### Table of Contents

<table>
<thead>
<tr>
<th>Tab</th>
<th>OCC Policy Statement on FinTech Companies’ Eligibility to Apply for National Bank Charters (July 31, 2018)</th>
<th>A</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>FDIC Review Process for Draft Deposit Insurance Proposals (Dec. 6, 2018)</td>
<td>B</td>
</tr>
</tbody>
</table>
Policy Statement on Financial Technology Companies’ Eligibility to Apply for National Bank Charters
July 31, 2018

It is the policy of the Office of the Comptroller of the Currency (OCC) to consider applications for national bank charters from companies conducting the business of banking, provided they meet the requirements and standards for obtaining a charter. This policy includes considering applications for special purpose national bank charters from financial technology (fintech) companies that are engaged in the business of banking but do not take deposits.

This policy statement is based on broad authority granted to the OCC by the National Bank Act,1 as implemented in existing regulation2 and established OCC procedures.3

The OCC is issuing this policy statement to clarify its intent to exercise its existing chartering authority. The OCC also recognizes the importance of supporting responsible innovation in the federal banking system to better enable the system to

• evolve to meet the needs of the consumers, businesses, and communities it serves;
• operate in a safe and sound manner;
• provide fair access to financial services;
• treat customers fairly; and
• promote economic opportunity and job creation.

The OCC recognizes that the business of banking evolves over time, as do the institutions that provide banking services. As the banking industry changes, companies that engage in the business of banking in new and innovative ways should have the same opportunity to obtain a national bank charter as companies that provide banking services through more traditional means. The OCC will require these new entrants to the national banking system to adhere to the same high standards that apply to all national banks.

The OCC adopts this policy after careful consideration of the extensive stakeholder feedback and public comment received over the past two years.

1 See 12 USC 21, 26, and 27.
2 See 12 CFR 5.20.
OCC Chartering Authority

The National Bank Act gives the OCC broad authority to grant charters for national banks to carry on the “business of banking.” This authority extends to special purpose national banks. As defined in the OCC’s regulations, the “business of banking” includes any of the three core banking functions of receiving deposits, paying checks, or lending money. Section 5.20 of the OCC’s regulations provides that, to be eligible for a national bank charter, a special purpose national bank must conduct at least one of these three core banking functions. Thus, the OCC has authority to grant a national bank charter to a fintech company that engages in one or more of those core banking activities.

OCC Support for Responsible Innovation

The federal banking system must adapt to the rapid technological changes taking place in the financial services industry to remain relevant and vibrant and to meet the evolving needs of the consumers, businesses, and communities it serves. The OCC encourages all national banks and federal savings associations to develop strategies that incorporate responsible innovation to address the changing operating environment and evolving needs and preferences of their customers. The OCC has developed an agency-wide framework to support responsible innovation throughout the federal banking system and established the Office of Innovation to serve as a clearinghouse for innovation-related matters and a point of contact for OCC staff, banks, and nonbanks to facilitate innovation-related activities.

Considering applications from fintech companies for national bank charters is one important way that the OCC supports responsible innovation in the federal banking system. Companies engaged in the business of banking should have a path to become a national bank, provided they meet the rigorous standards necessary to become and succeed as a national bank.

Chartering a qualified fintech company as a national bank would also have important public policy benefits. The national bank charter provides a framework of uniform standards and robust supervision. Applying this framework to fintech companies that qualify can level the playing field with regulated institutions and help ensure that they operate in a safe and sound manner and fairly serve the needs of consumers, businesses, and communities. In addition, applying the OCC’s uniform supervision over national banks, including fintech companies, will help promote consistency in the application of laws and regulations across the country and ensure that consumers are treated fairly. More broadly, providing a path for fintech companies to become national banks promotes consumer choice, economic growth, modernization, and competition—all of which strengthen the federal banking system and support the nation’s economy.
Chartering Standards and Supervisory Expectations

The decision to consider national bank charter applications from qualifying fintech companies is consistent with the OCC’s longstanding chartering standards and supervisory expectations. The OCC will use its existing chartering standards and procedures for processing applications from fintech companies as outlined in the Comptroller’s Licensing Manual. As with all national banks, the OCC will consider whether a proposed bank has a reasonable chance of success, will be operated in a safe and sound manner, will provide fair access to financial services, will treat customers fairly, and will comply with applicable laws and regulations. The OCC will also consider whether the proposed bank can reasonably be expected to achieve and maintain profitability and whether approving the charter will foster healthy competition.

A fintech company that receives a national bank charter will be subject to the same high standards of safety and soundness and fairness that all federally chartered banks must meet. As it does for all banks under its supervision, the OCC would tailor these standards based on the bank’s size, complexity, and risk profile, consistent with applicable law. In addition, a fintech company with a national bank charter will be supervised like similarly situated national banks, including with respect to capital, liquidity, and risk management.

The OCC also expects a fintech company that receives a national bank charter to demonstrate a commitment to financial inclusion. The nature of that commitment will depend on the company’s business model and the types of products, services, and activities it plans to provide. By providing a high standard similar to the Community Reinvestment Act’s expectations for national banks that take insured deposits, the financial inclusion commitment will help ensure that all national banks provide fair access to financial services and treat customers fairly.

In addition, a fintech company approved for a national bank charter will be required to develop a contingency plan to address significant financial stress that could threaten the viability of the bank. The plan would outline strategies for restoring the bank’s financial strength and options for selling, merging, or liquidating the bank in the event the recovery strategies are not effective. The specific considerations related to supervision, capital, liquidity, financial inclusion, and contingency planning are described in the agency’s supplement to the Comptroller’s Licensing Manual, “Considering Charter Applications From Financial Technology Companies.”

