the "Coalition"). The diverse nature of the Coalition membership is representative of the fintech ecosystem. Fintech innovation is occurring within both banks and non-banks, as well as within joint ventures among banks and non-banks. Because of its diversity, we believe the Coalition provides an important message for the OCC to consider as it develops its framework for understanding fintech innovation.

The Coalition appreciates the forward-looking approach that the OCC's White Paper represents, and welcomes the opportunity to provide the Coalition's views on how the OCC can better evaluate new and innovative financial products and services. Because of its diverse nature, the Coalition appreciates the OCC's desire to obtain input from industry stakeholders broadly: fintech is not banks versus non-banks; fintech is, and should be, a diverse and symbiotic ecosystem.

Honorable Thomas J. Curry
May 31, 2016
Page Two

The Coalition strongly encourages the OCC to implement a regulatory approach that supports the efforts of banks and non-banks in providing increasingly efficient and diverse financial products and services to consumers and business customers, consistent with long-established principles of safety and soundness. The make-up of this Coalition demonstrates that banks and non-banks collectively believe that efficient and effective supervision and regulation, promoting common customer experiences and protections, will better facilitate innovation in financial services. To achieve efficient and effective regulation, it is essential that regulators are well-informed and that the messaging from regulators is consistent.

SUMMARY OF COMMENTS

The Coalition is supportive of the OCC's efforts to develop, with stakeholder input, an internal approach to enhance the ways in which the OCC evaluates innovative financial products, services and processes and to promote communication between the OCC and the industry regarding emerging technologies. The Coalition also supports the OCC's efforts to review the existing regulatory framework, including both regulations and guidance, to determine how such regulations and guidance apply to innovative financial products and services and to understand and monitor any emerging risks posed by new technology. At the same time, however, we encourage the OCC to create space for innovation, while preserving safety and soundness. Specifically, the OCC should encourage responsible innovation in a manner that preserves regulatory flexibility, while avoiding hurdles in the regulatory process that can unnecessarily impede responsible innovation.

The Coalition also strongly supports the OCC's efforts to improve communication among the relevant regulatory agencies, including the federal banking agencies, the Consumer Financial Protection Bureau ("CFPB") and the Federal Trade Commission. Greater coordination among the federal and state regulators that may supervise a bank's partners for consumer-facing payment and credit services would help facilitate responsible innovation in financial services. The Coalition also encourages federal and state regulatory agencies to employ a uniform, activity-based approach that provides consistent protections for customers based on the business acts or practices of the entities involved, rather than based on the size, legal status, or charter of the entity or the location in which the specific acts or practices occur.

DETAILED COMMENTS

Responsible innovation—that is, innovation that meets the evolving needs of consumers, businesses, and communities in a manner that is consistent with sound risk management and is aligned with an institution's overall business strategy—represents a win-win for bank and non-bank innovators, for their customers and for the OCC. Such innovation will enable banks to meet the evolving demands of customers, while also ensuring that banks continue to provide stability in the management of any emerging risks; enable

Honorable Thomas J. Curry
May 31, 2016
Page Three

non-banks to better meet the needs of their bank partners; and allow banks to reach a broader customer population that they may not otherwise be serving. Such innovation also would enable banks to continue to provide customers with more diverse and efficient financial products and services, while promoting the regulatory objectives of the OCC.

Therefore, the Coalition encourages the OCC to support responsible innovation. Given the rapid pace of change in fintech, the OCC will need to engage in ongoing dialogue with stakeholders to keep up with emerging technologies and potential risks. The ongoing dialogue will likely take many forms, including the OCC's proposed "innovation fairs," as well as less formal channels. For example, on-the-ground OCC examiners will need to fully understand the innovative products they are reviewing while assessing whether there is any difference in the overall risk profile of a particular product or service as a result of the technology used to deliver that product or service. Ultimately, by engaging bank and non-bank innovators, a better-informed OCC will be better equipped to understand both the benefits and potential risks that innovation may result in for customers, banks and the broader economy.

The Coalition also supports the OCC's efforts to review the existing regulatory framework, including both regulations and guidance, to determine how the framework applies to innovative financial products and services and to understand and monitor any emerging risks posed by new technology. For example, the OCC's third-party risk management guidance requires that banks implement extensive controls where a third party performs "critical activities," which include payments functions and shared IT services, on behalf of a bank. Any interpretation of the guidance that would require banks to implement such controls on start-ups or other non-bank partners that are not actually performing critical functions on behalf of the bank could adversely affect mutually beneficial partnerships and, thus, impede innovation. The Coalition supports the OCC's stated intention to clarify its expectations relating to risk management where third parties perform services on behalf of a bank, particularly in the context of rapidly changing technologies, but asks the OCC to do so in a way that does not unduly impede innovation.

Industry engagement also should include providing bank and non-bank innovators with access to the resources of the OCC, and other regulators, early in the innovation process. The Coalition acknowledges the efforts of the CFPB's Project Catalyst to engage the industry through such productive bilateral dialogue as "office hours." Facilitating engagement with innovators early in the product development stage will promote efficient use of resources and capital. Other efforts to support early-stage innovation, such as the U.K. Financial Conduct Authority's ("FCA") regulatory sandbox, bear watching to gauge the efficiency of that regulatory engagement and whether it is possible to replicate the assistance and encouragement provided by the FCA's regulatory sandbox in the substantially more diverse U.S. banking and financial services market.

