



Leading the payments industry through rulemaking, dialogue, advocacy and education

May 31, 2016

VIA EMAIL: innovation@occ.treas.gov

Mr. Thomas J. Curry
Comptroller of the Currency
Office of the Comptroller of the Currency (OCC)
400 7th Street, SW
Washington, D.C. 20219

Re: OCC Innovation Initiative

Dear Comptroller Curry:

NACHA – The Electronic Payments Association¹ respectfully submits this response to the Request for Comment regarding the White Paper on the OCC Innovation Initiative issued by your office on March 31, 2016. The Paper requests comment on the opportunities and challenges for national banks and federal savings associations that are attempting to navigate the rapidly changing landscape of new technology in the financial services industry. Specifically, your proposal contemplates how the Office of the Comptroller of the Currency (OCC) can support a financial system that innovates responsibly and in a manner that is competitive with non-bank providers of financial products.

NACHA General Comments

The ACH Network enables the direct electronic movement of money and information from one bank account to another. The ACH Network plays an important role in the payments landscape, serving as a safe, efficient, high-quality and ubiquitous payments system that enables billions of Direct Deposit and Direct Payment via ACH payments annually.

Given the OCC's unique role as the prudential regulator of federal depository, NACHA supports the Office of the Comptroller of the Currency's objective to inspire additional innovation within its supervisory capacity and develop the internal expertise to identify and understand new trends and technology that are relevant to consumers and businesses.

¹ Since 1974, NACHA – The Electronic Payments Association has served as trustee of the ACH Network, managing the development, administration and rules for the payment network that universally connects all 12,000 financial institutions in the U.S. moving money and information directly from one bank account to another. Through its collaborative, self-governing model, education, and inclusive engagement of ACH Network participants, NACHA facilitates the expansion and diversification of electronic payments, supporting Direct Deposit and Direct Payment via ACH transactions, including ACH credit and debit payments; recurring and one-time payments; government, consumer and business transactions; international payments; and payments plus payment-related information. Through NACHA's expertise and leadership, the ACH Network is now one of the largest, safest, and most reliable systems in the world, creating value and enabling innovation for all participants. Visit nacha.org for more information.

Financial institutions often partner with non-bank innovators to provide products and services to their customers. The OCC should educate these prospective bank partners on how products satisfy the regulatory obligations of banks. For example, an innovator should be able to describe how it ensures the transactions it creates comply with U.S. law; how it knows its customers and the type of business in which each is engaged; how its product or service prevents exploitation by money launderers; how it ensures delivery of consumer financial rights in terms of disclosures and dispute resolution; and how it has a program to ensure these things will be delivered consistently over time, incorporating changes as they evolve.

As the OCC continues to develop its framework to support responsible innovation in the federal banking system, NACHA provides the following responses to the proposed questions.

2. How can the OCC facilitate responsible innovation by institutions of all sizes?

The willingness to adopt emerging technologies for newer and more innovative business practices varies widely depending on the size of the financial institution, as well as the perspective of each individual organization. Large financial institutions typically are investing heavily in their own technology. For example, many large financial institutions have established innovation labs for the investment of new solutions or the actual acquisition of technology start-up firms. Smaller regional and community organizations, on the other hand, are increasingly reliant upon their core processors to provide them with advanced solutions to keep pace with market advancements or may need to partner with others to foster new, innovative offerings. However, as new technologies are introduced to the marketplace, financial institutions of all sizes should be postured to realize efficiencies and cost benefits of business innovation.

The OCC recognizes that banks and non-bank technology providers need to work together to speed innovation to consumers. At the same time, financial institutions need continued guidance on how to balance effective risk management with responsible innovation. Some financial institutions will lack the expertise to effectively evaluate the inherent risk in new technologies or partnerships and may engage in business activities that do not align with their long-term strategies or risk tolerances. A cooperative approach with regulators to educate financial institutions on how best to conduct this due diligence will promote the adoption of innovative business practices in a measured and responsible way.

