



The Voice of the Retail Banking Industry

May 31, 2016

Submitted Electronically: innovation@occ.treas.gov

The Honorable Thomas J. Curry
Comptroller of the Currency
Office of the Comptroller of the Currency
4007th Street, NW
Washington, D.C., 20219

Re: Supporting Reasonable Innovation in the Federal Banking System

Dear Comptroller Curry,

The Consumer Bankers Association (CBA)¹ appreciates the opportunity to provide our comments in response to the Office of the Comptroller of the Currency's (OCC) white paper entitled *Supporting Responsible Innovation in the Federal Banking System: An OCC Perspective* (White Paper).² We agree with the OCC's goal of exploring and facilitating responsible innovation in the federal banking system, particularly in financial technology (fintech). We support any effort to enhance the ability of banks to innovate in order to better serve U.S. consumers with products and services appropriate for the rapidly changing financial services environment.

As the OCC is aware, emerging technologies are quickly changing the way financial institutions connect with consumers. Banks have always been leaders in bringing financial technology to market. They have embraced innovation and continue to do so in order to serve their customers better. For example, installing ATM networks allowed customers instant access to their money anywhere in the world. Online banking has made it possible to manage money and pay bills from the comfort of home. Checks can now be deposited by smart phone

¹ The Consumer Bankers Association is the only national financial trade group focused exclusively on retail banking and personal financial services—banking services geared toward consumers and small businesses. As the recognized voice on retail banking issues, CBA provides leadership, education, research, and federal representation for its members. CBA members include the nation's largest bank holding companies as well as regional and super-community banks that collectively hold two-thirds of the total assets of depository institutions.

² <http://www.occ.gov/news-issuances/news-releases/2016/nr-occ-2016-39.html>

and are scanned at the point of sale. Every day banks continue to develop and leverage the latest technologies to provide products and services that meet the diverse needs of the U.S. consumer.

Continued innovation in financial services has the potential to add meaningful benefits to consumers and spur economic growth by making capital available to consumers and small businesses. However, we must take care that this innovation is responsible and that the benefits outweigh the risks for those customers. It is noteworthy that a significant share of innovation seen today is developing outside of the regulated banking industry. Today, new nontraditional financial services providers have entered this space and are now offering financial services either through partnership with banks or directly to consumers.

CBA believes that all financial services providers must protect consumers by ensuring a level playing field of regulation through uniform supervision and enforcement. Adherence to the following fundamental principles will ensure a strong financial system that best serves the needs of consumers and small businesses across the country.

Most importantly, improvement in the delivery of safe and innovative products and services has the potential to serve many U.S. consumers that are underserved. Advances in the innovation of financial services will drive financial access and promote inclusion for those that may have difficulty or be reluctant to enter mainstream financial services.

CBA is confident the OCC's emphasis on innovation will lead to a greater understanding among all stakeholders, including policymakers, of the environment needed to foster rapid responses and a fair examination of critical innovation. We believe the OCC, through its White Paper, has sent a strong signal concerning the importance of fintech. We appreciate the OCC's willingness to explore ways in which banks can better adapt to the changing financial services environment and the agency's efforts to reduce regulatory uncertainty to promote financial innovation.

OCC to Support Reasonable Innovation

We are encouraged by the OCC's stated goal of exploring change, to coordinate decision making more effectively within the OCC, and to expedite the review of innovation whenever possible. To accomplish this goal, the OCC has made some specific recommendations for approaches designed to better support its supervised banks in developing innovative products and services.

A primary point is the OCC's focus on creating an efficient innovation infrastructure that will foster innovation. CBA supports this effort and believes it will help usher the change necessary to promote reasonable innovation. An excellent example of this approach can be found in the United Kingdom's Financial Conduct Authority (FCA), the central regulator for financial services in the UK. In 2014, the FCA launched "Project Innovate," an initiative to support innovation where it could improve the lives of consumers. Through Project Innovate,

the FCA sought to provide greater direct support of all financial service innovation by giving companies help with navigating regulatory requirements. This includes direct engagement over product and service development before a formal application to be authorized is submitted. The FCA often works directly with firms to test innovative tools and uses what it learns to update its rules. Similar efforts to guide innovation in the U.S. could be helpful and, as a general matter, we support the OCC's efforts to explore options for improving the innovation infrastructure.

Evaluation of Existing guidance

The OCC has expressed that it will evaluate existing guidance on new product development and third-party risk management and assess whether additional guidance is appropriate to address the needs of banks and their customers in the rapidly changing environment. We support this effort and believe the OCC should explore how to adapt the current regulatory regime to foster innovation by identifying policies and processes that need to change to support progress. We support the OCC's use of workshops, roundtables, and other events to be held in order to identify issues and to ask innovators for their help with solutions.

