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Acting Comptroller Discusses Innovation and Financial Technology

Written By [Eamonn Moran](#)

Acting Comptroller of the Currency [Keith A. Noreika](#) recently discussed innovation and financial technology during a speech at Georgetown University Law Center's Institute of International Economic Law's [Fintech Week](#). His remarks highlighted his optimism for innovation enhancing products and services for consumers and provided an update on activities related to the Office of the Comptroller of the Currency's Office of Innovation, including the latest on the agency's thinking regarding a charter for fintech companies that offer banking products and services.

According to Noreika, "we are at the beginning of a period in this country that is more open to rethinking our approach to regulation, so that we can promote economic opportunity while ensuring the financial system operates in a safe and sound manner and protects consumers from abuse." He perceives bankers, industry members, regulators, and legislators to "appear ready and willing to have discussions today that would have been impossible six months or a year ago." He views this change in tone as "very encouraging," which "suggests that we are finally able to have a constructive, bipartisan conversation about how to approach our regulatory framework." He stressed that in any steps we take, "we must carefully weigh the cumulative effects of our actions. That includes the impacts on markets, consumers, and banks, and on other companies, such as fintechs, that are innovating the way financial products and services are delivered based on the evolving needs of consumers, businesses, and communities nationwide."

Noreika noted that his optimism is also based in part on how he views change, including the transformations occurring in the financial services marketplace today, as a part of the "natural evolution" of the banking industry toward "increasing convenience, speed, and control." Pointing to some of the transformations in the banking sector, such as mobile banking, he stressed the importance of being "careful to avoid defining banking too narrowly or in a stagnant way that prevents the system from taking advantage of responsible advances in technology and commerce."

In describing the work of the OCC's Office of Innovation, Noreika noted that the office's "primary purpose is to make certain that institutions with federal charters have a regulatory framework that is receptive to responsible innovation and the supervision needed to support it," and that the office "serves as a clearinghouse for innovation-related matters and a central point of contact for OCC staff, banks, nonbank companies, and other industry stakeholders." He noted that the OCC also is in the early phases of developing a framework for OCC participation in bank-run pilots that allow banks to develop and test products in a controlled environment. In his

view, pilots “can accomplish the same goals as what others call ‘sandboxes,’ and allow [the agency] to gain insight into a product and to become comfortable with a proposed products controls and risks early in the process.”

Building upon [remarks he made in July](#), Noreika reiterated his views that companies that offer banking products and services “should be regulated in the same way that banks are and subject to the same type of ongoing supervision and examinations that banks face.” Consistent with his predecessor, Noreika also is of the mindset that companies that offer banking products and services should be allowed to apply for national bank charters in order to pursue their businesses on a national scale if they choose, so long as they meet the criteria and standards for doing so. He again emphasized that national charters should be just one choice for companies interested in banking, and should exist alongside other options that include becoming a state bank or state industrial loan company (ILC), or operating as a state-licensed financial service provider. Noreika highlighted how certain states, like Georgia, already offer limited purpose charters that even allow commercial companies to be the parent company of the state institution (merchant acquirer limited purpose banks). Furthermore, fintech companies could also pursue partnerships or business combinations with existing banks, or even consider purchasing a bank.

“If, and it is still an *if*, a fintech company has ambitions to engage in business on a national scale and meets the criteria for doing so, it should be free to seek a national bank charter,” Noreika stated. That includes pursuing a charter under the OCC’s authority to charter special purpose national banks or the OCC’s long-existing authority to charter full-service national banks and federal saving associations, as well as other long-established limited-purpose banks, such as trust banks, bankers’ banks, and other so-called CEBA credit card banks. According to Noreika, “[m]any fintech and online lending business models fit well into these categories of national bank charters, and there has been some interest in fintechs becoming full-service banks, trust banks, and credit card banks. Chartering innovative de novo institutions through these existing authorities enhances the federal banking system, increases choice, promotes economic opportunity, and can improve services to consumers, businesses, and communities.” He cautioned, however, that a national bank charter “is a special thing, and the OCC will not undermine its value by granting charters to companies that are not ready to meet [the agency’s] admittedly high expectations.”

Noreika also took the opportunity to correct some misperceptions that he has seen and heard about – especially the concerns about fintech charters leading toward the inappropriate mixing of banking and commerce. He pointed to the many examples where commercial companies are already allowed to own banks at the state and federal levels, including national credit card banks, state merchant processing banks, state-chartered ILCs. “The law allows commercial companies today to own these types of banks for good reason – they support legitimate business goals and deliver valued products and services to their customers,” he observed. He recognized that the Bank Holding Company Act defines what it means to be a bank for the purposes of that law, but if a particular chartered bank does not satisfy that definition, its parent company



would not become a bank holding company solely by virtue of owning the bank. Accordingly, nonbank holding companies, commercial entities, or other banks could own such banks under the law. He did want to be crystal clear about one thing, however: “[t]he chartered entity, regulated by the OCC, would be a *bank*, engaged in at least one of the core activities of banking – taking deposits, paying checks, or making loans.”