

# OCC Innovation Pilot Program

Office of the Comptroller of the Currency  
Washington, D.C.

April 2019

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## Background

The U.S. and global financial systems continue to evolve at an accelerated pace. Financial institutions, including national banks and federal savings associations, are responding to rapidly changing customer preferences and new technologies by developing innovative products, services, and delivery systems. As digital banking, big data, and the use of technology expand, many financial institutions look to their regulators for information on how innovation can be done in an effective and responsible manner. For example, financial institutions are increasingly seeking earlier engagement with their regulators regarding how novel products and the use of technology may fit within existing rules and supervisory expectations.

Regulators are responding to these changes by developing new mechanisms for engagement. In addition to establishing offices to coordinate innovation-related matters, several international financial regulators and certain U.S. federal and state agencies have established regulatory sandboxes<sup>1</sup> to enable regulator involvement with firms proposing innovative activities in a controlled environment.<sup>2</sup> Banks and nonbanks support such programs as they can facilitate the adoption of new solutions and enhance risk management by permitting early-stage testing before full-scale implementation. Regulators adopting sandboxes also benefit from these programs, which allow them to observe industry innovations, learn and build expertise, and use the knowledge to effectively monitor risks and adapt supervision in a timely manner.

Supporting a financial system that innovates responsibly is central to the mission of the Office of the Comptroller of the Currency (OCC). As the prudential regulator of the U.S. federal banking system, the OCC is a leading voice among regulators on the importance of encouraging innovation that promotes safe and sound bank operations, treats customers fairly, and provides fair access to financial services. The OCC has considered and implemented a variety of recommendations to improve the agency's ability to understand and support responsible innovation in the federal banking system.<sup>3</sup> In 2015, the OCC launched an initiative focused on innovation to better understand the evolving financial services landscape and determine what actions the OCC might take in response. Subsequently, the OCC implemented a framework designed to make certain that federally chartered institutions have a regulatory structure that is receptive to innovation along with the supervision to support it. The agency also established a dedicated Office of Innovation to serve as a central point of contact for OCC staff, banks, nonbanks, and other interested parties and as a clearinghouse for innovation-related matters.

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<sup>1</sup> Regulatory sandboxes are a novel concept and vary by jurisdiction. While there is no generally accepted definition, for the purposes of this paper, sandbox programs define rules and requirements for eligibility and testing and may provide special authorizations, exemptions, or other relief to eligible businesses for a limited period.

<sup>2</sup> As an example, refer to a discussion on sandboxes in the U.S. Department of the Treasury's report on financial technology and innovation: [https://home.treasury.gov/sites/default/files/2018-08/A-Financial-System-that-Creates-Economic-Opportunities---Nonbank-Financials-Fintech-and-Innovation\\_0.pdf](https://home.treasury.gov/sites/default/files/2018-08/A-Financial-System-that-Creates-Economic-Opportunities---Nonbank-Financials-Fintech-and-Innovation_0.pdf).

<sup>3</sup> More information can be found at <https://www.occ.gov/topics/responsible-innovation/index-innovation.html>. See, for example, OCC News Release 2016-135, "OCC Issues Responsible Innovation Framework," at <https://occ.gov/news-issuances/news-releases/2016/nr-occ-2016-135.html>.

Currently, the OCC uses many approaches to promote responsible innovation and regulatory clarity. For example, the Office of Innovation regularly facilitates discussions between external stakeholders, OCC supervisory teams, and relevant subject matter experts to provide the OCC's perspectives on emerging trends and related topics. In addition, the OCC encourages banks to seek interpretive letters and information from the OCC Chief Counsel's Office or additional information from relevant subject matter experts, when appropriate. The agency also has clarified its guidance, as applicable.

To address a changing industry, the OCC recognizes that additional programs could further enhance financial institutions' abilities to responsibly develop innovative products and processes. As seen with sandboxes, there can be benefits derived from new forms of regulatory engagement, particularly for firms developing novel and potentially complex products or processes. There are also potential risks for a regulator taking such an approach, such as perceived endorsements of particular products or companies and, most importantly, risk of consumer harm if certain requirements designed to protect consumers are waived.