As banks explore new products and services, and as the number and complexity of their third-party relationships increases, regulators are concerned that risk management is not keeping pace. In response, the OCC recently issued its third party relationships guidance.³ This was in addition to the OCC's 2004 guidance, Risk Management of New, Expanded, or Modified Bank Products and Services.⁴ Through these documents and others, the agency has conveyed concern that new products and services and vendor relationships could significantly impact banks' operational, compliance, reputation, strategic and credit risk profiles.

However, in order to promote new product and service development and cross-collaboration in the fintech industry, balancing high regulatory hurdles while fostering an environment conducive to innovation in financial technology, is needed. Innovation is often an iterative process, and the development of solutions is unlikely to be perfect the first time around. As such, regulation needs to be flexible in order to avoid situations where overly tempered approaches to risk can cause serious and lasting deficits in product and service innovation. Ideally, policy should allow for the acceptance and controlled growth in innovation without stifling it. It needs to accommodate disruptive processes of innovation and harness the potential opportunities for positive change. If approached correctly, we believe innovation can result in the availability of smarter and fairer financial services without sacrificing customer confidence and trust.

³ OCC Bulletin 2013-29

⁴ OCC Bulletin 2004-20

Accordingly, CBA supports the OCC's reexamination of the regulatory framework and believes the agency should consider allowing greater flexibility to be introduced to support innovation that will bring benefits to consumers.

Pilot/Test Programs for New Products and Services

As a possible solution for streamlining the innovation process, the OCC has begun to explore the idea of allowing banks to test or pilot new products and services on a small scale before committing significant bank resources to full integration. CBA supports this concept for the very reasons enumerated by the OCC in the White Paper. Specifically, the notion of a pilot program would allow for limited, controlled testing that would help protect consumers while fostering the environment needed for proper innovation. By employing limited-use programs, banks would be able to properly test products and services for suitability, sustainability and risk before taking them to a larger market, thus allowing for growth in innovation and protection for consumers.

Central Point of Contact

As part of its efforts, the OCC has proposed the possible creation of a centralized office on innovation that would serve as a forum to vet ideas before a bank or nonbank makes a formal request to launch an innovative product or service. This office would also conduct outreach to stakeholders to identify supervisory, policy, legal or precedent-setting issues or concerns early in the process. CBA supports the creation of a centralized office on innovation that facilitates a streamlined process for innovation with the OCC. However, any such office would be counterproductive if it served as an additional hurdle for companies seeking to bring innovation to market. We believe the inherent expertise and focus of a centralized office could bring effective, thorough and quick examination of innovative products and services, thereby facilitating dialogue and guidance to banks and their partners.

Regulatory Coordination

The OCC has indicated that one of its guiding principles for innovation is collaborating with other regulators. CBA believes it is imperative to any effort to promote innovation that all relevant policymakers are operating from the same game plan. There are many players in financial services regulation, which can lead to overlapping jurisdictions and policy inconsistencies. We believe open communication and consistency among all the financial service regulators will provide the clarity needed to advance innovation in a highly complex regulatory and supervisory environment. We commend the OCC for taking the lead in coordinating this effort.

Innovation and Financial Inclusion

CBA believes one of the most compelling benefits of greater financial innovation is meeting the needs of the underserved. Serving the low-to-moderate income (LMI)

demographic in a way that has true impact on the consumer can be challenging. The Internet and mobile revolutions have made it much easier to connect people to affordable financial services. Modern technology platforms can enable entirely new services, reach underserved populations through nontraditional ways and help traditional financial institutions provide services more effectively. As the OCC and others grapple with financial inclusion, they should explore ways to leverage this modern connectivity to overcome traditional barriers to financial services and provide secure, convenient and cost-effective financial services to those with the greatest need.

Banks are already finding ways to increase inclusion, and customers of all backgrounds are quickly adapting to the changing environment. According to a new survey by Javelin Strategy & Research, for the first time since the survey began in *(add year here)*, there were more people using mobile banking services—smart phones and tablets-- than branch services. In 2010, forty percent of Americans with bank accounts visited a physical branch once a week, while only nine percent made a mobile transaction weekly. In their most recent survey, however, Javelin found that the number of adults who went to a physical branch weekly has dropped to twenty-four percent, while the number who used a mobile banking service weekly has risen to thirty percent.⁵ This change is consistent with what we are hearing from CBA member banks.