While the OCC is open and receptive to charter applications from qualified fintech companies, the OCC will not approve proposals that are contrary to applicable law, regulation, policy, or safety and soundness. Exercising the OCC’s existing authority to grant special purpose charters does not alter existing barriers separating banking and commerce. Further, proposals that include financial products and services that have
predatory, unfair, or deceptive features or that pose undue risk to consumer protection, would be inconsistent with law and policy and would not be approved.

//signed//
Joseph M. Otting
Comptroller of the Currency

July 31, 2018
Date
FDIC Review Process for Draft Deposit Insurance Proposals

The FDIC is establishing a process to allow prospective organizers of new depository institutions the option to request FDIC review of a draft deposit insurance proposal prior to filing an official application. The FDIC will review draft proposals to identify potential issues and to provide preliminary feedback to organizers so that they can fine-tune their proposals before submitting a formal application.

Background

The FDIC has provided a number of resources to aid prospective organizers in understanding the deposit insurance application process. These resources are available on the FDIC website dedicated to applications for deposit insurance.

As a key first step in the application process, the FDIC has long encouraged organizers to participate in a pre-filing meeting with the FDIC and other applicable regulatory agencies before submitting a deposit insurance application. Pre-filing meetings are beneficial for both prospective applicants and the supervisory agencies. The meetings promote open communication regarding the specifics of the application, regulatory expectations, and the application review process. Additionally, pre-filing communication with the FDIC can minimize the amount of time required for the application review process by providing potential applicants with a clear understanding of the requirements and providing the FDIC with the opportunity to identify early in the process any issues that need to be addressed by the applicant.

Recently, the FDIC has expanded the pre-filing meeting process to include more fulsome pre-filing discussions with organizers of more complex proposals. Based on the success of this effort, the FDIC is establishing a review process for draft deposit insurance proposals, as a supplement to the pre-filing meeting process.

Overview of the Draft Review Process

Interested organizing groups may request FDIC review of a draft deposit insurance proposal prior to filing an official application. The request should be made in writing to the appropriate FDIC regional office1 and should be accompanied by a draft application filing.

The draft review process is designed to be collaborative. The FDIC will engage in a dialogue with the organizers about their views on the draft filing, such that the feedback may occur in stages. The FDIC expects to provide interim feedback to the organizers as soon as practicable, but no later than 30 days after receiving a draft proposal, and to communicate overall feedback within 60 days of receipt. The timeframe may vary depending on the attributes of a given proposal, and may extend beyond the 60-day goal if modifications to the draft proposal are submitted.

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1 See regional office listings, areas of responsibility, telephone numbers, contacts, and mailing addresses at: https://www.fdic.gov/about/contact/directory/index.html#field-offices.
Any organizing group may choose to submit a draft proposal to obtain feedback. However, the process may be particularly helpful for business models that present novel, unusual or complex aspects, or groups seeking technical assistance.

**Draft Review Process Policy**

The FDIC strongly encourages organizers to hold a pre-filing meeting prior to submission of a draft proposal. In the draft review process, FDIC case managers will review all information provided in the submission, with particular focus on the business plan, capital, and management. Throughout the review, FDIC staff may coordinate as appropriate, with counterparts from the relevant chartering authority and, if applicable, the local Federal Reserve Bank. The draft review process is meant to identify any obstacles or potential challenges that may require further supporting detail or considerations before the organizers file a formal application; it does not incorporate background investigations or formal determinations as to whether applicable statutory and regulatory requirements have been met.

*Content of a Draft Proposal*

Organizers may request feedback from the FDIC regarding particular aspects of the draft proposal. Such requests should be identified in the cover letter that accompanies the request for review of the draft proposal.

To obtain the most benefit from the FDIC’s review, the draft proposal should address the business plan, capital, and management. The business plan should describe the planned products and services, market, and operating strategies, and provide details regarding the:

- anticipated business model;
- operating environment;
- organizational and ownership structure;
- relationships with affiliates and third-parties;
- management team and board members (to the extent key individuals have been identified);
- level and sources of capital; and
- financial projections for the first three years of operation in the form of a projected quarterly balance sheet and income statement, along with capital calculations and supporting assumptions.

The draft proposal should include resumes (or equivalent information) for the identified executive officer and director candidates, information regarding the proposed governance and risk management framework, and plans to mitigate risks.

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2 In developing a draft business plan, organizers may refer to the Interagency Charter and Federal Deposit Insurance Application and Applying for Deposit Insurance - A Handbook for Organizers of De Novo Institutions, which provide guidelines for a business plan’s content and structure.
Organizers may also provide supplemental materials, for example, draft versions or descriptive summaries of:

- operating policies;
- the Community Reinvestment Act plan;
- organizational documents;
- stock offering materials;
- employment agreements;
- compensation and benefit plans;
- leases; and
- vendor or other third party agreements.

To ensure protection of business, trade, personal, or other information, the draft proposal should be submitted under a cover letter that requests confidential treatment, and all documents comprising the draft proposal should be clearly marked as DRAFT AND CONFIDENTIAL.

The FDIC expects to provide organizers interim feedback regarding questions or concerns that, individually or collectively, could present challenges with respect to any statutory factor or require further detail or support within 30 days of receipt of the draft proposal. Organizers may then submit modifications to the draft proposal that address the questions or concerns.

FDIC staff will strive to provide its final feedback within 60 days of receiving the draft proposal unless modifications are made to the proposal.

Other Matters

Any formal application made to the FDIC will be evaluated on its merits in accordance with applicable statutory factors and regulatory requirements without regard to prior draft proposals or applications.

FDIC staff is available to discuss proposals, even at the earliest stages of development, and answer any questions that organizers may have regarding regulatory requirements or the application process. To schedule a meeting with FDIC staff, organizers should contact the appropriate FDIC regional office.³

³ See link at footnote 1.