



TransferWise, Inc.  
19 West 24<sup>th</sup> Street, 9<sup>th</sup> Floor  
New York, NY 10010  
andrea.gildea@transferwise.com  
www.transferwise.com

April 14, 2017

Via Electronic Mail

Office of the Comptroller of the Currency

E-mail: specialpurposecharter@occ.treas.gov

**Re: Comment on the Comptroller's Licensing Manual Draft Supplement, Evaluating Charter Applications from Financial Technology Companies (March 2017)**

Ladies and Gentlemen:

TransferWise appreciates the opportunity to comment on the Office of the Comptroller of the Currency's (the "**OCC**") Licensing Manual Draft Supplement, *Evaluating Charter Applications from Financial Technology Companies* (March 2017) (the "**Draft Supplement**").

TransferWise is a financial technology ("**FinTech**") company that was created in 2011 by Taavet Hinrikus, the first employee of Skype, and Kristo Käärman, ex-Deloitte consulting, out of their personal frustration with unfairness in international money transfer. Since that time, TransferWise has raised \$117 million from investors such as Andreessen Horowitz, Sir Richard Branson and Peter Thiel, the co-founder of PayPal.

TransferWise addresses the challenges and costs associated with international money transmission – specifically the lack of transparency regarding fees and the calculation of foreign exchange rates, as well as the reliance on outmoded systems and technology. In response to these issues, TransferWise operates a robust international money transmission product that references fair exchange rates,<sup>1</sup> sources onshore liquidity when possible, provides

---

<sup>1</sup> TransferWise uses rates that do not include mark-up. The inclusion of mark-up in foreign exchange rates is often hidden, and understanding how mark-up is calculated has proved a challenge even in the wholesale FX market among sophisticated financial institutions. See Her Majesty's Treasury, Bank of England, Financial Conduct Authority's *Fair and Effective Markets Review* (June 2015), at 54 ("the use of mark-up can exacerbate conflicts of interest" in certain situations including "where there is a lack of transparency over orders filled in the market on a pure agency basis" and thus "[f]urther materials are needed to ensure that charging for FX transactions, more generally, is consistent with clients' expectations.").

a straightforward and transparent fee structure, uses modern technology, maintains sound customer service practices, and carefully manages liquidity, compliance and other risks.

Every month, around 1 billion USD equivalent is transferred using the TransferWise platform. TransferWise has over 650 employees in nine offices, with its head office in London. TransferWise Ltd., the UK-based parent entity, is authorized as an Electronic Money Institution (EMI), and is regulated by the UK Financial Conduct Authority, with passporting rights across the European Economic Area. In addition, TransferWise maintains appropriate licenses and is regulated by applicable national regulators in many other countries.<sup>2</sup>

## I. General Comments

TransferWise is grateful for the opportunity to comment on the Draft Supplement and recognizes that the OCC has not historically solicited comments on supplements to its licensing manual. TransferWise supports the introduction of the OCC's special purpose charter for financial technology companies ("**SPNB**") as a means to promote efficiency, responsible innovation, and competition and to reduce risk, specifically for the following reasons:

- In the US, TransferWise operates through its US subsidiary, TransferWise Inc., which is subject to different and complex licensing and registration requirements for money transmitters in 41 states.<sup>3</sup> These include, in each state, different financial, audit, and bonding requirements, and investment limitations. In comparison with other countries that have a centralized regulator, this adds significant and disproportionate regulatory

---

<sup>2</sup> TransferWise is regulated by the Australian Securities and Investments Commission (ASIC), and is registered with the Financial Intelligence Unit (AUSTRAC) as a money remitter in Australia. In Canada, TransferWise is registered with the Autorité des Marchés Financiers (AMF) and the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC), and is licensed as a Money Service Business. In Hong Kong, TransferWise is registered with the Customs and Excise Department of Hong Kong and is licensed as a Money Service Operator. In Japan, it is registered by the Kanto Local Financial Bureau and licensed as a Funds Transfer Provider. In New Zealand, TransferWise is registered by the Department for Internal Affairs (DIA). In Singapore, it is regulated as a remittance business by The Monetary Authority of Singapore (MAS).

<sup>3</sup> In New York, Virginia, Louisiana, Vermont, Hawaii and Illinois, TransferWise Inc. has submitted license applications that currently await review. In Montana, New Mexico, South Carolina, and the US territories, applications have not yet been submitted and money transmission services are offered by a banking partner.

burden and cost pressure on US dollar routes, and increases the time to market for product offerings for US customers.