Another recent survey found that consumers who do not visit branches use the bank's app or mobile website regularly to check balances sixty-six percent of the time, make transfers fifty percent of the time, pay bills forty-six percent of the time and deposit checks fifty-one percent of the time.⁶ Interestingly, even those who "frequently" visit branches use their app or website channel almost as frequently. One expert reports over ten percent year-over-year reduction in teller traffic for activities like check cashing, check deposit and cash withdrawal.⁷ This is clearly the trend of the future. Over ninety percent of consumers less than thirty-five years old are active users of online banking, and another twenty-seven percent of Millennials say they would consider a branchless digital bank.⁸

The change is also pronounced among the underserved. A recent FDIC study shows sixty-eight percent of unbanked and ninety percent of underbanked own a mobile phone, and underbanked mobile phone users are more likely to have used mobile banking than the "fully banked."⁹

⁵ As reported in Wall Street Journal, January 13, 2016, ("For the First Time, More Are Mobile-Banking Than Going to a Branch").

⁶ Protiviti's 2015 Consumer Banking and Payments Survey, reported in "Bricks & Clicks: The New Omni-channel Reality, November 10, 2015 (<http://thefinancialbrand.com/55261/omnichannel-bricks-and-clicks-strategy/>)

⁷ "Building the 'Branch of the Future' is More Than Technology," Alex Jimenez, The Financial Brand, January 5, 2016.

⁸ "The Unbanked Generation", First Data, (https://www.firstdata.com/en_us/all-features/millennials.html)

⁹ Statement by Martin J. Gruenberg, Chairman, Federal Deposit Insurance Corporation, to the National Interagency Community Reinvestment Conference; Los Angeles, CA (February 8, 2016).

The OCC notes in the White Paper that brick-and-mortar branches serve as stabilizing factors in LMI communities. While the need for physical locations has greatly diminished, we do not believe branches are going away any time soon. According to recent report, over ninety percent of US households live within ten minutes of three or more different banks, and seventy-five percent have a choice of six or more.¹⁰ However, in 2013, more than twice as many branches closed as opened.¹¹ The trend is clearly toward a reduced number in all markets, and we are witnessing a greater use of “smart branches” or compact branches.

Accordingly, alternative approaches have increased, as smart branches are being developed to provide for consumers’ needs in more efficient and cost-effective ways. With over 6,000 banks in the US, the range of alternatives to traditional branches is only limited by the imagination. Store branches, pop-up branches, and coffee house branches are all creative ways to service communities efficiently. Branches with automated or digitized components are also being tested by many institutions, and the branch of the future is unlikely to look like the traditional brick-and-mortar branch of our childhood.

CBA and our member banks want to ensure they are meeting customer needs in all segments of their market. Banks are subject to regulatory expectations that include, but are not limited to, strict Community Reinvestment Act (CRA)¹² performance evaluations. Banks embrace their obligations to serve all of the communities in their footprint, as required by CRA. However, CRA was written and reformed at a time before the current digital revolution, when ATMs were still considered a relatively new technological advance. As a result, we believe banks are able to meet the needs of the community by offering innovative products and services that do not require physical location, at least as they exist today. While brick and mortar are weighed heavily along with other alternative channels, banks are consolidating and watching new channels consumers are choosing to meet their own needs. According banks would like to continue to work with regulators to identify additional metrics that would support the CRA Service Test. Explicit guidance regarding the requirements to consider digital access would be helpful. In addition, we encourage the OCC and its sister agencies to consider digital access to banking services on an equal footing with brick and mortar access.

We believe the OCC is uniquely positioned to lead the charge for CRA reevaluation and moving consumers and the banking industry into a new era of financial service innovation and regulation.

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¹⁰ The Future of US Retail-Banking Distribution, Retail Banking Insights, McKinsey & Co., (2014).

¹¹ Protiviti’s 2015 Consumer Banking and Payments Survey, reported in “Bricks & Clicks: The New Omni-channel Reality, November 10, 2015 (<http://thefinancialbrand.com/55261/omnichannel-bricks-and-clicks-strategy/>).

¹² 12 U.S.C. 2901

The efforts outlined by the OCC in its White Paper are appreciated and supported by CBA and our member banks. We stand to assist the OCC as it continues its examination of innovation in financial services and how all interested parties can play an influential part in transforming the banking experience for U.S. consumers.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Pommerehn", with a long horizontal flourish extending to the right.

David Pommerehn
Vice President, Senior Counsel
Consumer Bankers Association