

January 14, 2017

**VIA E-MAIL**

The Honorable Thomas Curry  
Comptroller of the Currency  
Office of the Comptroller of the Currency  
United States Department of the Treasury  
400 7<sup>th</sup> Street, S.W., Mail Stop 3E-218  
Washington, D.C. 20219

Dear Comptroller Curry:

This letter is submitted to the Office of the Comptroller of the Currency (“OCC”) on behalf of Marqeta, Inc. (“Marqeta”), in response to the OCC’s request for comments related to its consideration of granting special purpose national bank charters to financial technology (“fintech”) companies. This request for comments was included in the OCC’s Dec. 2, 2016 white paper entitled “Exploring Special Purpose National Bank Charters for Fintech Companies (“White Paper”).”<sup>1</sup> Marqeta appreciates the OCC’s careful consideration of this issue in recent months and is grateful for the opportunity to share our perspective.

Founded in 2010, Marqeta is a program manager and issuer processor of payment card products (credit, debit and prepaid cards). Marqeta presently has 77 employees working in our headquarters in Oakland, California, having added 27 employees in just the past year. Since our inception, Marqeta has re-engineered how payment cards, virtual cards, and mobile authorization products are developed and deployed. Our Marqeta Platform, built from the ground up with no legacy infrastructure, provides a fully documented, Open Application Program Interface issuer processor platform. In other words, Marqeta plays an innovative role as an intermediary between players in the payment system, facilitating and settling transactions among banks, cardholders, merchants and payment card networks.

As a cutting-edge fintech company, Marqeta has taken great interest in the OCC’s initiative to encourage responsible innovation by the fintech community. We share the OCC’s conclusion that fintech companies have the potential to deliver “products and services in a safer and more efficient manner” in a way “that is good for consumers, good for the federal banking system, and good for the country.”<sup>2</sup> Indeed, our business is devoted to the ideas of sharing, innovation, and financial empowerment, all of which appear to be core principles underlying this initiative.

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<sup>1</sup> See OCC, Exploring Special Purpose National Bank Charters for Fintech Companies, <https://www.occ.gov/topics/bank-operations/innovation/special-purpose-national-bank-charters-for-fintech.pdf> (Dec. 2016).

<sup>2</sup> Thomas Curry, Comptroller of the Currency, Remarks Regarding Special Purpose National Charters for Fintech Companies, Georgetown University Law Center, <https://www.occ.gov/news-issuances/speeches/2016/pub-speech-2016-152.pdf> (Dec. 2, 2016)



As Marqeta continues to grow as a leading provider of payment processing and program management services for a wide range of financial institutions, we will carefully review the standards that the OCC sets forth with respect to special purpose national bank charters for fintech companies. In the interim, we offer the following comments to the OCC in response to the White Paper and certain questions it posed.

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

We agree with the OCC that there are significant potential public policy benefits for approving fintech companies to operate under a national bank charter. As highlighted in various OCC publications, the explosion of fintech companies has coincided with the increasing expectation of consumers and businesses that they should be able to engage in financial transactions in real-time, whether in-person, on their computer, or utilizing a mobile device. Many fintech products – including those being developed by Marqeta – provide the ability for businesses and consumers alike to make financial transactions faster, more accurately, and in a more accessible manner than ever before. Inevitably, the improved performance and accessibility of financial products and services is yielding greater financial inclusion, especially among underserved populations that have traditionally been unable or unwilling to access traditional banking services and small businesses that may not be able to obtain affordable credit and banking services.

Like the OCC, we recognize the value of innovative fintech products to the federal banking system. An OCC charter for fintech companies that voluntarily seek it will likely be attractive because, as a general matter, it allows these growing businesses to focus on complying with a uniform set of prudential and consumer protection standards, rather than a patchwork of state and local laws and regulations.<sup>3</sup> We believe that the burden and associated complexity of complying with these state laws has deterred companies from expanding their innovations to the activities would subject them to those laws. In our experience, the preemption of state laws associated with OCC charters would be important for fintechs because it would allow them to primarily focus their compliance efforts on federal standards, in a safe and sound manner. An OCC national bank charter, if structured in a manner that continues to foster innovation and applied fairly to fintech companies, could allow some fintech companies to continue to grow faster and steadily innovate, even as they comply with rigorous federal standards.

