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THE OCC ANNOUNCES FRAMEWORK ON RESPONSIBLE INNOVATION

The Office of the Comptroller of the Currency ("OCC"), the prudential regulator of national banks and federal savings associations, published an 11-page white paper that sets forth 8 principles that the OCC will follow to help it understand and quickly evaluate new technology. While the OCC cautions that not every innovation is appropriate for regulated financial institutions, the OCC recognizes that "avoiding new approaches completely is equally dangerous" and that "banks have to continuously adapt to prosper."

In its white paper, the OCC acknowledges the respective advantages of banks and fintechs and the benefits that can come from collaboration. The OCC advocates responsible innovation — innovating in a way that is consistent with sound risk management and is aligned with a bank's overall strategy. The white paper outlines the following guiding principles for the OCC's approach to responsible innovation:

1. Support responsible innovation.
2. Foster an internal culture receptive to responsible innovation.
3. Leverage agency experience and expertise.
4. Encourage responsible innovation that provides fair access to financial services and fair treatment of consumers.
5. Further safe and sound operations through effective risk management.
6. Encourage banks of all sizes to integrate responsible innovation into their strategic planning.
7. Promote ongoing dialogue through formal outreach.
8. Collaborate with other regulators.

These broad principles can be summarized into three overall objectives.

Make process improvements that promote consistent and efficient decision making. To quickly respond to innovation, the OCC recognizes the need for a central point of contact on innovation within the OCC, whether in the form of a new centralized office on innovation or an existing unit assuming additional responsibilities. The OCC also understands that financial institutions need clear "rules of the road" on the development of innovative products. The OCC will assess existing guidance on new product development and

third-party risk management to determine whether additional guidance is needed. Finally, the OCC will evaluate whether it can streamline existing procedures or develop new procedures where existing procedures do not work for certain innovative activities. The white paper briefly mentions permitting banks to conduct pilot tests of new products and services as an idea to further innovation.

Change the OCC's internal culture to be more receptive to innovation. The OCC notes that it is perceived as having a low risk tolerance for innovation and a deliberate vetting process that can discourage innovation. The OCC responds to these perceptions by listing potential initiatives to make the OCC more receptive to innovation, including (i) additional training of OCC personnel, (ii) increased dialogue with designated examiners who work closely with supervised banks and (iii) designating lead experts on responsible innovation. Internal working groups on payment systems and marketplace lending have already been established.

Engage stakeholders and other regulators to understand and respond effectively to emerging technologies. The OCC plans to bring stakeholders together to discuss responsible innovation through forums, workshops and meetings. The OCC also committed to coordinating with other financial regulators to evaluate innovative ideas consistently and minimize unnecessary regulatory burden.

The OCC is the latest regulator to join the discussion on innovation in the financial services industry. In 2015, the U.S. Department of Treasury and the California Department of Business Oversight initiated independent inquiries on the online marketplace lending industry. In 2012, the Consumer Financial Protection Bureau (CFPB) launched Project Catalyst to facilitate innovation in consumer financial products and services. Project Catalyst includes a no action letter policy under which innovators can submit their products to the CFPB for review. See our ALERT dated Mar. 7, 2016 on the high risk and low reward with respect to requesting no action letters. □

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