



January 13, 2017

Office of the Comptroller of the Currency
400 7th St. SW, Suite 3E-218
Washington, DC 20219

RE: Comments on White Paper – Exploring Special Purpose National Bank Charters for Fintech Companies

To Whom it May Concern:

The National Community Reinvestment Coalition (NCRC) would consider supporting the Office of the Comptroller of the Currency’s (OCC) proposal to charter financial technology companies (fintech) only if the OCC does not preempt strong state law and establishes vigorous supervision and regulation for the newly chartered institutions. The new charter authority for fintechs has the potential to benefit consumers and communities only if accompanied by rigorous Community Reinvestment Act (CRA)-like obligations in addition to supervision and examination of the fintechs’ compliance with fair lending and consumer protection laws. The application process for charters must be rigorous and transparent with sufficient opportunities for the public to review and comment on fintech charter applications. Safety and soundness reviews must also be stringent.

NCRC has serious concerns with charters for fintechs and urges the OCC to take utmost care in implementing vigorous oversight of any fintechs with national charters. A recent American Banker article raises the possibility of payday lenders and other unscrupulous actors applying for fintech charters. The OCC must ensure that the fintech charter does not become an avenue for abusive lenders to enjoy the benefits and escape the responsibilities of a national charter.¹

NCRC appreciates that the OCC contemplates rigorous regulation of fintechs. The OCC states in its recent white paper, “Exploring Special Purpose National Bank Charters for Fintech Companies,” that “if the OCC decides to grant a charter to a particular fintech company, the institution would be held to the same rigorous standards of safety and soundness, fair access, and fair treatment of customers that apply to all national banks and federal savings associations.”² This comment letter responds to questions in the OCC white paper and provides additional suggestions for comprehensive regulation of fintechs.

NCRC is an association of more than 600 community-based organizations that promote access to basic banking services including credit and savings, to create and sustain affordable housing, job

¹ Lalita Clozel, *Will OCC’s New Charter Go Beyond Fintech Firms?*, American Banker, January 4, 2017.

² Office of the Comptroller of the Currency, (OCC), Exploring Special Purpose National Bank Charters for Fintech Companies, page 2, <https://www.occ.gov/topics/bank-operations/innovation/special-purpose-national-bank-charters-for-fintech.pdf>



development, and vibrant communities for America's working families. Our members include community reinvestment organizations, community development corporations, local and state government agencies, faith-based institutions, community organizing and civil rights groups, minority- and women-owned business associations, and social service providers from across the nation.

The risks to the lending marketplace include instability, exploitation of consumers due to predatory lenders, recession, and consumer wealth loss if the OCC does not carefully exercise its chartering authority (per Question 1 of the OCC white paper). In the years preceding the financial crisis, NCRC witnessed first-hand how uneven regulation was a major contributor to the crisis as subprime independent mortgage companies originated large volumes of abusive and fraudulent loans financed by Wall Street investment banks outside the purview of regular oversight. The OCC must diverge from the regulatory approach of "benign neglect" that welcomed the relatively new and large scale subprime lenders in the early to mid-2000s. In this case, the new upstarts are fintechs that trumpet the benefits of technology. But technology will be beneficial only if the OCC implements rigorous oversight of fintechs.

If executed properly, the OCC chartering authority for fintechs can promote financial inclusion and expand access to responsible credit for traditionally underserved populations (see Question 1 of white paper). The years preceding the financial crisis offered a controlled experiment of sorts demonstrating the benefits of regulation. Banks covered by CRA issued responsible loans; Federal Reserve research documented that only six percent of bank loans considered on CRA exams were high-cost and that bank loans were about half as likely to default as those issued by non-CRA-covered independent mortgage companies.³ This recent history teaches us that there must be a uniform regulatory regime covering all financial institutions, including and especially fintechs seeking an OCC charter.