- Direct access to payment systems and bank accounts offered by the Federal Reserve afforded to national banks is not currently available to FinTech companies. This lack of access suppresses competition and amplifies systemic risk. Use of commercial banks adds a layer of credit risk to FinTech businesses and their customers' funds. Likewise, indirect access to payment systems means a lack of control over payment flows and access to information, and requires the FinTech company to take on an extra layer of business continuity risk. Moreover, open access to payment systems such as Fedwire is generally favored by the regulatory community<sup>4</sup> and payment systems themselves, given that payment systems cannot directly measure or manage the risks associated with indirect participants.

TransferWise fully supports the OCC's efforts to ensure that applicants for the special purpose charter ("**SPNB Applicants**") provide sufficient disclosure, satisfy standards to protect the banking system, ensure compliance with laws and regulations, promote fair treatment of customers through efficiency and better service, and foster healthy competition. TransferWise wishes in this letter to provide only practical comments on potential issues and barriers SPNB Applicants may face, and understands that SPNBs will not be subject to light-touch supervision. For example, TransferWise encourages the OCC to consider that there are a broad range of FinTech companies that engage in diverse activities such as lending, investing, and financial planning, and that the levels and types of risk accompanying each activity differ substantially. Given the breadth of the FinTech space, the OCC will need to tailor supervision accordingly. TransferWise encourages the OCC, wherever possible while considering safety, to provide for flexibility to account for the novel aspects of a FinTech company's business and to consider bespoke risk-based solutions.

---

<sup>4</sup> See e.g., Bank for International Settlements' Committee on Payment and Settlement Systems (now Committee on Payments and Market Infrastructures) and the Technical Committee of the International Organization of Securities Commission's *Principles for financial market infrastructures* (April 2012), Principle 18, Key Consideration 2 ("Subject to maintaining acceptable risk control standards, a [payment system, including generally those operated by central banks] should endeavour to set requirements that have the least-restrictive impact on access that circumstances permit.")

## **II. Specific Comments**

### **Activities of the Proposed SPNB**

The Draft Supplement, at page 7, states that the OCC will “not approve proposals that will result in an inappropriate commingling of banking and commerce.” While TransferWise’s business activities are around money transmission and foreign exchange, which it understands to be covered under the National Bank Licensing Rules at 12 CFR 5.20(e)(1) as a modern form of “paying checks”, it would be helpful to understand better how the restriction on commingling of banking and commerce will be construed. In addition, the Draft Supplement should specify that FinTech companies that serve clients in multiple jurisdictions through different entities will be assessed based on their on-shore activity, with their off-shore activity being assessed and regulated only to the extent that it impacts US persons or operations.

### **Requirements for Organizing Group, Management, and Directors**

TransferWise recognizes the importance of ensuring that the corporate structure of an SPNB Applicant is established and maintained in accordance with principles of safety and soundness and agrees that organizing groups, management and directors must have sufficient experience, along with good character and responsibility and access to technical expertise on financial services regulations. Notably, customer-focused benefits provided by FinTech firms are to some degree a result of innovative cultures and models that challenge the status quo. Therefore, the OCC should take a progressive approach to leadership and recognize the value of experience in technology, innovation, and acting for the public good. In addition, for the avoidance of doubt, it should be clear that SPNB Applicants that do not take deposits need not be held by a bank holding or savings and loan company.

### **State Licenses**

The Comptroller’s Licensing Manual, at page 37, states that “[i]f an organizing group or persons representing the same interest file substantially similar state and federal charter applications, the OCC generally considers the federal bank application abandoned.” FinTech companies, when seeking a SPNB charter, may be operating under state licenses or have applications for such licenses pending. In light of the novelty of the SPNB charter application process and the possibility that an application could be rejected, it should be clear that SPNB Applicants are

permitted to continue to operate and to pursue licenses until their SPNB charter has been finally approved.

### **Business Plan**

TransferWise understands the need to be transparent about its business plan and the risks inherent in its business model, along with its risk appetite and risk management framework. However, while a multi-year business plan may be normal for a traditional bank, in FinTech, where technology and market conditions are constantly evolving, and the ability to respond quickly to market innovation is not only essential to continued survival, but expected by customers, a three-year business plan may not be practical. The ability to respond effectively and proactively to changes in the market, so long as such response is (i) transparent, (ii) within the risk appetite of the firm, and (iii) prioritizes customers' needs and safety, is itself a risk mitigant and a better measure of the health of a business than future predictions.