The white paper recognizes the need to leverage agency experience and expertise as one of the eight guiding principles for a framework for understanding and evaluating innovative products. By staying abreast of trends and developments, examiners can be knowledgeable about innovative products and services in the market. To ensure that this expertise is appropriately disseminated to institutions of all sizes, the OCC should consider designating lead experts on responsible innovation to support bank supervision, as suggested in the white paper. Furthermore, the OCC should ensure that it employs sufficient resources for lead experts to participate in supervisory activities for financial institutions of all sizes.

3. How can the OCC enhance its process for monitoring and assessing innovation within the federal banking system?

The FFIEC regulators provide oversight for the largest technology service providers, engaging in joint exams for safety and soundness and regulatory compliance. However, smaller technology providers may pose risk to financial institutions as well, depending on their market penetration. The OCC should consider extending its supervisory reach to other technology service providers. Such examination experience could help the OCC to better understand new innovations and stay abreast of technological developments as they emerge in the marketplace.

4. How would establishing a centralized office of innovation within the OCC facilitate more open, timely, and ongoing dialogue regarding opportunities for responsible innovation?

A centralized and well-advertised office of innovation within the OCC would provide a single resource that both financial technology companies and financial institutions would be able to access to ensure that the development of innovative financial services is appropriate with existing and developing oversight rules. A centralized office could serve both as an educational resource as well as a location for financial institutions and financial technology companies to connect to provide resources for each other and find ways to collaborate with the knowledge that all parties are connecting through a resource based upon regulated oversight. Having some surety that counterparties have been reviewed or are aware of necessary regulations may help to encourage financial institutions to partner with financial technology providers.

Without mutual understanding among all audiences, financial institutions, having accountability for the regulatory compliance of their Fintech partners, may be apprehensive about engaging with Fintech organizations in support of more innovative solutions and business practices. Additionally, the OCC should educate examination staff at all levels of the agency about new approaches to supervisory oversight of emerging technologies in business practices and Fintech relationships with financial institutions.

5. How could the OCC provide guidance to non-bank innovators regarding its expectations for banks' interactions and partnerships with such companies?

The OCC should provide guidance to third-party providers about internal requirements that banks will use to evaluate risk. While this guidance is readily available on the OCC's website and readily promoted to financial institutions, the OCC should consider ways to promote guidance to non-banks. Conferences and forums, along with social media, represent potential vehicles for communication and interaction. The OCC should also work directly with all regulatory bodies of the financial services industry, the financial technology community and consumer protection agencies to ensure consistency with examinations and guidance.

6. What additional tools and resources would help community bankers incorporate innovation in to their strategic planning processes?

Community bankers could benefit from education on emerging technologies. The rapid pace of technological disruption in electronic payments creates challenges for financial institutions to stay current on what services to consider in strategic planning processes. The OCC should consider workshops for community banks to provide education on emerging innovations and strategic planning.

The OCC could also incorporate this training into the Director Workshops offered for bank directorates.

8. What forms of outreach and information sharing venues are the most effective?

The OCC has realized success in educating bank directorates, many of which may have limited banking knowledge and experience, of their fiduciary responsibilities and expectations for overseeing the actions of bank management and financial institution strategic planning. Similarly, workshops for non-bank innovators could help them to understand their compliance responsibilities as they engage in partnerships with financial institutions to deliver more innovative products and services.

Partnering with organizations whose members are heavily invested in the continued innovation of financial services is an important strategy for the OCC. For instance, NACHA would be open to working with the OCC as a co-sponsor of events that will bring community banks and the financial technology community together to help each group to understand their compliance responsibilities while promoting responsible innovation.

If I can be of further assistance, please do not hesitate to contact me at (703) 561-3943 or bsullivan@nacha.org.

Sincerely,

/S/

William D. Sullivan

Senior Director & Group Manager

Government & Industry Relations