The OCC must proceed with extreme care in instituting a fintech charter and receivership authority. Currently, there are about 52 uninsured trust banks that are supervised by the OCC. These trust banks have limited and predictable activities such as overseeing investments of wealthy individuals. Most of them do not pose liquidity and credit risk. In contrast, several of the new fintech companies present much different risk profiles. They are far flung lending operations using a financing approach, underwriting techniques, and marketing campaigns that are new and have not been tested during periods of recession and economic distress. Fintechs cannot be regulated like a limited purpose trust bank. Instead, the supervision and the application of laws to

³ Elizabeth Laderman and Carolina Reid, Federal Reserve Bank of San Francisco, "CRA Lending during the Subprime Meltdown in Revisiting the CRA: Perspectives on the Future of the Community Reinvestment Act," a Joint Publication of the Federal Reserve Banks of Boston and San Francisco, February 2009, http://www.frbsf.org/publications/community/cra/cra_lending_during_subprime_meltdown.pdf. Also, see Governor Elizabeth A. Duke, at the Revisiting the CRA Policy Discussion, Washington, D.C., February 24, 2009 *CRA: A Framework for the Future*, <http://www.federalreserve.gov/newsevents/speech/duke20090224a.htm>



fintechs must be the same or very similar to those used for the most sophisticated and riskiest of the large banks.

If the OCC adopts a vigorous chartering and oversight regime, it will not need to use its receivership authority very often. On the other hand, if the OCC takes a hands-off approach, it may find itself invoking receivership authority too often, to the detriment of itself as a regulator, to consumers, and to the economy as a whole. Any new framework that the OCC contemplates for fintechs must have a rigorous oversight regime as its central component. The components of a framework for fintechs must include rigorous CRA-like obligations, fair lending reviews coordinated with the CFPB, consumer compliance reviews, and safety and soundness reviews. If the OCC implements a comprehensive framework for overseeing fintechs, the agency will uphold its mission of ensuring that “national banks and federal savings associations operate in a safe and sound manner, provide fair access to financial services, treat customers fairly, and comply with applicable laws and regulations.”⁴ (per Question 8 of white paper on safe and sound operation)

CRA-like Obligations

NCRC appreciates that the OCC is contemplating CRA-like obligations for fintechs in the chartering process. In a recent Bloomberg article an OCC spokesperson is quoted as saying, “The OCC has the ability to condition approvals (of nonbank charters) to require compliance and activities consistent with laws like the CRA.”⁵ NCRC agrees with the OCC and believes that the National Banking Act (NBA) provides the OCC with authority to implement CRA-like obligations for non-depository fintech companies. The NBA describes the procedure for chartering new banks and financial institutions, including the criteria to which the proposed charter must adhere.

The implementing regulations of the NBA, 12 CFR § 5.20, describe a number of community reinvestment and fair access considerations and requirements. In a subsection called “requirements,” the OCC states that it will assess if a need exists for the proposed institution in the community to be served and “whether there is a reasonable probability” of the institution’s “usefulness.” Whether a company is useful could be judged in part on the extent to which it will serve community credit needs. Another subsection (f) of § 5.20 called “policy” makes the reference to serving the community rather explicit. It states that a chartering consideration is whether the proposed institution will provide “fair access to financial services by helping to meet the credit needs of its entire community,” and whether the institution would promote “fair treatment of customers.”⁶

⁴ OCC webpage, see <https://www.occ.gov/about/what-we-do/mission/index-about.html>

⁵ <http://www.bna.com/fintech-federal-charter-n57982077698/>

⁶ See 12 CFR § 5.20 available via <https://www.law.cornell.edu/cfr/text/12/5.20>



The institution seeking a charter must also propose a business plan that indicates the “organizing group’s knowledge of and plans for serving the community. The organizing group shall evaluate the banking needs of the community, including its consumer, business, and nonprofit, and government sectors.” Moreover, the plan must demonstrate how the institution will respond to the needs consistent with safety and soundness. Finally, the institution must indicate how it will attract and maintain community support.⁷

Application Process for Fintech Charters

The NBA and its implementing regulations provide a framework enabling the OCC to establish comprehensive CRA-like obligations for fintechs. During the OCC’s consideration of an application for a fintech charter, the OCC must allow for the customary public comment period during which members of the public can critically evaluate the proposed institution’s business plan for meeting community credit needs and ensuring fair access to credit. As part of the business plan, NCRC proposes that the OCC must require a financial inclusion plan with measurable goals and timelines for meeting needs and achieving community benefits (per Question 3 and 4 of white paper).