After extensive information gathering, public comment,<sup>4</sup> and study of the risks and benefits of existing sandbox models, the OCC has decided to establish an Innovation Pilot Program (the program). This program builds on the OCC's innovation initiatives to date and complements the agency's vision to add value through constructive, proactive supervision and to serve as a valuable resource to the banking industry. The program supports testing of novel or innovative products, services, and processes (hereinafter, activities)<sup>5</sup> that could present significant opportunity or benefits to consumers, businesses, financial institutions, and communities. The program also fosters the development of appropriate controls and safeguards as those activities scale.

This paper describes key elements of the proposed program. The OCC welcomes your feedback.

## Program Overview

The program is intended to provide a consistent and transparent framework for eligible entities to engage with the OCC on pilots, which are small-scale, short-term tests to determine feasibility or consider how a large-scale activity might work in practice.

The program defines applicability and eligibility criteria and supports more efficient coordination of OCC resources. Within the program, the OCC will work with each entity to tailor terms of engagement, including appropriate parameters for each pilot. The program is voluntary and will be offered in concert with other OCC tools and resources, including existing supervisory processes, technical assistance, or policy and legal review.

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<sup>4</sup> [Public comments](https://www.occ.gov/topics/responsible-innovation/innovation-comments.html) received on "Innovation in the Federal Banking System: An OCC Perspective" can be found at <https://www.occ.gov/topics/responsible-innovation/innovation-comments.html>.

<sup>5</sup> The OCC does not approve, endorse, or prioritize any particular activity within this program.

## Objectives

The program’s objectives are to

- support responsible innovation within the U.S. federal banking system, including the development and delivery of more effective and efficient activities to benefit consumers, businesses, financial institutions, and communities.
- offer timely engagement between the OCC and eligible entities regarding safety and soundness expectations, risk management principles, and compliance requirements.
- further the OCC’s understanding of, and ability to supervise, innovative activities and their related risks.
- foster development of controls and safeguards commensurate with the nature, scale, and risk posed by innovative activities.
- promote OCC policy objectives, including the review and, as necessary, the adaptation of supervisory approaches that might unintentionally or unnecessarily inhibit responsible innovation.

The program is designed to provide eligible entities with regulatory input early in the development of proposed innovative activities. The program focuses on new or unique activities where uncertainty is perceived to be a barrier to development and implementation. Proposals that have potentially predatory, unfair, or deceptive features, pose undue risk to consumers, or pose undue safety and soundness risk to an institution would be inconsistent with existing laws and regulations, contrary to OCC policy, and not permitted in the program.

## Eligible Entities

Eligible entities are OCC-supervised financial institutions,<sup>6</sup> including those engaging a third party to offer an innovative activity. Eligible entities may propose a pilot individually, in conjunction with a third party, or as a collaborative effort among multiple banks.<sup>7</sup> Third parties may not independently submit a proposal.

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<sup>6</sup> “Financial institutions” are defined as national banks, federal savings associations, their subsidiaries, and federal branches and agencies of foreign banking organizations. There is no size, business model, or complexity limitation within the program.

<sup>7</sup> Refer to the OCC’s paper titled “[An Opportunity for Community Banks: Working Together Collaboratively](#)” (January 13, 2015), as well as the “Interagency Statement on Sharing Bank Secrecy Act Resources” (October 3, 2018). The OCC acknowledges collaborative opportunities broadly, and does not limit such arrangements within the program to community banks, nor only in the context of anti-money laundering obligations.

