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7 KEY TAKEAWAYS

Fintech & Banking 2018

The OCC Begins Accepting Bank Charters from Fintech Companies

Twenty months ago, the Office of the Comptroller of the Currency (OCC) decided to move forward with considering applications from fintech companies to become special purpose national banks (SPNBs). In early 2017, the OCC provided additional guidance on evaluating special purpose national bank charter applications from fintech companies that engage in the business of banking and highlighted unique factors that the agency will consider in evaluating a fintech company application. In May 2018, Comptroller of the Currency Joseph Otting commented that the OCC anticipates announcing its decision in July 2018 on whether it will proceed with issuing SPNB charters to nondepository fintech companies. On July 31, 2018, the OCC announced that it will begin accepting applications for SPNB charters from nondepository fintech companies engaged in the business of banking. The OCC states that its decision to move forward "is consistent with bipartisan government efforts at federal and state levels to promote economic opportunity and support innovation that can improve financial services to consumers, businesses, and communities."

Key takeaways from the OCC's policy statement and *Comptroller's Licensing Manual Supplement*:

1 The application process and requirements appear largely similar to the guidelines and criteria the OCC previously released in December 2016 and March 2017.

2 Every application will be evaluated on its unique facts and circumstances. The OCC will use its existing chartering standards and procedures for processing applications from fintech companies as outlined in the *Comptroller's Licensing Manual*.

3 Fintech companies that apply and qualify for, and receive, SPNB charters will be supervised like similarly situated national banks, to include capital, liquidity, and financial inclusion commitments as appropriate.

4 The OCC expects a fintech company that receives a SPNB charter to demonstrate a commitment to financial inclusion. The expectations for promoting financial inclusion will depend on the company's business model and the types of planned products, services, and activities.

5 Fintech companies will be expected to submit an acceptable 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.

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6 New fintech companies that become SPNBs will be subject to heightened supervision initially, similar to other de novo banks.

7 The OCC states that it has the authority, expertise, processes, procedures, and resources necessary to supervise fintech companies that become national banks and to unwind a fintech company that becomes a national bank in the event that it fails.

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