According to OCC materials for applicants, a business plan is a “written summary of how the business will organize its resources to meet its goals and how the institution will measure progress.”⁸ The business plan is typically a plan for three years. The business plan must describe the institution’s product strategy, the intended market or demographic groups the institution is interested in serving, the institution’s marketing and outreach approach, and how the institution’s economic forecast for the next three years influences its product and marketing strategy.

As a part of a business plan, a financial inclusion plan would promote the OCC’s objectives as stated in the white paper of meeting community needs.⁹ A financial inclusion plan would establish measurable goals for serving minority and low- and moderate-income borrowers and communities. A fintech would establish measurable goals for reaching underserved populations in the context its economic forecasts and product and marketing strategies as described in its business plan. Templates for creating measurable goals can include NCRC’s recent public benefits agreements with Keybank, Huntington, and Fifth Third.¹⁰ In these agreements, the banks committed to making increasing numbers of loans to low- and moderate-income and minority populations in future years. The banks also committed to equaling and exceeding the percentage of loans made by their competitors to low- and moderate-income (LMI) and minority borrowers and communities (per Question 3 of the OCC’s white paper). These commitments were based negotiations with community organizations and the banks’ own assessments of economic

⁷ 12 CFR § 5.20 (h) Business plan or Operating plan

⁸ OCC, Business Plan Guidelines, p. 1, see <http://www.occ.gov/static/licensing/form-business-plan-v1.doc>

⁹ OCC, *Exploring Special Purpose National Bank Charters for Fintech Companies*, page 12.

¹⁰ See summaries of these agreements on

http://www.ncrc.org/index.php?option=com_k2&view=item&layout=item&id=1157&Itemid=272



conditions and their competitive position. Finally, comparisons using Census data can also benchmark the percent of a fintech's loans to LMI borrowers to the percent of households that are LMI as CRA exams do.

Publicly available data and the fintechs' internal data would be used to develop measurable lending goals. Fintechs that make home loans and are reporters under the Home Mortgage Disclosure Act (HMDA) would use HMDA data to develop measurable goals. In contrast, fintechs that make consumer loans or small business loans do not publicly report data but they could develop measurable goals such as the percent of consumer loans to LMI borrowers using their own data on consumer lending (some CRA exams of large volume consumer lenders report data provided by the banks' internal data). The goals could be compared against benchmarks from Census data such as the percent of households in metropolitan areas or states that are low- and moderate-income (as occurs in CRA exams). In addition, Dun and Bradstreet has data on small businesses by income category of census tract, facilitating comparisons of percent of lender loans to low- and moderate-income tracts compared to the percent of small businesses in low- and moderate-income tracts.¹¹

Another important element in lending goals is provisions ensuring responsible and sustainable lending. Since several fintechs are high cost lenders, their lending can become abusive if they are not monitored carefully. Responsible loans with well-defined features must only count in any lending goals. For home lending, only Qualified Mortgage (QM) loans should count. Likewise, small business and consumer loans counting in pledges should have safety and soundness features such as debt-to-income ratios that do not exceed a certain threshold. A residual income analysis could also be applied to identify loans that are sustainable in that borrowers can comfortably afford basic necessities when repaying the loans. In other words, strenuous ability-to-repay requirements must apply to any type of lending in fintech financial inclusion plans.

If the OCC has determined that a fintech offers responsible consumer loans that can serve as alternatives to payday loans, then financial inclusion plans can include performance context analysis to target these consumer loans to areas of high need. The OCC, in these cases, should carefully consider the comments of community groups regarding the affordability of and quality of consumer protection in the fintech consumer lending. The performance context analysis can use tables such as those developed by the FDIC survey of unbanked and underbanked that determine the percent of consumers using alternative financial services like payday lenders.¹² When a fintech has targeted metropolitan areas with particularly high percentages of use of

¹¹ The FFIEC uses Dun and Bradstreet data, see endnote 5 of *Reports - Findings from Analysis of Nationwide Summary Statistics for 2015 Community Reinvestment Act Data Fact Sheet* (August 2016), https://www.ffiec.gov/hmcrpr/cra_fs16.htm

¹² See Appendix Table D10, page 101 of the most recent FDIC Survey of Unbanked and Underbanked Households, via <https://www.fdic.gov/householdsurvey/2015/2015appendix.pdf>



alternative financial services and has also established partnerships with community groups, then this element of financial inclusion plans could be considered favorably by the OCC.