## Eligibility Criteria

The OCC will consider proposals in varying stages of development, including proofs of concept meant to explore feasibility, as well as other pilots that involve live testing.<sup>8</sup>

To be eligible, entities seeking to participate in the program should demonstrate the following:

- How OCC involvement in the pilot is appropriate. The proposed activity under the pilot must be within the scope of the OCC’s supervisory authority and involve uncertainty that may be a barrier to the activity’s development or implementation, such as when an activity or concept
  - is not clearly or substantially addressed by existing laws or regulations.
  - may be unproven, and appropriate safe and sound banking or risk management practices are unknown.
  - may result in new legal or policy implications.
- How the proposed activity has the potential to achieve one or more of the following:<sup>9</sup>
  - Meet the evolving needs of consumers, businesses, and communities.
  - Promote financial inclusion, fair access, and fair treatment of consumers or small businesses.
  - Improve the efficiency or effectiveness of bank processes, operations, or the provision of financial services.
  - Mitigate significant risks to individual banks or the overall banking system.
  - Advance risk management, security, and regulatory compliance.

As applicable, the OCC expects eligible entities to finalize and provide evidence of any necessary contracts or agreements (e.g., those using a third party or establishing a consortium).

## Program Parameters

### Program Length

The program generally provides for OCC engagement in a pilot lasting no less than three months and no greater than 24 months. The duration of the pilot will be assessed on a case-by-case basis and should be commensurate with the nature and objectives of each proposed pilot, as well as related risks.

The OCC expects all parties to act in good faith within the program. The OCC may suspend OCC engagement in the pilot or trigger an exit strategy as deemed necessary. Entities may also voluntarily withdraw from the program at any time by providing notice to the Office of Innovation or their assigned supervisory office.

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<sup>8</sup> Live testing is performed in a limited market environment. Examples of live testing include, but are not limited to, beta testing with real users and testing a new process on a small scale parallel with existing systems.

<sup>9</sup> A potential program participant may also identify other goals or benefits outside of those listed.

## Program Tools

Eligible entities could face different regulatory uncertainties depending on the activity proposed for the pilot. Accordingly, this program may include the use of tailored regulatory tools, such as interpretive letters, supervisory feedback, and technical assistance from the OCC's subject matter experts. The OCC may address the legal permissibility of a proposed activity within the context of this program; however, legal permissibility must be determined before any live test. The program provides no statutory or regulatory waivers and does not absolve entities participating in the program from complying with applicable laws and regulations, including legal standards that protect consumers.

Within the program, the OCC will consider tailored regulatory tools on a case-by-case basis, based on the facts and circumstances presented during the evaluation process. The OCC will consider using these tools only when their use would not violate existing laws, involve an unsafe or unsound practice, or cause an unsafe or unsound condition.

## Controls and Safeguards

The OCC expects eligible entities to incorporate reasonable controls that are commensurate with the size and nature of the proposed pilot to mitigate known risks. The pilot is likely to inform the development of new or revised controls and safeguards or modifications to the activity as it is expanded.<sup>10</sup> The pilot should also include appropriate exit strategies for exceptional circumstances if a pilot is found to be unsafe or unsound, places consumers at undue risk of harm, or if the pilot simply does not meet intended goals and expectations. Eligible entities should have mechanisms to monitor performance during the pilot, including appropriate metrics that would signal the need to pursue an exit strategy.

Eligible entities should incorporate additional tailored controls and safeguards if the pilot involves live testing with consumers. Such controls and safeguards could include consumer notification or consent, suitable processes for complaint handling, and mechanisms for remediation, including timely and fair compensation for any harm to consumers caused by the pilot.

## Expressions of Interest

Eligible entities interested in participating in the program should engage the OCC in a preliminary discussion about the proposed pilot. Such discussions will allow the OCC to provide informal feedback and for interested parties to gain a deeper understanding of the program's structure and OCC expectations.