### **Financial Management**

The Draft Supplement, Supplemental Guidance on Business Plan, subsection (3), at page 11, addresses leverage and risk-based capital requirements. TransferWise recognizes that it is important to have a stable business model and capital to cover liabilities, but cautions the OCC to avoid broad stroke application of bank regulation to FinTech companies in terms of capital and liquidity, and to instead calibrate models to a FinTech company's business model. For example, under the state licensing regime, money transmitters protect customers by, *inter alia*, maintaining permissible investments in excess of money transmission liabilities. They do not have runnable liabilities or deposit insurance fund exposure to cover. In addition, some FinTech companies may not be profitable, due to an emphasis on growth, but still protect customer funds adequately. Thus, TransferWise encourages the OCC to consider safety, customer needs and adequate capitalization over profitability.

The OCC should also consider the unique features associated with international business models and flows. TransferWise's product offerings, by necessity, involve payment flows across jurisdictions and entities. Such flows should be scrutinized in terms of liquidity management and stress tested. However, these flows should be distinguished from other types of transactions among affiliated entities that are performed by traditional banks for purposes not fundamental to a consumer-facing product.

### **Alternative Business Strategy; Contingency Plans; Recovery and Exit Strategies**

The Draft Supplement, Supplemental Guidance on Business Plan, subsection (5), at page 12, states that the OCC may require an SPNB Applicant to form an “alternative business strategy.” While there is value in planning for contingency situations, TransferWise would encourage the OCC to rather require an agile, adaptable business strategy (along with the non-objection process addressed below). This is more practical than an alternative strategy that is unlikely to squarely address issues that were unforeseen in the original business strategy. In addition, the Draft Supplement references recovery and exit strategies. These are important considerations, but to the extent they reference financial recovery, such plans will only be as useful as the laws that support them. Therefore, just as the OCC has provided a special charter in response to innovation, lawmakers should be encouraged to think about whether the bankruptcy code and laws protecting the finality of payments are sufficiently clear and consistent with sound public policy, or whether they also need to be updated.<sup>5</sup>

### **Financial Inclusion Plan (FIP)**

The Draft Supplement, Supplemental Guidance on Business Plan, subsection (6), at page 13, and Appendix B, prescribes the submission of a plan indicating the organizing group’s knowledge of and plans to serve the community. Considering that some services are provided only on-line, more clarity would be helpful to determine how “community” should be construed. TransferWise’s business model is internet-based and inclusive (except in its exclusion of potential customers for AML/OFAC or verification reasons) and it would hope that this would be taken into account.

### **Standard and Special Conditions**

The Draft Supplement, at page 14, notes a requirement that a national bank must obtain a supervisory non-objection letter if it “deviates significantly” from its approved business plan. TransferWise requests additional clarity on the definition of “deviates significantly” – first generally, in terms of materiality and jurisdiction – and secondly on a bespoke basis at the time that the business plan is approved. Clarity in this regard prevents an unintended dual process in which regulated entities first seek definitional clarification before they can seek a non-objection letter, a process which uses both regulatory and company resources and increases

---

<sup>5</sup> Along the lines of 12 CFR 51 (December 20, 2016).

time to market. TransferWise also requests a clear process in terms of what data and documentation must be submitted to obtain a non-objection letter, and a finite time following all submissions on or before which the OCC is committed to responding to the request. This would allow TransferWise to respond with appropriate speed to customer needs, efficiently provide the OCC what it needs to conduct its evaluation, and ensure due process.

### **Assessments and Fees**

TransferWise seeks greater clarity on fees associated with an SPNB charter. The Draft Supplement at page 15 notes that "the OCC will impose assessments on an SPNB through special conditions established at the time of preliminary approval" and that "the OCC is funded through assessments and fees charged to the banks it supervises [and] SPNBs will be subject to periodic assessments, just as other national banks are." According to the Draft Supplement, the OCC would determine the amount of such charges based on "the amount and type of assets that the bank holds." However, in the case of a FinTech company, this may not be proportionate, for example, if substantial assets are held in trust for customers. TransferWise requests that cost ranges be provided as early in the process as possible and that costs are appropriate for FinTech companies that do not provide full service banking, but instead focus on efficiency in a narrow area of financial services, resulting in reductions in costs to customers.

\* \* \*

Again, we appreciate the opportunity to comment on the Draft Supplement, and generally the effort of the OCC to recognize the impact of FinTech companies on financial services and consumer choice and include them in its regulatory remit. Please do not hesitate to contact us if you have any questions regarding this letter or if we can be of any assistance as you move forward.

Yours faithfully,

*//S//*

---

Andrea J. Gildea, Head of Legal, TransferWise US

cc: Joe Cross, General Manager, TransferWise US  
Roseanne Lazer, Compliance Officer, TransferWise US  
Andrew Boyajian, Head of Banking, TransferWise US