Additional models for financial inclusion plans are the OCC's own conditional merger approvals requiring CRA plans in the cases of Valley National Bank and Sterling Bank. These conditional merger approvals required marketing and outreach efforts which insured that low- and moderate-income consumers and communities were served in a fair and non-discriminatory manner. The CRA plans must also include annual goals and timetables and annual reporting to the OCC. The banks were required to also seek public input when developing their CRA plans. Finally, the CRA strategic plan option can also be applied and adapted to fintech charter application requirements since it has a number of elements in common with CRA plans submitted in conjunction with merger application.¹³

Financial inclusion plans must apply to a wide range of fintechs including those that offer loans but also to those that provide basic banking services, payment-related services, and financial planning and wealth management services (per Question 5 of white paper). Similar to measurable goals for lending, goals for payment-services can include the number and percent of payment-services that are used by low- and moderate-income and minority customers. Likewise, if a fintech is offering wealth management, a measurable goal can be the number and percent of mutual funds or similar investment vehicles managed on behalf of low- and moderate-income and minority customers.

Fintechs should be expected to offer community development loans and investments commensurate with their capacity. Goals can be established for community development financing as a percent of Tier 1 capital per the OCC's performance metric in CRA exams or as a percent of assets. Goals for community development services could include numbers of housing or small business counseling sessions and how many of the clients were lower income and minority. Outcomes could also be measured such as how many loans the clients received or whether their budgeting skills improved (per Questions 3 and 5 of white paper).

A procedure resembling CRA assessment area designations for fintechs must be developed carefully. When a fintech applies for a charter, it must include a discussion in its financial inclusion plan how it will serve geographical areas in which it makes substantial amounts of loans or engages in significant levels of other activities, which would answer OCC's questions in its white paper regarding relevant markets.¹⁴

Since most fintechs do not have deposit-taking branches, the existing CRA assessment area procedures for banks based on distribution of branches and ATMs cannot be readily applied. An

¹³ See the CRA regulation, <https://www.ffiec.gov/cra/regulation.htm>, §25.27 on the strategic plan.

¹⁴ See pages 12 and 13 of the OCC, *Exploring Special Purpose National Bank Charters for Fintech Companies*, specifically the bullet point questions, via <https://www.occ.gov/topics/bank-operations/innovation/special-purpose-national-bank-charters-for-fintech.pdf>



approach promoted by NCRC and our members over the years has been to designate assessment areas in geographical areas in which an institution has a market share of more than one half of one percent of the loans issued in the locality.¹⁵ While this may seem like small market share, it usually amounts to at least a few hundred loans, which is commensurate with loan volume in local markets of regional and national-level banks. Certainly, assessment areas in a fintech application for a charter should constitute areas where any concentration of a fintech's loans occurs. In addition, fintechs should work with community groups to target rural and other underserved areas and develop meaningful goals for these areas. If there are cases in which fintech lending is dispersed across the country and lending in geographical areas do not exceed a certain threshold, the CRA procedure applied to military banks could be applied. This procedure considers the military bank's customer base as constituting the assessment area, meaning that a national-level analysis of lending is applied.¹⁶

Community Input and Continuing Supervision

An integral element of financial inclusion plans must be public input. Financial inclusion plans must have a section that describes a fintech's efforts to engage the community during plan formation and execution. The section should describe outreach of the fintech in soliciting input from community organizations on the development of plan goals and on the draft plans. After the OCC has approved a charter application, the fintech must also describe how it will consult with community groups in executing its financial inclusion plan, particularly how to assure goal attainment and also address shortfalls in goal attainment. The financial inclusion plans' community engagement section must not be vague but describe specific mechanisms for community group input including but not limited to advisory councils. These community engagement processes will likely help the fintechs achieve their goals and should also facilitate OCC supervision since fintechs with robust community engagement are less likely to miss their goals. In particular, consultation with community groups will improve outreach and marketing because community groups often have insights into how to reach underserved populations and neighborhoods that lenders lack.

