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January 17th, 2017

The Honorable Thomas J. Curry
Comptroller
Office of the Comptroller of the Currency
Attention: OCC Special Purpose Charter
400 7th Street SW
Washington D.C. 20219

RE: OCC Special Purpose Charter

Dear Comptroller Curry:

On behalf of Community Reinvestment Fund, USA, (CRF) we appreciate the opportunity to share our views on OCC's proposal to consider granting a special purpose bank charter to financial technology ("fintech") companies engaged in conducting fiduciary activities within the existing lending ecosystem, with a direct focus on their business models, the potential to expand access to credit for underserved market segments and how the regulatory framework should respond to protect small business borrowers.

## CRF Track Record

CRF is a national, non-profit Community Development Financial Institution (CDFI), and a leader in channeling resources from the capital markets to support community development financing activities. Our mission is to empower people to improve their lives and strengthen their communities through innovative financial solutions. Since 1988, CRF and its affiliates have delivered more than $2.2 billion in loans, investments and bonds ($1.8 billion in capital to small businesses, community facilities and affordable housing projects) located in more than 900 communities across the country. In partnership with over 200 local lending partners, we have funded more than 2,600 loans in 48 states and the District of Columbia. Working collaboratively with these local lending partners, CRF has helped to improve the lives of more than 1.7 million people annually in schools, health clinics, and community facilities, including financing over 19,000 affordable housing units and 1,600 small businesses, and creating or retaining 79,000 living wage jobs.

CRF has been an innovative participant in a wide range of federal programs. CRF and its affiliate, National New Markets Tax Credit Fund, Inc. (NNMTCF) have become one of the largest New Markets Tax Credit (NMTC) Allocatees in the country, receiving tax credit allocations in seven of the ten funding rounds totaling over $830 million and investing $52.5 million on behalf of other Allocatees, providing 393 NMTC loans to date. In 2013 CRF was selected as one of the first Qualified Issuers (QI) in the inaugural round of the CDFI Bond Guarantee Program. Since that time, CRF has issued four bond transactions on behalf of six CDFIs totaling $590 million.

With the contraction in bank lending to small businesses resulting from the Great Recession, CRF sought to address the tremendous need among underserved borrowers and firms located in distressed communities to access appropriate credit products. We obtained one of 14 national non-depository SBA 7(a) licenses to offer this government guaranteed loan product to borrowers unable to obtain conventional credit, typically small businesses located in low-income areas or those owned by women, people of color and/or veterans.

We wish to offer our comments on the questions included in the Request for Comment section of OCCs "Exploring Special Purpose National Bank Charters for Fintech Companies" whitepaper in the context of our role as a non-profit, CDFI active in small business lending, a non-depository SBA 7(a) Small Business Lending Company (SBLC) and most recently as an emerging technology platform company building the capacity of mission-based lenders across the country. We applaud the leadership the OCC has demonstrated in taking on the issue of bank charters for fintech firms and appreciate the opportunity to participate in this important public dialogue.

## Key Questions

1) What are the public policy benefits of approving fintech companies to operate under a national bank charter? What are the risks?

   Lenders operating in what is now commonly referred to as "fintech" come in all shapes and sizes, pursue wide-ranging business models and focus on solving a broad set of challenges. In order for the OCC to address and tailor the framework for the fintech chartering process, a thorough understanding of the fintech market is needed. Generally speaking, fintech can be broken into eight major categories:

   a. Lending tech
   b. Payments and billing
   c. Personal finance
   d. Money transfer and remittance
   e. Blockchain / digital currency
   f. Institutional / capital markets
   g. Crowdfunding
   h. Insurance

   As we lend directly to small businesses and build solutions for others doing the same, our comments will primarily center on organizations operating in Lending Tech. As we see it, the primary public policy benefits and risks of approving fintech companies to operate under a national bank charter can be described as follows:

   Benefits

   a. Exposes currently disparate groups to a structured and consistent regulatory framework: Many fintech organizations lending nationally leverage the concept of an "originating bank" to fulfill their loan requests. The fintech company leverages the services of the originating bank as a means of taking advantage of the originator's federal preemption, complying with state usury laws and, in a way, meeting the requirements of the existing regulatory framework (Reg B, 1071 of Dodd Frank, Know Your Customer, Truth in Lending etc.).
   Were OCC to offer a national charter directly to national fintech companies, this complex web of compliance, outsourcing, lack of understanding regarding who is actually lending (the fintech company or the originating bank) and who is ultimately responsible for the lending activity, would be much clearer and straight forward.
   b. Legitimizes sustainable business models and products offered/delegitimizes others: The national fintech lending organizations most active in the market today are innovative in their use of product development, technology, process design and improvement, 3rd party data and many have developed a laser sharp focus on customer experience. However, in order to fully reach the

mainstream, trust must be gained (and subsequently held) by the users of these new platforms and those that operate them.

OCC's consideration to grant a national fintech special purpose charter, coupled with fintech's desire to reach the mainstream and achieve scale, will place both users and operators of these companies firmly in the banking industry. This movement toward a more structured world will bring legitimacy to those offering proven and tested products while other more "fly by night" organizations unable to clearly articulate their business model, capital plan, governance structure, liquidity, compliance risk and efforts around financial inclusion will remain on the outside looking in.

c. Levels the playing field: Traditional lenders, especially those in the bank segment, often cite the ability of large fintech lenders to use non-traditional underwriting methods, unproven risk models, the ability to innovate quickly due to the largely unregulated nature of the small business lending market and a quick-turn, credit scored process as the methods many national fintech lenders use to capture new market share. While many of these new fintech lenders are, in fact, using innovative methods to grow their market share, they are largely filling a void left by the banking community after the great recession of 2007/2008. As a new regulatory environment emerged post great recession, banks found themselves in a situation where smaller loans (loans under $250k) were costing as much to originate as larger loans (loans over $250K).
d. Takes advantage of the innovation already occurring: Fintech lenders continue to bring a fresh perspective to the world of lending. As mentioned previously, they've brought with them technology know-how, process engineering and a culture of innovation not often seen in the lending sector. The meteoric rise of a select group of fintech lenders has forced any organization committed to lending and servicing the borrowers of the future to invest heavily in these same areas. As organizations continue to compete for impressions, recommendations, 5-star reviews, product flexibility, speed to decision and seamlessness of process, borrowers win.

   Without the OCC considering the national fintech charter, many of these innovations would likely never make it to the traditional lending landscape.
e. Encourages new market entrants: Of thefour largest tech companies in the US (Amazon, Facebook, Google, Apple), only one (Amazon) has experimented in a significant way in the lending industry. Perhaps this is due to the absence of a clear path toward starting a national lending operation. However, as OCC considers how best to proceed, a special purpose national bank charter may be precisely what entices tech companies with highly trusted brands to enter the lending industry, bringing with them the reputation of delivering high-quality products and services so many people have come to rely on them for.

## Risks

a. Falling behind ever-changing business model(s): Fintech business models evolve and change at a very rapid rate. Without proper protocols and controls in place, a nationally chartered fintech lender may, either intentionally or unintentionally, move into an area previously uncovered by their charter and regulator. In pushing closer to the fintech world, OCC must understand they expose themselves to a rapidly changing and fast-moving landscape, historically at odds with an inflexible, and some would say unnecessary, regulatory framework.
b. Legitimizing illegitimate business practices: Related to the ever changing business model, the business plan, governance structure, compliance risk and financial inclusion review portions of the chartering process must uncover and block all illegitimate and predatory lenders from ever gaining access to the national fintech charter.
c. Developing a chartering process that is too rigorous: Many fintech companies offering products and services most useful in today's financial services landscape (i.e. products and services accessible to, and designed for, individuals operating in low- to moderate-income communities) may review the proposed chartering process and decide they will forego the opportunity to take their programs national, but instead remain operating how and where they are. If this were the case, those

valuable products and services would remain localized and unavailable outside of the operator's local or established footprint.

2) What information should a special purpose national bank provide to the OCC to demonstrate its commitment to financial inclusion to individuals, businesses and communities? For instance, what new or alternative means (e.g., products, services) might a special purpose national bank establish in furtherance of its support for financial inclusion? How could an uninsured special purpose bank that uses innovative methods to develop or deliver financial products or services in a virtual or physical community demonstrate its commitment to financial inclusion?