After preliminary discussions, an eligible entity can submit an expression of interest (EOI) to the Office of Innovation or to their assigned supervisory office. An EOI should be tailored to the

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<sup>10</sup> Bank management considering a new, modified, or expanded bank product or service may also refer to the risk management principles in OCC Bulletin 2017-43, "New, Modified, or Expanded Bank Products and Services: Risk Management Principles."

scope and complexity of the proposed pilot. Examples of information that may be contained in an EOI include the following:

- Name(s) of eligible entity(ies).
- A description of the proposed activity, including the relationship of the activity to the eligible entity's business objectives and strategy.
- A description of how the proposed pilot meets the program's eligibility criteria.
- A summary of desired OCC engagement.
- An outline of the proposed pilot that may include<sup>11</sup>
  - objectives and scope.
  - expected duration.
  - key intended outcomes.
  - a summary of proposed controls and safeguards to identify, measure, monitor, and control adverse consequences.
  - a description of the eligible entity's governance process to oversee the pilot, including provisions for ongoing monitoring to identify and handle problems or incidents.
  - a description of the necessary resources and systems required to support testing, including qualified individuals assigned to the pilot.
  - an exit strategy for the pilot.
- A delineation of other regulators that may have supervisory authority over the proposed pilot.
- Due diligence materials, such as information on relevant third parties applicable to the pilot.

On a case-by-case basis, the OCC may request additional information, particularly in the case of a pilot involving live testing. This information may include the following:

- A description of the laws and regulations anticipated to apply to the proposed activity.
- An identification of known risks associated with the proposed activity and a description of proposed controls and safeguards.
- If the pilot involves live testing with consumers, a description of
  - proposed target market; applicable terms, conditions, and disclosures; and marketing and other communication materials.
  - proposed consumer safeguards or conditions to prevent and, as necessary, remediate any consumer harm.

The OCC will review requests on a case-by-case basis to provide requestors with feedback and a decision in a timely fashion. Eligible entities may withdraw an EOI at any time.

### **Other Evaluation Factors**

In addition to meeting eligibility criteria, the OCC will evaluate EOIs to determine whether the eligible entity is capable and prepared to execute the proposed pilot. The evaluation will consider safety and soundness implications of the proposed activity, potential impact on consumers, legal

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<sup>11</sup> The OCC may request formal pilot plans as eligible entities progress through the evaluation process. Modifications (e.g., revised testing parameters or controls) may be necessary for OCC engagement through this program.

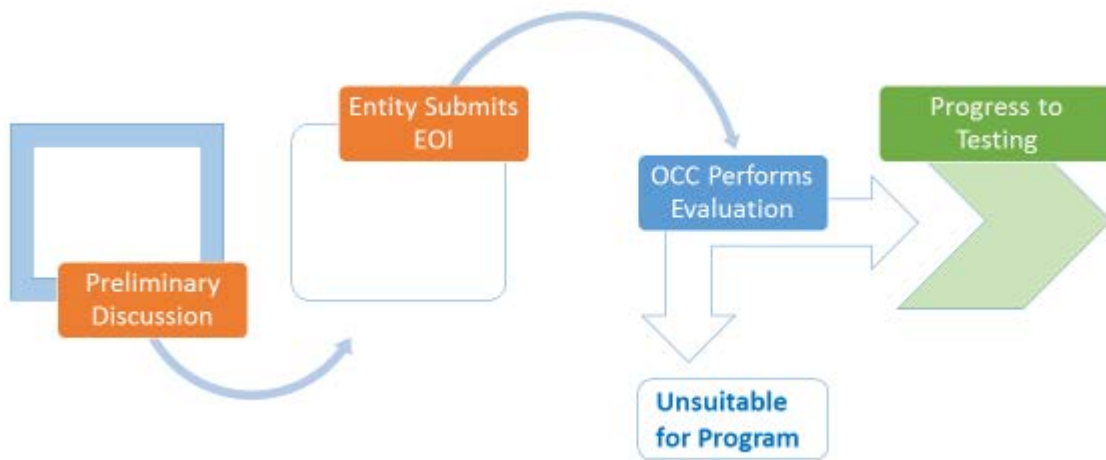


and regulatory compliance, as well as other factors that could result in the proposal being considered unsuitable for the program.

The OCC has the discretion to decline any EOI based on a variety of factors. For example, the OCC will consider the number of requests received from any one eligible entity to promote fair and equitable use of agency resources. The OCC will also consider the number of pilots in which the agency can engage through the program at any one time while providing adequate OCC resources, guidance, and oversight.

