



## FDIC PUBLISHES GUIDE FOR FINTECHS ON CONDUCTING BUSINESS WITH BANKS

The Federal Deposit Insurance Corporation's ("FDIC") new technology lab, FDiTech, has published a 6-page guide to help financial technology companies ("Fintechs") and other third-party vendors understand unique aspects of entering into a partnership with banks. The guide is relevant to all Fintechs and vendors and does not focus on any particular type of third-party relationship, such as bank partnerships.

The guide explains generally banks' third-party risk management responsibilities and focuses on aspects of a bank's third-party risk management program that may affect Fintechs and third parties, including what banks will generally consider during their pre-engagement risk assessment and due diligence of a potential third party vendor. The guide also notes the following general considerations to help third parties prepare for a bank's due diligence process:

- Third parties should understand the framework of laws and regulations that apply to banks, including that banks must comply with safety and soundness standards.
- Third parties should maintain a well-managed and financially strong business that can handle changes and disruptions.
- Third parties should be prepared for the detailed questions and documents that banks may request and understand that a bank may request remediation of concerns, such as the development of new policies and procedures, prior to an engagement with the bank.
- Third parties should demonstrate that the business has appropriate monitoring systems in place, such as audits and cybersecurity tests, and should be able to demonstrate its ongoing compliance with applicable laws.

The guide ends by providing a non-exhaustive list of items that bank management may request from a third party as part of the bank's pre-engagement risk assessment, initial due diligence, contract management process and ongoing due diligence.

Notably, the guide outlines special considerations for third parties providing models, algorithms or other types of automated decision-making systems to banks or using such technology to provide products or services to banks. The guide explains that banks

are expected to be able to understand the model's outcome and the justification for those outcomes. The guide also emphasizes data protection measures that a third party must have when the third party has access to banks' customer data.

One of the overall goals of the guide appears to be setting appropriate expectations for Fintechs and third parties of what partnering with a bank may entail, although the guide notes a third party's experience with a particular bank could vary because banks tailor their risk management program programs to the risk profile of the third party and of the potential product offering. FDiTech indicated that this guide is the first in a series of resources that it plans to provide to help Fintechs and third parties partner with banks.

In 2016, the Consumer Financial Protection Bureau ("CFPB") issued a similar compliance bulleting with service provider guidance for supervised banks and nonbanks. The CFPB guidance set forth the CFPB's expectations that supervised banks and nonbanks should have an effective process for managing the risks of third party service provider relationships and it set forth steps that supervised banks and nonbanks should take to ensure that their business arrangements with third party service providers do not present unwarranted risks to consumers.

Since 2016, federal regulators have invested in initiatives to support financial innovation. The Office of the Comptroller of the Currency has led the innovation support efforts by opening an Office of Innovation and proposing a Fintech bank charter. Other federal regulators have followed suit. Over the last two years, the FDIC has, among other things, opened an office of innovation, launched FDiTech, published joint guidance on the use of alternative data in credit underwriting and approved a de novo mobile banking company for deposit insurance.

While this guide is not groundbreaking to anyone familiar with banks' third-party risk management programs, the guide could be informative to Fintechs and third parties entering into the banking sector and could help facilitate relationships between banks and third parties. □

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