As OCC considers the issuance of a special purpose national bank charter, it should, no doubt, consider how the recipient addresses, or plans to address, financial inclusion. The financial inclusion topic is likely unfamiliar and new to many of the firms potentially examining the OCC chartering process. In that regard, firms new and old would benefit from additional guidance on OCC's working definition of "financial inclusion," how firms will be scored against OCC's financial inclusion framework and what those firms should proactively focus on as they approach OCC for initial exploratory conversations.

OCC's additional guidance on financial inclusion should explore the firm's:

a. Past history and experience with underserved/underbanked populations
    i. How many loans were originated in low to moderate income (LMI) communities?
b. Borrower education programs currently offered
    i. Does the firm offer pre-loan education?
    ii. Does the firm advise the business post-loan?
    iii. If no to both of the above, does the firm foster partnerships with organizations that do provide pre- and post-loan financial education?
c. Fee structures across the lender's product suite
    i. Do any of the lender's fee structures disproportionately affect LMI borrowers or less credit worthy borrowers?
d. Ability to deliver core products and services via mobile
    i. As many LMI residents only access financial products and services on a mobile device, are the firm's offerings available on a mobile platform?

Even with a thorough understanding of these areas of a lender's performance and business plan, OCC must also grapple with the inherent conflict introduced by requiring firms, who have not historically offered high-touch financial inclusion as part of their core product offering, to begin understanding, addressing and solving for financial inclusion as part of the lending process. This will likely introduce an opportunity for nationally chartered fintech lenders to form new and innovative products addressing financial inclusion or partnering with CDFIs and others already well down this path.

3) Should the OCC seek a financial inclusion commitment from an uninsured special purpose national bank that would not engage in lending, and if so, how could such a bank demonstrate a commitment to financial inclusion?

OCC should seek a financial inclusion commitment from an uninsured special purpose national charter bank as a means of ensuring these special purpose entities are not allowed to simply serve a narrow slice of the prime market, earning significant revenue in the process, while leaving vast quantities of individuals, and the communities in which they live, on the sidelines. A recent concern raised in the fintech lending world surrounds the configurability of investor profiles on many of the marketplace platforms. Part of the new investor setup process encourages an investor to configure her ideal borrower profile, including the ability to define neighborhoods she wishes to lend to (and not lend to as the case may be). In the case where certain neighborhoods are avoided by the investor, she has just achieved what banks are no longer allowed to: "redlining" neighborhoods in their service areas and denying capital to those areas. OCC must address the challenges inherent in the mass collection of data as it relates to using that data to screen or reduce access to historically disadvantaged populations.

4) How could a special purpose national bank that is not engaged in providing banking services to the public support financial inclusion?

As practitioners in this area, one of the major areas we struggle with is finding and using reliable, meaningful and insightful data. We, and others like us, struggle to understand how fintech lenders view, approach, message and engage individuals located in our target markets (women, veterans, people of color located in or servicing low- to moderate-income communities). Similar to the portfolio data Lending Club publishes on their website, OCC should consider requiring fintech lending organizations to publish their (de-identified) data to a central repository OCC and other financial inclusion practitioners could leverage for research, gaining insight into operations and further product development purposes. The results of this research would lead to better, more accurately targeted financial inclusion initiatives, which, in turn, should contribute to greater numbers of the unbanked and underbanked gaining access to meaningful financial services products targeted at their needs, increasing the overall health of the financial system.

At CRF, we are well-versed in creating sophisticated technology tools that address key lending challenges. In doing so, we continually partner with organizations in the envisioning, building, testing and deploying of these solutions. As an example, CRF is updating its existing Connect2Capital (www.connect2capital.com) online small business lending platform to route loan requests we cannot service to other lenders in the community and mission-based lending ecosystem. While Connect2Capital is currently focused on loan requests, the future version will also addresses gaps in financial education. Should a borrower not find a well-suited financing match, we will make every effort to pair them with an advisory service offering they can leverage to grow their business acumen. The industry coins this as the "No, but…" approach to lending. Essentially, we are telling a borrower, "Unfortunately, we cannot service your request at this time, but here is a path for you to consider as you work to achieve success with your business." At a minimum, OCC should consider implementing a similar requirement for special purpose nationally chartered fintech lenders engaged in lending.

