

The Office of the Comptroller of the Currency Adopts a New Approach to Banking Innovation

Saturday, April 23, 2016

On March 31, 2016, the Office of the Comptroller of the Currency ("OCC") published a white paper detailing its new initiative to promote responsible innovation in the federal banking arena. The paper was meant, at least in part, to address banks' concerns as to the continuing rise of financial technology ("FinTech") companies and the ability of banks to innovate and, thus, compete with such companies.

Background

Today, business operates in an increasingly digitized space. Within that space and across all industries, the emergence of innovative products and services is testing and changing the relationships between businesses and consumers. The financial services industry has been particularly affected by this trend due to antiquated regulations and conservative practices.

With the emergence of FinTech, banks now find themselves competing against agile and unregulated companies seeking to operate in space traditionally filled by retail banks. By way of example, FinTech companies have increasingly begun to compete in a variety of banking sub-industries, from alternative payment providers (Square, PayPal, Xoom, Currency Cloud), marketplace or peer-to-peer lending (Lending Club, Prosper), education lending (CommonBond), digital wallets (Google Wallet, Apple Pay), financial advisory services (WealthFront), working capital management (Tesorio), insurance (Oscar), and even the real estate and mortgage arena (Quicken Loans, Discover Home Loan, LendingTree). This blossoming and young, but global, reality has been led by innovation in digital technology, increasingly burdensome and inflexible regulations surrounding banks, changes in consumer behavior, generational shifts and the need for banks to reduce costs.

Over the past decade, FinTech investments have grown from \$1 billion in 2008, to \$12 billion in 2014, and up to \$19 billion in 2015. With predicted increases in FinTech investment, it is estimated that \$4.7 trillion in revenue and upwards of \$470 billion in profits for financial services firms is at risk of being displaced by FinTech. The FinTech emergence has been referred to by some as banking's "Uber moment." Understanding that the financial services arena is changing, the OCC has issued this white paper to help shape a clear regulatory path for approval of new and innovative banking products and services.

Guiding Principles for the OCC's Approach

According to the white paper, the OCC believes that innovating responsibly is central to its core mission, and therefore it is adopting the following principles to shape a more adaptive structure for approval of innovative technological products and services:

1. Support reasonable innovation. As part of its initiative, the OCC is considering various reforms to improve its process for understanding and evaluating innovative financial products, services and processes. According to the OCC, its goal is an improved process that will provide a clear path for banks and other stakeholders to seek the agency's views and guidance. The OCC believes that this process should clarify agency expectations concerning safety and soundness considerations for new products and services, third-party relationships with FinTech companies and partnerships between banks.

2. Foster an internal culture within the OCC that is receptive to responsible innovation. The OCC states that it will seek to promote a more receptive culture and improve the awareness and knowledge of



Article By [James M. Kane](#)
[Juan M. Arciniegas](#)[Jennifer Durham King](#)
[Daniel C. McKay, II](#)[James W. Morrissey](#)
[Vedder Price Newsletter/Bulletin](#)
[Financial Institutions & Banking](#)
[All Federal](#)

financial innovations. In that regard, the OCC says it will evaluate its policies and processes, define roles and responsibilities for the purpose of evaluating innovation, identify and close knowledge and expertise gaps, and enhance communication within the agency and with outside stakeholders.

3. Leverage agency experience and expertise. The OCC intends to rely heavily on its understanding of the financial system to expand its comprehension of the emerging product and service technology in the FinTech space. To help resolve supervisory concerns early, the OCC will seek to encourage meaningful communication among its experts to ensure early identification of opportunities and risks associated with an institution's new technology products and services.

4. Encourage responsible innovation that provides fair access to financial services and fair treatment of consumers. The OCC believes that current innovations in FinTech hold great promise for increasing financial inclusion of unbanked and underbanked consumers. To this end, the OCC states that it hopes to encourage responsible innovation by providing thoughtful insight on how national banks and federal savings associations have innovated to include those underserved consumers.

5. Further safe and sound operations through effective risk management. Banks must continue to ensure that effective corporate governance and risk management practices meet supervisory expectations when considering new products, services and processes. This includes expectations described in prior OCC guidance related to strategic planning, evaluating new products and services, using models, operational risk, cyber security and managing third-party relationships.

6. Encourage banks of all sizes to integrate responsible innovation into their strategic planning. The OCC is reiterating that banks should integrate innovation into their strategic planning processes. As sound strategic decisions are essential for any bank, a bank's decision to offer innovative products and services should be consistent with its long-term business plan, rather than following the latest industry trend. In discussing innovation, the OCC reminds banks to consider traditional strategic planning criteria, such as the following:

- consistency with the bank's corporate governance, business plan and risk appetite;
- realistic financial projections;
- adequate staff, both in number and in expertise;
- considerations of all applicable risks, including reputational and compliance; and
- exit strategies.

7. Promote ongoing dialogue through formal outreach. The OCC plans to establish a regular and continuing dialogue between banks, nonbanks and consumer groups to (a) stay abreast of current FinTech trends and developments, (b) understand the underlying reasons for changes in customers' needs with regard to products/services, (c) promote responsible innovation, (d) identify opportunities in responding more quickly and efficiently to inquiries concerning innovative product and service requests, and (e) solicit continuing feedback on how the OCC encourages or impedes responsible innovations.

8. Collaborate with other regulators. As the U.S. financial services industry involves various regulators at the federal, state and international levels, the OCC will work with other agencies to minimize unnecessary regulatory overlap.

Conclusion

In sum, as the OCC is the first federal banking regulator to step forward and adopt a more flexible approach in assessing innovative banking products and services, banks can be assured that other regulators will follow. However, banks should not wait for the regulators to enter the twenty-first century. As FinTech continues to disrupt the financial services industry, banks must seek to remain competitive and be proactive in evaluating and possibly reimagining their various business lines for opportunities to enhance the customer experience through innovative products and services.

To view the full text of the OCC's white paper, [click here](#).

© 2019 Vedder Price

Source URL: <https://www.natlawreview.com/article/office-comptroller-currency-adopts-new-approach-to-banking-innovation>