The chartering process must also include regular follow-up examinations to determine if fintechs are adhering to their business plans, which must also be updated in regular intervals. The CRA examination cycle involving ratings every two or three years will not directly apply to fintechs. However, the OCC has the discretionary authority in establishing operating agreements with de novo institutions to maintain conditions for approval of applications indefinitely.¹⁷ In other

¹⁵ The market share would be based on the major line of business of the fintech, which could be home, small business, or consumer lending.

¹⁶ See §25.41 Assessment area delineation of the CRA regulation available via <http://www.ffiec.gov/cra/regulation.htm>

¹⁷ Comptroller's Licensing Manual: Charters, September 2016. The OCC assesses compliance with the operating agreements during its supervisory process, p. 57. The OCC also has the discretion to maintain or remove the



words, the OCC can condition approval of a fintech charter application on the establishment of a three year business plan which includes a financial inclusion plan. Then, after the initial three year time period has expired, the OCC can require a new three year business plan accompanied by a financial inclusion plan. This cycle can continue indefinitely. During this cycle, the OCC and the fintech must formally solicit public input into the draft business and financial inclusion plans and then at the end of the plans' terms, invite public comment on the extent to which the fintech met or exceeded the goals in the plans.

If the fintech does not achieve the goals described in its business and financial inclusion plans, the OCC has authority under 12 U.S. Code § 1818 to implement an escalating series of sanctions, depending on the severity of noncompliance.¹⁸ The OCC can require the fintech to develop a remediation plan, subject to public input and agency approval. NCRC's proposed remediation plan would require a fintech to describe how it will meet the goals in its financial inclusion plan and how it will ensure that it will not fail to meet goals in future plans. The OCC could also restrict the growth of the fintech or impose civil monetary penalties. In the instance of repeated noncompliance with financial inclusion plans and violations of consumer protection laws, the OCC can revoke the national charter.

An additional opportunity for enforcement occurs when fintechs seek to acquire other institutions or be acquired. As part of these merger application proceedings, the OCC must review the fintech's compliance with its financial inclusion plan and seek public comments. Noncompliance with the financial inclusion plan must either result in a conditional merger approval or a denial of the merger, depending on the extent of the noncompliance.

Allowing fintechs to obtain OCC charters without requiring comprehensive CRA-like obligations accompanied by OCC enforcement authority, when necessary, would be unfair to both communities and traditional banks. That would be an abdication by OCC of its responsibilities to ensure that fintechs would be useful to communities and would help to achieve fair access to credit. Without requiring CRA-like obligations as a condition of a fintech charter, unmet needs indicated by high numbers of underbanked and unbanked consumers relying on payday and other high-cost, small dollar loans would likely remain. In addition, the fintechs would be less likely to adhere to their fair lending and consumer compliance obligations unless the OCC institutes regular CRA-like reviews that are accompanied by fair lending and consumer compliance reviews.

condition it imposed when granting the charter after the expiration of the initial term of the operating agreement, p. 49.

¹⁸ See 12 U.S. Code § 1818 via <https://www.law.cornell.edu/uscode/text/12/1818>. In particular see subsection (b)(6) Affirmative Action to Correct Conditions Resulting from Violations or Practices. These actions can include restricting the growth of the institution or taking such other actions as the banking agency deems appropriate.



Fair Lending and Consumer Compliance Reviews

Fintechs pose significant fair lending concerns by the very nature of their business operations. They have developed unorthodox underwriting approaches using automation and algorithms that are often opaque. These algorithms pose possible disparate impacts if they implement seemingly objective criteria that nevertheless result in disproportionately rejecting applications of credit for minorities, women, or other protected classes. The OCC and the Consumer Financial Protection Bureau (CFPB) must coordinate on fair lending reviews and clearly and publicly discuss any novel issues and how they investigated such issues (per Question 7 of white paper).