**2. What elements should the OCC consider in establishing the capital and liquidity requirements for an uninsured special purpose national bank that limits the type of assets it holds?**

Marqeta is cognizant of the importance of capital and liquidity requirements for national banks subject to an OCC charter. As the OCC notes in the White Paper, these requirements allow federal financial regulators to evaluate the stability of a financial institution and its ability to access funds commensurate with its risk profile. They also assist the OCC in its mission of

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<sup>3</sup> As noted in the White Paper, federal preemption does not vitiate a company's obligations to comply with state statutes, rules, and precedents related to anti-discrimination, fair lending, debt collection, taxation, zoning, criminal laws and torts. We also understand that other state laws that only incidentally affect national banks' exercise of its federally authorized powers are not preempted.

ensuring the safety and soundness of the overall financial system. Similarly, we recognize the value of similar requirements for non-bank financial institutions imposed by many states via money transmitter laws.

As the OCC contemplates the establishment of capital and liquidity requirements for fintech companies chartered as special purpose national banks, we encourage the agency to be thoughtful in balancing the desire for continued innovation in the financial services sector with the prudential considerations underlying such requirements. We respectfully submit that fintech companies with limited assets that become chartered as special purpose national banks, in the vast majority of cases, may not present the systemic risk considerations that large national banks can present. If capital and liquidity requirements for a particular charter applicant are established at levels that will preclude additional investment in innovative financial products or services, without a concomitant safety and soundness rationale, we suspect that such an institution will be reticent to pursue a charter. Indeed, the imposition of such requirements – without balancing it against the limited safety and soundness considerations – itself presents a long-term risk to the financial system, i.e., that such inflexibility will serve as an impediment to the very innovation that the OCC is looking to embrace.

As the OCC looks for a guide on how best to achieve the proper balance, it may be well served to reference the requirements set forth by many states related to capital requirements for licensed money transmitters. Although these state requirements often prove challenging to money transmitter licensees, we observe that, on balance, many states have done a sound job establishing capital and liquidity requirements that do not unduly hamper innovation by licensed money transmitters.

- 3. 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?**
- 4. 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?**
- 5. How could a special purpose national bank that is not engaged in providing banking services to the public support financial inclusion?**

We understand that the OCC expects a special purpose national bank charter applicant to demonstrate a commitment to financial inclusion. We share this laudable goal and are encouraged that many fintech companies, like Marqeta, offer products and services that enable small businesses to closely manage their working capital and expenses, as well as promote financial inclusion by serving underbanked or unbanked populations. Many fintechs also increase fair access by utilizing technology that makes such products/services easier to use. Moreover, the new technologies fintech companies develop are often more efficient and allow these companies to offer products and services that are more affordable to consumers and small

businesses than those offered by traditional full-service banks. At the very least, the advent of fintech has increased competition in the marketplace and compelled incumbents to improve their interaction with consumers and small businesses, generally, which also inevitably supports financial inclusion.

Insured financial institutions generally must comply with the Community Reinvestment Act (“CRA”), 12 U.S.C. § 2901-2908, to ensure that they are meeting the financial needs of low and moderate-income neighborhoods. This law is important in assessing how consumer and business lending and other types of community investments benefit such populations. At the same time, banks’ compliance with the CRA, including conducting the analysis associated with it, is often both costly and human resource-intensive. We are concerned that imposing CRA-like requirements on fintech companies would prove to be a strain on the resources of a company with a limited charter. We suggest that, in assessing the applicability of the CRA or CRA-like requirements on special purpose national banks, the OCC should carefully evaluate how the fintech in question may already be addressing CRA-type concerns with their innovation, and to encourage these fintechs to present business plans that outline additional commitments and innovation serving at-need populations.

Additionally, due to the e-commerce-centric nature of most fintechs products and services (as compared to brick-and-mortar locations of traditional banks), the OCC may need to develop new ways to define the communities that would potentially be served. Without the OCC’s innovative thinking as to how and whether to apply the CRA to special purpose national banks, we are concerned that fintech companies (even those that are beneficent and committed to serving underserved populations) may be dissuaded from seeking out a charter in the first place, out of concern that complying with the CRA will be overly burdensome.

**7. What are potential challenges in executing or adapting a fintech business model to meet regulatory expectations, and what specific conditions governing the activities of special purpose national banks should the OCC consider?**

As a fast-growing fintech company, Marqeta believes that potential challenges exist in adapting business models like ours to the traditional standards governing the activities of special purpose national banks. In our experience, fintech companies like ours have been successful because they are able to move quickly in developing and refining product and service offerings for business and individual customers, including underserved markets.