Whether leveraging a tool like Connect2Capital or not, a special purpose national bank should also consider looking to CDFIs and other mission-based lenders, as strategic partners to service and/or educate borrowers they are not able to, thereby building the capacity of that borrower to re-enter the financial system on stronger footing, and growing the special purpose bank's commitment to financial inclusion.

5) Should the OCC use its chartering authority as an opportunity to address the gaps in protections afforded individuals versus small business borrowers, and if so, how?

We believe the OCC is in a unique position to think differently than past regulatory bodies as it relates to loans to individuals versus loans to small business borrowers. Many of the protections afforded to individuals via the Fair Credit Report Act (FCRA) and the establishment of the Consumer Financial Protection Bureau (CFPB) do not, as of yet, extend to the individual's (very) small business. This lack of protection for the very small business has given way to the rising tide of the litany of unsecured term loan lenders and, more controversially, the Merchant Cash Advance industry.

We in the community development field see these challenges rising to the surface each day. Our industry is plagued by small businesses approaching our doors loaded with debt traps they didn't understand, on repayment terms that were unclear and many were allowed (some argue forced, some argue encouraged) to re-access these same predatory products over and over as a means of "achieving your business goals" and “reaching your dreams” – when in reality these businesses were required to re-access those products in order to avoid default and bankruptcy.

Our industry responded to these challenges by creating The Small Business Borrowers’ Bill of Rights (SBBBOR). OCC should consider how a nationally chartered special purpose bank’s products and services would address the key components of the SBBBOR, including:

a. Transparent pricing and terms
b. Non-abusive products
c. Responsible underwriting
d. Fair treatment from brokers
e. Inclusive credit access
f. Fair collection practices

Additionally, OCC should develop a measureable understanding of the degree to which a nationally chartered fintech lender leverages the principal owner(s) personal FICO score in the credit decision process. In our experience, traditional business loans often rely on a number of decision factors contributing to the overall credit decision, but principally, business performance and the related cash flow, is the primary factor in the business credit decision. When the credit decision scale for a business loan is tipped too far toward the personal factors of the principal (household debt, personal FICO score, spousal income, personal collateral, etc.), one could, and should, easily question whether the loan is a personal loan or a business loan.

6) How can the OCC enhance its coordination and communication with other regulators that have jurisdiction over a proposed special purpose national bank, its parent company, or its activities?

Again, OCC is a unique position to serve as a guide for bringing these organizations into the regulatory framework and shepherding them through the vast and far-reaching compliance framework that exists today and any new framework as OCC deems necessary. OCC should consider the development and maintenance of a regulatory “biz-grid” of sorts, which, at its core, could lay out the specific entities involved in forming the regulatory landscape, what they monitor, who the individual contacts are within each entity and how to get in touch with them. Once assembled, this vast array of information could then be used to chart the appropriate path forward for the special purpose national bank and the other regulators that will have jurisdiction over their proposed activities.

7) Certain risks may be increased in a special purpose national bank because of its concentration in a limited number of business activities. How can the OCC ensure that a special purpose national bank sufficiently mitigates these risks?

Borrowing a page out of the “too big to fail” handbook of Dodd Frank, OCC should consider how the combination of minimum lending activity levels, adequacy and enforcement of internal controls, depth of policy and procedure framework, portfolio concentration risks, adequate capital planning, stress testing, living will preparations, succession planning and other business model factors come together to form an appropriate risk mitigation strategy for a nationally chartered fintech lender. Further, although stressed in the OCC’s whitepaper, nationally chartered fintech lenders must understand that should their business models fail, capital and liquidity adequacy be deemed insufficient or a failure to execute on an appropriate exit strategy, OCC’s receivership protection will be an option.

In closing, we applaud OCC's work on responsible and proactive financial innovation, especially as it relates to the recent explosion of fintech and fintech-based lenders. We also are extremely pleased OCC is strongly considering a financial inclusion component to the chartering process, underscoring OCC's understanding and desire for a more inclusive economic system for all.

Thank you again for providing CRF with the opportunity to share our views regarding a nationally chartered special purpose bank and allowing us to highlight areas worth considering further.

Respectfully,

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Frank Altman
President and Chief Executive Officer

Nick Elders
Vice President - Technology Solutions and Services