

January 19, 2017

The Honourable Thomas J. Curry  
Comptroller  
Office of the Comptroller of the Currency  
400 7<sup>th</sup> Street SW  
Mail Stop 9W-11  
Washington, DC 2009

Re: Exploring Special Purpose National Bank Charters for Fintech Companies

Dear Comptroller Curry,

I am a London-based Financial Services and Technology executive and entrepreneur that welcomes the Office of the Comptroller of the Currency (“OCC”)’s proposal to create a new national bank charter for an entity deemed by the OCC to fit within the category of “fintech”. This proposal will reduce barriers to entry, encourage competition through innovation and create market efficiencies in an outdated - as seen by many organisations outside the US – banking industry. This proposal does not encourage “too big to fail” banks as commented by the New York Superintendent, Maria T. Vullo, instead it gives new businesses the opportunity to compete with the banking “Goliaths” of our generation. Foreign investment into banking

### **Market barriers and asymmetries**

In today’s regulatory environment, fintech companies are finding it harder to gain a positive return on equity, both in Europe and the US. The need to apply for multiple licences to accommodate a funds transfer across states creates barriers to entry for companies and increases transaction costs. Incumbents also face problems, they operate with highly complex infrastructures built over decades with technical debt mounting, so ensuring systems remain robust and secure is costly. The cost of compliance is not just a financial one but an operational one; business units are stifled by multi-layered approval processes and this complexity – whilst sometimes necessary - can affect speed to market and productivity.

Information asymmetry has been described as a problem by the Open Data Institute (“ODI”) in the UK banking sector, and this holds true in the US. This translates into a competitive advantage that creates a negative market outcome for consumers, but also new businesses as they lack the information to measure creditworthiness and therefore serve their customers and expand.

### **Financial innovation in Europe and the USA**

The recent and sustained interest in financial technology, or “fintech” business and operating models around the world has not yet been met with any clear winners, especially when it comes to digital or “challenger” banks. The ODI, in a recent report identified that ‘key markets are not working well for customers and SMEs’<sup>1</sup> and they believe that better access to data will resolve information asymmetries that are holding new entrants back. In Europe, the European Commission released the

<sup>1</sup>[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/382273/141202\\_API\\_Report\\_FINAL.PDF](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/382273/141202_API_Report_FINAL.PDF)

<sup>2</sup>[http://ec.europa.eu/finance/payments/framework/index\\_en.htm](http://ec.europa.eu/finance/payments/framework/index_en.htm)

second Payment Services Directive (“PSD2”) in 2015 which provides a framework that will support competition in the banking sector for all its member states<sup>2</sup>. I believe that PSD2 will go some way to promoting new entrants into the banking sector by allowing secure API access to consumer transaction and account data by giving new regulated companies access to data. I also believe that your proposal is a first step in making the US a friendlier environment for new banks (SEPA Directives in the Euro zone as well as MIF have already levelled the playing field and reduced the cost of cross-border transactions) which in turn will create positive market outcomes for consumers and SMEs.

## **Risks**

Providing fintech businesses with more flexibility could create risks if the adoption of this proposal is not closely managed. Due attention should be given to data security, cyber security, anti-money laundering, capital reserve amounts, and financial consumer protection in the event of insolvency. These risks have been accurately documented elsewhere so I will not elaborate on them, instead I will present two approaches that work in other industries which could be applied.

Considering the high failure rate of new businesses, a tiered-risk approach could be implemented which would allow fintech businesses to experiment whilst controlling for risks to the market. Tiers could be determined by market share or total customers, so for example, a new business would not need to reserve large amounts of capital if their addressable market never grows beyond a few thousand. Once a threshold is crossed, new measures will be taken by the company to comply with stricter regulations. By taking a tiered-approach, you reduce the upfront incorporation cost to the regulator and company which may never take off.

Software companies create ‘sandboxes’ to experiment with minimal risk, a sandbox approach to banking could revolutionise the US banking sector and accelerate its growth by allowing new product to be tested without the need for stringent checks which would require innovation the way regulators gauge an applicant’s risk level. Through constant iterations, new companies can create innovative business models so this must be encouraged but only if the risks involved can be properly mitigated.

## **Conclusion**

Banking institutions have been protected from competition by fair, but now, convoluted state and federal regulations. The lack of competition has nurtured a market that can sustain inefficient and outdated infrastructure and business models. The opportunity to reduce barriers to entry will encourage investors and entrepreneurs to innovate which will reduce transaction costs, improve competition and create cost-effective, and perhaps simpler products for SMEs and consumers alike.

I have given you a new entrant’s view of this regulation so my views should be considered along with an incumbents for balance. This short response is a starting point, not a complete manifesto of how the OCC’s new proposal could be implemented and I would be happy to elaborate further through the appropriate forum.

<sup>1</sup>[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/382273/141202\\_API\\_Report\\_FINAL.PDF](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/382273/141202_API_Report_FINAL.PDF)

<sup>2</sup>[http://ec.europa.eu/finance/payments/framework/index\\_en.htm](http://ec.europa.eu/finance/payments/framework/index_en.htm)

Sincerely,

Juan Andrade

London, UK

<sup>1</sup>[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/382273/141202\\_API\\_Report\\_FINAL.PDF](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/382273/141202_API_Report_FINAL.PDF)

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