As noted in the White Paper, OCC expects that chartered national banks’ business plans should cover a minimum of three years and provide a full description of proposed actions to accomplish the proposed bank’s primary functions. Although we acknowledge that careful and thoughtful strategic planning is a hallmark of a stable and successful financial institution, we observe that the three-to-five year window that the OCC typically expects with respect to business planning may not be appropriate or even particularly useful for all potential charter applicants in the fast-moving fintech arena. In particular, we understand that, at present, after the OCC approves a business plan of a newly chartered institution, the process for varying from that business plan can be lengthy and difficult. As such, we are concerned that the rigidity with which the OCC typically views variance from the submitted business plan could significantly hamper innovation and stand in the way of necessary shifts due to fast-changing technology. As such, we believe that the OCC needs to develop a different way of assessing the business plans

of fintechs, while continuing to emphasize the stability that is commensurate with a national bank.

We also observe that, with respect to evaluating the expertise of a fintech company's proposed management and Board, the OCC should take care to assess that the company leadership will most likely differ from the leadership of traditional banks. In many cases, fintech company' management teams and Boards are populated not only by experienced financial services executives and experts, but also by individuals with significant backgrounds in technology, engineering, science, and other disciplines. The diverse skills and experience of these non-financial leaders are often the "secret sauce" of a fintech company and are its key source of innovation. The OCC should account for these differences in its evaluation of a firm's expertise when considering its charter application.

We also have several concerns regarding whether the potential application of the Bank Holding Company Act ("BHCA) to fintech companies interested in a special purpose national bank charter could dissuade such companies from applying for the charter. As noted in the White Paper, the OCC believes that, if a fintech company has or plans to have a holding company that would be the sole or controlling owner of the bank, the BHCA could apply.<sup>4</sup> We encourage the OCC to consider the viability of exempting fintech companies from BHCA requirements in cases in which such companies are engaging in limited activities that do not involve the full spectrum of banking.

**12. 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?**

We recognize the OCC's concerns regarding whether certain risks may be increased in a special purpose national bank by virtue of the fact that its business is concentrated in a limited number of activities. At the same time, it is our observation that fintech companies specializing in a limited number of activities generally do not pose serious risks to the safety and soundness of the financial system, precisely because of their limited activities and smaller size at the time of applying for their charter. Accordingly, we posit that the OCC should consider that, in most cases, a fintech company that is offering a limited set of products that are not crucial to either specific consumer populations or the larger economy, and that pairs such offerings with a business plan that articulates an orderly process for winding down the company's operations based on specific triggers, should be considered significantly less risky than a traditional chartered bank.

**13. What additional information, materials, and technical assistance from the OCC would a prospective fintech applicant find useful in the application process?**

Marqeta looks forward to learning more from the OCC about its standards for approving special purpose national bank charters for fintech companies, which we hope are informed by the comments received from those companies that may consider applying for such a charter. We offer for the OCC's consideration a suggestion that it should establish a telephone hotline that potential applicants and newly chartered banks can utilize to receive clarification about the

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<sup>4</sup> White Paper at 7.

OCC's expectations for chartered institutions as well as potential responsibilities and ramifications of the application of the BHCA to special purpose national banks. We have found similar hotlines offered by other regulators – both at the federal and state levels – to be helpful in ensuring supervisory and regulatory compliance. We believe such a hotline would provide similar benefits to companies interacting with the OCC's chartering system for first time.

We also suggest that, in advance of commencing acceptance of special purpose national charters applications by fintech companies, the OCC should publish a template of such application, as well as sample business plans showing the specific detail that the OCC typically expects. Most fintech companies have had minimal exposure to the OCC charter application process and would benefit from viewing these templates as they decide whether or not to apply and what content to include in such application. In particular, we would encourage the template application to very clearly articulate the OCC's expectations for achieving financial inclusion under the Community Reinvestment Act or other standard.

Finally, the costs associated with obtaining and maintaining a charter are very difficult to estimate for fintechs. To the extent possible, the OCC should consider quantifying the costs that the OCC expects fintechs to incur in pursuing a special purpose national bank charter, as well as the amount of time the fintechs can expect to be engaging with qualified counsel to assist them during the process. This information, even in broad terms, would be crucial for many companies in considering whether to begin the process of becoming a special purpose national bank.

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We thank the OCC for its detailed review of the fintech marketplace and its deep analysis regarding what constitutes responsible innovation. As Marqeta continues to grow and to introduce more innovation into the payments arena, we will certainly aim to do so in a responsible manner. We appreciate the opportunity to comment on the White Paper and look forward to continuing this conversation with the OCC as it devises standards for fintech companies to apply for special purpose national bank charters. Please do not hesitate to contact me should you have further questions about this response or would like further feedback.

Sincerely,

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Jason Gardner  
Founder and Chief Executive Officer  
Marqeta, Inc.