

## Opportunities and Risks Associated with Fintech: The Community Bank Perspective

On behalf of the more than 5,700 community banks represented by ICBA, we thank Chairman Crapo, Ranking Member Brown, and members of the Senate Banking Committee for convening today's hearing on "Examining the Fintech Landscape." We appreciate you raising the profile of a critical issue for the future of credit, payments, and American prosperity. As outlined below, ICBA believes that fintech is a promising development for consumers, businesses, and community banks. To achieve the full potential of fintech, policymakers must ensure that it does not jeopardize safety and soundness and consumer protection. In particular, the proposed Office of the Comptroller of the Currency (OCC) special purpose national bank charter fails to address these concerns and deserves closer scrutiny by Congress.

### **The promise of fintech**

Technological innovation and deployment continue to alter the way that consumers and businesses conduct banking and commerce. Community bankers are embracing innovative fintech solutions to simplify the banking experience for consumers. Fintech offers a wealth of opportunities for community banks. These include: simplifying the banking experience for consumers; providing a more detailed and sophisticated understanding of customers and targeting products and services to the market segments where they are most valued; creating innovative uses of data to ease and speed decision making, and providing access to the cloud infrastructure to lower costs.

Many community banks have partnered with fintech companies to access the opportunities described above. The challenge facing regulators is to encourage technological innovation without putting the financial system or consumers at risk.

### **Online marketplace lender performance raises serious concerns**

The recent problems some online marketplace lenders have experienced with liquidity and earnings, as well as with compliance, make it important that these lenders be subject to safety and soundness supervision and regulation. These companies have not experienced a serious economic downturn yet and already they have been subject to serious funding and capital issues.

### **OCC charter proposal fails to address these concerns**

The OCC is considering the issuance of a special purpose national bank charter for online marketplace lenders, other fintech companies, and any other company that the OCC considers to be in the "business of banking." While such a charter would subject the online lenders and fintech companies to more oversight and regulation than they now have, it fails to address the essential questions concerning the regulatory framework that would govern the supervision of these firms.

For instance, while the Licensing Supplement says that the OCC "will not approve proposals that would result in an

inappropriate commingling of banking and commerce,” it is unclear whether this prohibition would extend to the owners or affiliates of the fintech company in the same way that the Bank Holding Company Act restricts the commercial activities of a bank holding company. Allowing corporate conglomerates like Google to own banks violates the U.S. policy of maintaining the separation of banking and commerce, jeopardizes the impartial allocation of credit, creates conflicts of interest, and unwisely extends the federal safety net to commercial interests. If the OCC truly wants to separate banking and commerce, the agency should issue a rule that states that any special purpose national bank charter and/or its owners or affiliates will be subject to the same restrictions as those that apply under the Bank Holding Company Act.

ICBA supports the development of a fintech regulatory framework that is no less stringent than that which applies to insured depository institutions. The OCC should publish transparent capital and liquidity requirements for these firms that specifically address minimum levels considered appropriate for a fintech firm to be well capitalized. Fintech capital and liquidity requirements will be no less rigorous than those that apply to insured depository institutions.

Such a framework would promote a fair regulatory system, protect consumers, maintain the separation of banking and commerce, and support safety and soundness at these companies.

### **Any fintech charter should have statutory authority**

ICBA believes that the OCC should have specific legal authority from Congress before taking a step that could fundamentally change the financial market place, put safety and soundness at risk, and jeopardize consumers. Furthermore, the OCC should issue rules, subject to notice and comment, which would prescribe the scope and requirements of the new special purpose national bank charter.

### **Historically, limited purpose charters have evolved far beyond their original purpose and intent**

The industrial loan company charter should provide a cautionary example for financial regulators. Special purpose bank charters have the potential to evolve beyond their original purpose and intent and end up having all of the advantages and benefits of a full-service bank charter with limited supervision and regulation.

### **Closing**

Thank you again for convening today’s hearing. ICBA hopes that Congress will exercise thoughtful oversight of the emergence of fintech and its implications for consumers, businesses, and the broader economy. We are pleased to have the opportunity to offer the community bank perspective and look forward to working with this Committee as consideration of this important issue unfolds.