It would be our preference that one agency, the CFPB, conduct all fair lending and consumer compliance reviews so that these reviews would be consistently rigorous. The CFPB should designate any non-depository fintech significant enough to warrant a national bank charter as a larger participant subject to CFPB supervision. In the absence of such a designation, unless the fintech operates in a market the CFPB already supervises, the OCC will have sole responsibility for fair lending and consumer compliance examinations. In this case, the OCC should share with the CFPB the fair lending review methodology and results for any fintechs they examine (per Question 11 of white paper). In this manner, both agencies can develop a common approach to fair lending oversight of fintechs.

Consumer compliance reviews must also be comprehensive. Recently, several agencies, including the OCC, finalized a rule regarding reforms to the consumer compliance rating system. The ratings could then be key for considering applications by non-banks (including fintech companies) for OCC charters. Only fintech companies and other non-bank entities with the highest rating (a proposed “1”) should be allowed to acquire a national charter from the OCC.¹⁹

In addition, the OCC must insist, as a condition of any charter, either adherence to state usury caps or the 36 percent rate cap, the same rate employed by the federal Military Lending Act. The OCC must also require strong protections for consumer and small business borrowers. The OCC states in its white paper that “where a law does not apply directly, the OCC may, nevertheless, work with a fintech company to achieve the goals of a particular statute or regulation through the OCC’s authority to impose conditions on its approval of a charter.”²⁰ It would seem that the OCC could use its authority to mandate adherence to usury caps as well as protections for consumer and small business borrowers (per Question 6 of white paper). State usury caps are designed to prohibit unfair or deceptive treatment; laws that protect against unfair treatment apply to nationally chartered banks as the OCC affirms in its white paper.²¹

¹⁹ Some non-bank entities such as mortgage companies or fintechs that issue home loans are regulated and would receive consumer compliance ratings.

²⁰ See page 2 of OCC, *Exploring Special Purpose National Bank Charters for Fintech Companies*.

²¹ See page 5 of OCC, *Exploring Special Purpose National Bank Charters for Fintech Companies*.



The OCC should pay particular attention to protection for small business borrowers since several fintechs specialize in small business lending while the protections for small businesses tend to be under-developed relative to the protections for consumers. In this context, the OCC must require “all-in” Annual Percentage Rate (APR) disclosures for small business borrowers as well as borrowers of consumer loans. “All-in” disclosures include all fees in the APR.

After a fintech has acquired an OCC charter, subsequent compliance reviews must ensure that the fintechs provide clear disclosures regarding loan terms and conditions. As detailed in comments on the OCC “Responsible Innovation” white paper from several community organizations, consumer and small business borrower satisfaction with fintechs is currently low because of opaque and unclear disclosure of loan terms and conditions and high costs. Accion Chicago, a Community Development Financial Institution in Chicago, reports that 20 percent of its customers are seeking relief from problematic loans, many of which were made by fintechs. Likewise, Opportunity Fund (based in California) found that a large sample of loans from fintech lenders featured high Annual Percentage Rates (APR) and unaffordable monthly payments.²²

Another essential element of consumer compliance reviews is the use of forced arbitration clauses and class action waivers in customer and employee contracts. The Wells Fargo scandal exposed that Wells required forced arbitration of disputes without recourse to a court, even for cases regarding the two million fraudulent accounts that Wells employees opened without customer authorization to meet sales quotas. The CFPB has proposed prohibitions against waivers of class action recourse. Once finalized, the CFPB and the OCC should enforce this rule to protect borrowers from unfair and capricious denial of their right to a court trial.²³

The OCC must also take care to ensure that fintechs involved in financial advice and retirement-related investments strictly adhere to the fiduciary rule recently promulgated by the Department of Labor (DOL).²⁴ Any fintechs chartered by the OCC must facilitate wealth building, not equity stripping. Central to wealth building is prudential safeguards ensuring that financial advisors are acting in the interests of consumers instead of their own. Finally, related to protections against equity stripping is strict oversight of payment processors that could apply for fintech charters. The OCC needs to consult the CFPB and other agencies that have developed guidance for consumer protections related to payment systems to ensure that these systems allow the consumer to control the terms of their payment, fees are transparent, consumer privacy is protected, and safeguards are implemented against fraud and identity theft.²⁵

