Last week, the Office of the Comptroller of Currency (the OCC), the primary federal regulator of national banks, issued an advanced notice of proposed rulemaking relating to the regulation of digital activities in banking, and in particular their activities involving cryptocurrency and distributed ledger technology. The OCC is soliciting public feedback on how national banks and their customers are currently utilizing new digital technologies to inform future updates to OCC regulations and allow banks to better harness new technologies and innovations. The OCC has requested public feedback by August 3, 2020.

Among other things, the notice seeks feedback on how the OCC should address the use of cryptocurrencies and distributed ledger technology by national banks and consumers. The OCC is specifically interested in how consumers are using cryptocurrencies, how customer engagement in crypto-related activities is impacting the banking industry and, ultimately, what specific cryptocurrency-related activities should be addressed by their rulemaking. Similarly, the OCC is also requesting feedback on how distributed ledger technology is being used in banking activities and whether any uses of distributed ledger technology need to be specifically clarified or addressed in future regulation.

The OCC has engaged in similar rulemaking processes in the past as new
technologies, such as internet applications and electronic payment systems, revolutionized financial transactions. Regulation that clarifies how national banks can treat cryptocurrencies and utilize distributed ledger technology will give consumers and banks more confidence in using these technologies in their businesses. As the popularity of cryptocurrency and distributed ledger technology booms around the globe, establishing a clear regulatory framework in the United States is vital to attracting and retaining businesses that rely on these technologies. The OCC’s rulemaking process is worth watching as a potential step towards greater utilization of cryptocurrency and distributed ledger technology in the United States.

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