

Climate for Payments Innovation OCC “FinTech” Charter

Andrew Lorentz, Partner

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OCC Initiative: “Supporting Responsible Innovation”

- Launched in March 2016 with white paper
 - <http://www.occ.gov/publications/publications-by-type/other-publications-reports/pub-responsible-innovation-banking-system-occ-perspective.pdf>
- Eight principles – many relating to OCC’s mode of operation
- Reflected need for clearer and better guidance for industry on innovation, including third party relationships

OCC “Framework for Receiverships for Uninsured Federally Chartered National Banks”

- Proposed rule at 81 Fed. Reg. 62835 (Sept. 13, 2016)
- Always start with insolvency – inspires confidence
- Focus of rule is on national trust banks – all 52 of them
- BUT THEN: predicate for a FinTech charter?

“[T]he OCC is considering how best to implement a regulatory framework that is receptive to responsible innovation, such as advances in financial technology[, and] whether a special purpose charter could be an appropriate entity for the delivery of banking services in new ways.”

OCC Authority to Charter Special Purpose Banks

- OCC may charter special purpose banks – so long as engage in the “business of banking” 12 CFR 5.20(e)(1)(i)
- “Business of banking” (in addition to fiduciary activity) means one or more of:
 - Receiving deposits
 - Paying checks
 - Lending money
- “Marketplace lending” subject of Comptroller Curry’s remarks September 13

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- What else might a new charter authorize?
 - Access to account at Federal Reserve
 - Ability to access major networks (ACH, Visa, MC) (“eligible for deposit insurance”?)
 - Enhanced service provider to bank (access to customer funds or information)
- Should new charter preserve the existing Dodd-Frank framework for preemption and allocation of responsibilities among federal regulators?
- Who should get a charter (or is likely to)?

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- Is this conversation backwards? Should we ask what regulatory framework would best foster “responsible innovation” rather than ask what chartering authority exists?
- OCC role is important – but limited (1500 banks/thrifts +)
 - What about the state-level chartering/licensing authorities – would PayPal have succeeded as a bank? Federal Reserve for holdcos?
- Is bank-level supervision necessary or appropriate for most of the innovation and unbundling of financial products we see?
- What role for consumer choice? Mandated access to accounts or account number portability? How about empowering the consumer to buy products and services they want – and exposing them to consequences for their choices?

THANK YOU!



Andrew J. Lorentz

andrewlorentz@dwt.com

202.973.4232

www.paymentlawadvisor.com



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