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Congress of the United States
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January 17, 2017

The Honorable Thomas J. Curry
Comptroller
Office of the Comptroller of the Currency
250 E Street, SW
Washington, D.C. 20219

Dear Comptroller Curry,

I am writing regarding the Office of the Comptroller of the Currency's (OCC) recent request for comments and feedback on the paper, *Exploring Special Purpose National Bank Charters for Fintech Companies*. I appreciate the leadership that the OCC has taken on this issue and commend the Agency for creating the Office of Innovation to serve as a resource for fintech companies and other financial services regulators. In response to the OCC's request for comments on a national bank charter for fintech firms, I respectfully submit these comments:

<u>Innovations in Technology will Improve Efficiencies in Financial Services:</u>

One of the OCC's stated goals for providing a special purpose national charter for fintech companies is to "ensure that companies operate in a safe and sound manner so that they can effectively serve the needs of customers, businesses and communities."[1]

Technology and innovation are dramatically changing the financial services sector and how consumers are banking. New technologies, like applications for investment management on smart phones or online platforms for peer-to-peer lending are exciting and promising developments that provide banking and financial services to traditionally underserved populations. Additionally, digital currencies and their underlying technologies-like open blockchain networks, distributed ledgers and open, proof-of-work consensus mechanisms promise real and fundamental change to the financial sector.

The Financial Stability Oversight Council (FSOC) recognized new technologies such as blockchain and the use of distributed ledgers "could reduce concentrated risk exposures….and reduce the counterparty and operational risks which arise when financial assets are exchanged."[2] Further, FSOC noted that distributed ledgers can be designed to be broadly accessible and verifiable, creating a valuable mechanism for market transparency. Distributed ledgers also provide a form of cybersecurity not available for a centralized database with a single point of vulnerability.

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[1] *Exploring Special Purpose National Bank Charters for Fintech Companies,* Office of the Comptroller of the Currency, 2 (Dec. 2016).

[2] *Financial Stability Oversight Council Annual Report 2016,* Financial Stability Oversight Council, 127 (2016).

Finally, fintech technologies have the opportunity to make consumer transactions more efficient by reducing transaction times and costs. Currently, it can take up to five business days for deposited funds to become available.[3] Fintech companies have been reducing transaction time, helping consumers access their money faster and reducing delay-incurred fees.

By granting charters to fintech companies that are utilizing this type of technology, the OCC and other financial regulators will have the opportunity to see the technology in action. This will help financial regulators address any regulatory issues in real time and learn how certain fintech technology may assist them in addressing critical public policy goals, such as increasing consumer choice and reducing systemic risk to the financial system.

<u>Digital Currency Companies and Core Banking Functions:</u>

The OCC's special purpose national chartering authority allows it to grant charters to banks that are engaged in limited activities or at least one of the three core banking functions.[4] Further, the OCC posed the question whether particular products offered by fintech companies, such as digital currencies, require different approaches to supervision to mitigate internal risk for the institution and to the broader financial system.[5]

Generally, there are two primary types of digital currency firms: *digital currency exchanges* and *hosted wallet services.* These types of firms primarily accept or initiate bank transfers from customers' banks; buy or sell digital currency according to customer instructions; connect buyers and sellers of digital currency; and safekeep digital currency on behalf of the customers.

What is unclear from the OCC's proposal is how it would treat digital currency companies' activities and how it will determine if those activities fall within the required four core banking functions. For example, hosting a digital currency wallet may be considered the equivalent of a traditional bank's custodial services, but others may characterize the activity as taking deposits. However, hosting wallets does not appear to resemble deposit taking, given that no money is held on balance sheet as liabilities, loaned out or invested.

It is precisely these types of grey areas that the OCC needs to work with stakeholders to clarify as it moves forward with the special purpose national charter in order for digital currency companies to take advantage of this opportunity.

<u>Innovations in Fintech Can Promote Financial Inclusion:</u>

According to the FDIC's 2015 National Survey of Unbanked and Underbanked Households, there are approximately 15 million adults who remain unbanked and an additional 51 million adults who are underbanked.[6] Common responses to the survey as to why an individual did not

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[3] 12 CFR §229.10 et al. Establishing availability of funds and disclosures of funds availability.
[4] 12 CFR §5.20(e)(1)(i). Core banking functions are receiving deposits, paying checks or lending money.
[5] *Exploring Special Purpose National Bank Charter for Fintech Companies,* 16 (Dec. 2016).
[6] *2015 National Survey of Unbanked and Underbanked Households,* FDIC (Oct. 2016). Underbanked is defined as a household having an account at an insured institution but obtaining financial services outside the banking system.

have an account included that fees were unpredictable or too high; banks do not offer the services individuals required; or that they did not trust the banks.[7]

There are a fast growing number of fintech companies that are bringing new payment, personal finance management and loan products to consumers. Many of these products enable consumers to access their money faster, offer lower fees and empower consumers to better control their finances. Further, many of these companies' products are meeting consumers where they are-on their mobile devices or personal computers while reducing costs and other barriers to access.

The OCC has a public policy interest in encouraging companies applying for fintech charters to provide fair access to financial services and promoting fair treatment of customers, including efficiency and better service.[8] Regardless of the type of banking activities, the OCC should set financial inclusion standards and goals that applicants will need to detail how to meet in their strategic plans.

I appreciate the OCC's initiative to better understand how technology innovation is changing the financial services sector. Further, it is important that the OCC and other financial regulators engage with a wide-variety of stakeholders to better understand the policy issues rising from innovation in the financial services sector.

Thank you for the consideration of these comments and I look forward to continuing to work with the OCC on fintech innovation.

Sincerely,

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Jared Polis
Member of Congress

Specifically, accessing money orders, check cashing, international remittances, payday loans or refund anticipation loans from alternative financial services providers.

[7] *2015 National Survey of Unbanked and Underbanked Households,* FDIC (Oct. 2016).

[8] 12 CFR §5.20(f)(1)(iii) and (iv).