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April 14, 2017

To:  
Office of the Comptroller of the Currency  
Via email: [specialpurposecharter@occ.treas.gov](mailto:specialpurposecharter@occ.treas.gov)

**Re: Comments on the Draft Supplement to the Comptroller's Licensing Manual on Evaluating Charter Applications from Financial Technology Companies**

We thank the OCC for inviting public to comment on the Draft Supplement to the Comptroller's Licensing Manual. My organization, the Sustainable Economies Law Center, researches financial regulation with the goal of supporting a more diverse, equitable, and democratic financial services sector.<sup>1</sup>

We make two recommendations to the OCC in implementing a special purpose charter process for financial technology companies:

**First, we believe that the OCC should, in every way possible, prioritize granting of charters to financial institutions that have the *primary or sole purpose of benefiting customers or the public*.** We distinguish between shareholder-oriented financial institutions (for-profit corporations operating to generate profits for shareholders) and stakeholder-oriented financial institutions (nonprofits, cooperatives, and governmental organizations operating for the benefit of the public and/or the users of the services).

The creation of a special purpose charter for financial technologies has the potential to provide enormous benefit to the financial institutions receiving a charter, particularly because it would exempt such institutions from many state-level regulations. This will create an uneven playing field if some financial technology companies can avoid the significant costs of state-level compliance.

**Given the substantial benefit and competitive edge that a company will receive under a special purpose charter, we believe that benefit should pass directly through to the public, and not to the shareholders of for-profit corporations.** Thus, we believe that special purpose charters should be granted primarily to financial technology companies structured as **cooperatives or mutuals operating for the benefit of users or as nonprofits operating for the benefit of the public.** At the very least, we believe that the licensing application process should strongly favor and streamline the application process for cooperatives, mutuals, nonprofits, and other stakeholder-oriented organizations.

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<sup>1</sup> See, for example, our legal resource library for community currencies, time banks, and barter networks: <http://www.communitycurrencieslaw.org/>

In addition, **we request that, in the first two years of implementing the chartering process, the OCC *only* consider charter applications from stakeholder-oriented organizations. This will allow the OCC to pilot the chartering process in a way that guarantees benefit to the public.** If the OCC considers charter applications from shareholder-oriented technology start-ups, those with tens of millions in venture capital financing will gain an advantage more quickly than cooperatives, mutuals, and nonprofits (which generally take longer to raise initial capital). If venture capital financed technology companies are granted the first charters, they could grow quickly and potentially dominate the financial services sector. We believe that the best interests of the public are served by ensuring that cooperatives and nonprofits are given priority in offering such services to the public.

**The prioritization of cooperatives and nonprofits is a principle reflected throughout our legal system and we believe the OCC should adhere to that principle.** The U.S. has policies designed to benefit and relieve burdens on cooperatives and nonprofits, including special tax exemptions, securities exemptions, antitrust exemptions, and special funding programs. Congress has also explicitly recognized the value of cooperatives to U.S. society. When Congress chartered the National Cooperative Bank in 1978, it adopted the following Congressional statement of findings and purpose (12 U.S. Code § 3001):

*The economic and financial structure of this country in combination with the Nation's natural resources and the productivity of the American people has produced one of the highest average standards of living in the world. However, the Nation has been experiencing inflation and unemployment together with an increasing gap between producers' prices and consumers' purchasing power. This has resulted in a growing number of our citizens, especially the elderly, the poor, and the inner city resident, being unable to share in the fruits of our Nation's highly efficient economic system. **The Congress finds that user-owned cooperatives are a proven method for broadening ownership and control of the economic organizations, increasing the number of market participants, narrowing price spreads, raising the quality of goods and services available to their membership, and building bridges between producers and consumers, and their members and patrons. [...]***

The histories of farming and electricity in the U.S. show that shareholder-oriented businesses often fail to meet the needs of disadvantaged communities. The more than 800 rural electric cooperatives in the U.S. emerged in response to a lack of interest by for-profit utilities in providing for rural customers. Similarly, farmer-owned cooperatives emerged in a market where large-scale competitors could otherwise have obliterated small family farms across the country.

**Like access to electricity, access to lending and payment systems is essential to life in the United States.** Concerns about the comingling of banking and commerce are well founded in the recognition that commerce does not always provide for essential needs. By prioritizing charters for stakeholder-oriented financial institutions, the OCC can better meet its duty to ensure fair and equal access to financial services for all Americans.

**Our second recommendation is that, prior to granting charters to shareholder-oriented technology companies, the OCC study the role of the financial service sector in widening the wealth gap in the United States.** As reported by The Washington Post, 76% of wealth in the United States is held by the wealthiest 10% of the population.<sup>2</sup> Wealth inequality has grown in recent years, particularly along racial lines. If shareholder-oriented technology companies become the predominant providers of financial services, their shareholders can become wealthier from the fees and interest extracted from every financial transaction. How will this affect wealth equality in U.S. society as a whole? In fulfilling its mission to provide fair and equal access to financial services and to create a diverse banking system that benefits consumers, communities, businesses, and the U.S. economy, the OCC should inquire into the causes of wealth inequality, particularly since the banking and financial services sectors play a significant role in directing the flow of wealth in our country.

Thank you for your consideration of our recommendations. We would welcome the opportunity to further discuss these matters.

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<sup>2</sup> "If you thought income inequality was bad, get a load of wealth inequality," by Christopher Ingraham, *The Washington Post*, May 21, 2015. <https://www.washingtonpost.com/news/wonk/wp/2015/05/21/the-top-10-of-americans-own-76-of-the-stuff-and-its-dragging-our-economy-down/>