²² Eric Weaver, Gwendy Donaker Brown, Caitlin McShane, “Unaffordable and Unsustainable: the New Business Lending on Main Street,” Opportunity Fund, May 2016

²³ Letter from Minnesota Attorney General to Wells Fargo CEO, http://kstp.com/kstpImages/repository/cs/files/1917_001.pdf

²⁴ Department of Labor fact sheet on fiduciary standard rule, see <https://www.dol.gov/agencies/ebsa/about-ebsa/our-activities/resource-center/fact-sheets/dol-final-rule-to-address-conflicts-of-interest>

²⁵ CFPB, *Consumer Protection Principles – CFPB’s Vision of Consumer Protection in New Faster Payment Systems*, July 2015, http://files.consumerfinance.gov/f/201507_cfpb_consumer-protection-principles.pdf



Preemption

In many instances, state law provides additional protections against unfair and deceptive lending practices. State law provides the only privately-enforceable protections against unfair and deceptive lending practices. Advocates in Illinois and elsewhere are promoting legislation and regulation that would require fintechs making loans to small businesses to adhere to an ability-to-repay standard. It would be counterproductive and harmful if the OCC were to establish a charter for fintech that preempts current and new state consumer protection laws and parallel protections for small businesses. The OCC must establish any fintech charter and framework for fintechs as a floor, not a ceiling, for fair lending and consumer protection rules, including state interest-rate caps.

Conclusion

The OCC proposal to establish chartering and receivership authority for fintechs is unworkable and incomplete unless the OCC refrains from preempting state law and mandates comprehensive CRA-like requirements and vigorous fair lending and consumer compliance reviews. Establishing a comprehensive examination regime for CRA-like, fair lending, and consumer compliance reviews would also help ensure that any new charters operate in a responsible, safe, and sound manner, and thereby minimize the need to liquidate OCC-chartered financial institutions.

Thank you for the opportunity to comment. This comment is being submitted on behalf of NCRC and the undersigned organizations. If you have any questions, please contact myself or Josh Silver, Senior Advisor, on 202-628-8866.

Sincerely,

//S//

John Taylor
President and CEO

Undersigned Organizations

Affordable Homeownership Foundation Inc., FL

ANHD, NY

Another Chance of Ohio



Baltimore Neighborhoods, Inc.
California Reinvestment Coalition
CASA of Oregon
Center for NYC Neighborhoods
Chicago Rehab Network
Chicago Urban League
City of Dayton Human Relations Council, OH
Clarifi, PA
Community Service Network Inc., MA
Consumer Action, DC
Empire Justice Center, NY
ESOP, OH
Fair Housing Center of Metropolitan Detroit
Genesis Housing Development Corporation, IL
Global Network Community Development Corp, IL
Good Neighbor Foundation, TN
Hamilton County Community Reinvestment Group, OH
Harlingen CDC, TX
Housing Research and Advocacy Center, OH
IMPACCT Brooklyn
J-RAB Inc., OH
Long Island Housing Services, Inc., NY
Manna, Inc.
Metropolitan Milwaukee Fair Housing Council
Metropolitan St. Louis Equal Housing and Opportunity Council



Michigan Community Reinvestment Coalition

Mt. Pleasant NOW Development Corporation, OH

Nazareth Housing Dev. Corp., OH

National Association for Latino Community Asset Builders, TX

Neighborhood Housing Services of Greater Cleveland

New Frontier CDC, NC

New Jersey Citizen Action

Northwest Indiana Reinvestment Alliance

Norwood Resource Center, AL

Ohio City Incorporated

Old Brooklyn Community Development Corporation, OH

Partners In Community Building, Inc., IL

PathStone Enterprise Center, NY

Pittsburgh Community Reinvestment Group

Puentes New Orleans, LA

R.A.A. - Ready, Aim, Advocate, MO

Rebuild Durham Inc., NC

Scott County Housing Council, IA

Toledo Fair Housing Center, OH

UNITEYCDC, MA

Universal Housing Solutions CDC, IL

Urban Economic Development Association of Wisconsin, Inc.



Western New York Law Center