## Evaluation Process

All evaluations will include discussions with supervisory and other appropriate OCC staff. The evaluation process will follow the path shown below.



If the OCC declines to accept a request, the OCC may offer other engagement outside of the program.

## Submission of Information and Reports

The OCC will request periodic information and reports to monitor progress of the pilot. Submissions may include key performance indicators, issues identified, and any steps taken to address issues. The frequency and type of submissions will be tailored to the nature and complexity of each pilot and agreed to by the entity participating in the program and the OCC. The frequency and nature of submissions may be subject to modification.

## Publication of Information

The OCC may periodically develop publicly available materials regarding the results of the program. For example, material may discuss best practices or lessons learned when conducting a pilot, general topics explored within the program, and any supervisory approaches or policies stemming from pilot experiences. The OCC will maintain the confidentiality of proprietary

information, including identification of participating entities, to the extent permitted by law or regulation.<sup>12</sup>

As noted under “Program Tools”, the OCC will consider tailored regulatory tools on a case-by-case basis. Depending on the tools used during the program, some aspects may be made public.<sup>13</sup> A decision to make any information public will be made on a case-by-case basis. In such cases, the participating entity will be notified in advance.

## Coordination With Other Regulators

The OCC has established processes for cooperating and coordinating with other regulators. For example, the OCC frequently engages other regulators to promote collaboration and to facilitate information sharing on innovation-related topics. In addition, OCC supervisory offices may coordinate examination work with other applicable regulators. OCC business units may also collaborate on interagency statements and rulemaking.<sup>14</sup>

The OCC will consider case-by-case coordination with other regulators within the program.<sup>15</sup> Such coordination minimizes regulatory burden, decreases the risk of conflicting supervisory directives, and assists regulators in effectively and efficiently carrying out their responsibilities. Disclosure of information provided to the OCC through the program to other regulators will be governed by applicable law or regulation and will generally include notification to the program participant.

## Request for Comment

The OCC seeks feedback from stakeholders on all aspects of the program. In particular, the OCC is interested in responses to the following questions:

1. As a supplement to existing agency processes, will the program provide additional value?
2. Are the eligibility criteria and evaluation process appropriate for an effective program? Why or why not?
3. Are the general program parameters appropriate? Why or why not?
4. What may be the preferred nature of regulatory engagement through this program?

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<sup>12</sup> The OCC is subject to the Freedom of Information Act, which contains limited exemptions for, among other things, personally identifiable information, trade secrets, and confidential commercial information from disclosure. When submitting information to the OCC for purposes of this program, mark any “confidential commercial information” (defined in 12 CFR 4.16(a)(1)) as such, and the OCC will follow the procedures outlined in 12 CFR 4.16(b) with regard to such information.

<sup>13</sup> For example, if an interpretive letter is used during the pilot, certain portions of the letter may be made public.

<sup>14</sup> Memorandums of understanding can be used to facilitate the fulfillment of respective responsibilities, including coordinating work and sharing confidential supervisory information.

<sup>15</sup> As a reference, refer to the “Joint Statement on Innovative Efforts to Combat Money Laundering and Terrorist Financing” (December 3, 2018). While the OCC will not provide statutory or regulatory waivers within the program, participating entities might seek or receive excepted relief from other agencies related to the pilot.

5. What type of innovative activities would be best served through this program?
6. Are there other suggestions or feedback as to how the program should work?

Comments and responses to the questions should be submitted to the OCC at [pilotprogram@occ.treas.gov](mailto:pilotprogram@occ.treas.gov), no later than June 14, 2019. After review of the comments, the OCC will consider further refinements to the program and announce the effective date of the program.

In general, the OCC will publish the comments on its website without changes, including any business or personal information commenters provide, such as name and address information, email addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in comments or supporting materials that is considered confidential or inappropriate for public disclosure.

Questions on the program may be directed to the Office of Innovation at [innovation@occ.treas.gov](mailto:innovation@occ.treas.gov), or at (202) 649-5200.