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December 29, 2016

Office of the Comptroller of the Currency

Delivered via email at: specialpurposecharter@occ.treas.gov

Re: Exploring Special Purpose Charters for Fintech Companies

To the Office of the Comptroller of the Currency:

On behalf of the Iowa Bankers Association (IBA), I am writing to express concerns about the proposed financial technology company (fintech) special purpose national bank charter which was proposed in early December, 2016 by the Office of the Comptroller of the Currency (OCC). The IBA is an Iowa trade association with members comprising 98% of the state and national banks and federal savings banks located across the state.

As the OCC considers granting special purpose charters to fintech companies, the fundamental policy questions posed in the December, 2016 White Paper issued by the agency include: (1) Is the nation better served when banking products are provided by institutions subject to ongoing supervision and examination? (2) Should a nonbank company that offers banking-related products have a path to become a bank? and (3) What conditions should apply if a nonbank company becomes a national bank?

The IBA has heard concerns from several members that prior to providing fintech firms a pathway to become a national bank, a better first approach may be to improve regulation of existing banks, making it easier for banks to partner with fintech firms. In this light perhaps an additional alternative solution to the proposed special purpose fintech charter would be for the federal banking agencies to hire and develop a group of specialized examiners and regulatory

staff with legitimate fintech expertise to work with banks, both outside of and concurrent with safety and soundness examinations. These examiners would assist banks to partner and innovate with fintechs in a consistent manner with established standards both banks and fintechs can use as a guide and rely on going forward.

Regulatory uncertainty is a major challenge today for banks seeking to reduce costs and improve user experience by pursuing fintech partnerships. For example, extensive third-party vendor management due diligence is required for any bank partnerships with a fintech firm, and banks face much higher legal liability in the event of failure. The current risk aversion among all federal banking agencies and bank examiners does nothing to encourage banks to innovate, despite the fact that Iowa banks are uniquely positioned to *safely* innovate within the current banking system. In fact these current vendor management requirements and exam processes cause banks, especially community banks, to become even less inclined to innovate due to the threat of negative regulatory action. Banks and their regulators must work to avoid this “Catch-22” or such innovation will continue to occur exclusively outside of insured depositories, and not within them. Bank regulators should be focused on minimizing systemic risk, while providing a diverse and strong banking system that embraces innovation. Iowa banks can provide this bridge between entrepreneurialism and safety and soundness.

As such IBA members are concerned that trying to fit fintechs, which are often venture capital startups, into conventional prudential bank regulation could end up with yet another layer of inconsistent oversight as the OCC is set up for more conventional bank regulation. Any lack of consistent regulation of these organizations will present fintechs with a marketplace advantage of federal preemption the “bank” charter gives them while potentially placing consumers at significant risk.

This problem is compounded as our industry fights changing consumer attitudes to attract millennial customers. These customers demand convenience and are increasingly turning to fintech firms to hold their deposits, as they appear insensitive to the risks of having deposits held that are not federally insured. Any policies stemming from this proposal must provide equal access, regulation and costs for all players, particularly in the payment system as the IBA has

concerns these fintech firms will “cherry pick” the best parts of this business. One IBA member recently commented that he fears, if nothing changes, banks will be simple “silos” for customer accounts where these fintech charters and other non-bank players will simply reach in and transact the customers’ business. IBA member banks would then be left with deposit insurance and regulatory costs but no real customer relationship.

The banking industry doesn’t need additional entities with tax, regulatory and structure advantages like the Farm Credit System, credit unions, or industrial bank models paving the way for large commercial and fintech companies to directly operate fintech bank chartered subsidiaries designed to cherry pick the best of the customer relationship space. This also goes for large commercial entities or subsidiaries of entities like Wal-Mart, Amazon, Square, Google, Apple and others. Non-discriminatory access and interoperability that is vetted under a strong set of standards and governance, without being put at a disadvantage due to technology restrictions or outrageous pricing, are a must for a successful future for all IBA member banks.

While the IBA appreciates the OCC taking on the task of streamlining regulation for fintech companies, we do have concerns where many of these firms could operate payments businesses safely outside of the umbrella of the Bank Holding Company Act (BHCA), as the definition of “bank” under the BHCA is an institution that both receives demand deposits and makes commercial loans. This area is especially unclear on how deposit taking is viewed by regulators for payment companies and money transmitters. The IBA feels strongly that as this proposal proceeds, the Federal Reserve should have a role in regulation of payments-related businesses, up to and including BHCA jurisdiction for holding company and controlling investors of these fintech or related commercial companies.

Despite the concerns listed above, the IBA wants to thank the OCC for taking the time and effort to tackle this immense issue of adequate regulation for fintech companies. We hope as you consider this proposal further you will give some thought along with the other federal banking agencies to improve existing regulations for banks who partner with these companies. This would also require a significant change in the risk adverse culture of regulatory agencies and examiners. Thank you again for taking our comments into consideration.

Sincerely,

/s/

Robert L. Hartwig

Legal Counsel