RECENT POLICY STATEMENT

FINANCIAL REGULATION — NATIONAL BANK CHARTERING — OCC ALLOWS FINTECH COMPANIES TO APPLY FOR NATIONAL BANK CHARTERS. — Office of the Comptroller of the Currency, Policy Statement on Financial Technology Companies' Eligibility to Apply for National Bank Charters (July 31, 2018).

In 1864, Congress created the Office of the Comptroller of the Currency (OCC) to charter and supervise national banks.[1] These banks would be federally regulated and exempt from some state laws.[2] Historically, banking has been dominated by large, depository financial institutions,[3] but the rise of financial technology (fintech) companies has changed the sector and garnered attention from regulators.[4] "Fintech" eludes precise definition: it is a catchall term for software used in commercial and personal finance — including everything from payment and lending companies to cryptocurrencies and digital cash to robo-advisors and cybersecurity.[5] Recently, the OCC announced that fintech companies that do not take deposits but are otherwise engaged in "the business of banking" — paying checks or lending money — would be eligible to apply for special purpose national bank (SPNB) charters.[6] For the companies eligible to apply, the charter's central benefit is the preemption of many state laws and regulations.[7] With some exceptions, preemption will not materially change the products a fintech company can offer,[8] but it may ease the regulatory burden by consolidating a company's responsibilities. Though on first blush the OCC announcement seems like a welcome

[1] Act of June 3, 1864, ch. 106, 13 Stat. 99 (codified as amended in scattered sections of 12 U.S.C.).

[2] *See* Elizabeth R. Schiltz, *The Amazing, Elastic, Ever-Expanding Exportation Doctrine and Its Effect on Predatory Lending Regulation*, 88 MINN. L. REV. 518, 544–45 (2004).

[3] *See* Conference of State Bank Supervisors v. OCC, 313 F. Supp. 3d 285, 291 (D.D.C. 2018). Special charters have been granted to trust banks and credit card banks. *See id.*

[4] *See* NAT'L ECON. COUNCIL, A FRAMEWORK FOR FINTECH 1 (2017), http://go.wh.gov/jPjXrm [https://perma.cc/CN7U-8TPE].

[5] Rory Van Loo, *Making Innovation More Competitive: The Case of Fintech*, 65 UCLA L. REV. 232, 238–40 (2018).

[6] OFFICE OF THE COMPTROLLER OF THE CURRENCY, POLICY STATEMENT ON FINANCIAL TECHNOLOGY COMPANIES' ELIGIBILITY TO APPLY FOR NATIONAL BANK CHARTERS 1 (2018) [hereinafter POLICY STATEMENT], https://www.occ.gov/publications/publications-by-type/other-publications-reports/pub-other-occ-policy-statement-fintech.pdf [https://perma.cc/KS3S-JTQC].

[7] Carl A. Fornaris et al., *OCC to Begin Accepting National Bank Charter Applications from Financial Technology Companies*, GREENBERG TRAURIG (Aug. 7, 2018), https://www.gtlaw.com/en/insights/2018/8/occ-to-begin-accepting-national-bank-charter [https://perma.cc/ZBU3-P43Y]. Many state laws will continue to apply. *See* OFFICE OF THE COMPTROLLER OF THE CURRENCY, EXPLORING SPECIAL PURPOSE NATIONAL BANK CHARTERS FOR FINTECH COMPANIES 5 (2016) [hereinafter WHITE PAPER], https://www.occ.gov/topics/responsible-innovation/comments/special-purpose-national-bank-charters-for-fintech.pdf [https://perma.cc/2EYG-5Z38].

[8] *See* Schiltz, *supra* note 2, at 544–45 (explaining that preemption allows national banks to evade state usury laws and charge higher interest rates).

respite from regulation by all fifty states, many fintech companies will lack either eligibility or incentive to apply. However, the OCC's move may put pressure on state regulators to improve their regulatory schemes and eventually may be a boon to many fintech companies.

On July 31, 2018, the OCC released its *Policy Statement on Financial Technology Companies' Eligibility to Apply for National Bank Charters* (the Policy Statement), which announced that the OCC would begin accepting "special purpose national bank charter[]" applications from fintech companies.[9] Chartering fintech companies was not a new idea; the OCC first formally discussed the possibility in a 2016 white paper entitled *Exploring Special Purpose National Bank Charters for Fintech Companies* (the White Paper).[10] Since then, the details of the proposal have been discussed at length in the public sphere.[11] In recognition of this history, the OCC emphasized that it "adopt[ed] this policy after careful consideration of the extensive stakeholder feedback . . . over the past two years."[12] The newly adopted Policy Statement serves three main functions: to argue that the OCC is authorized to grant these special purpose charters, to describe the purpose of the charters, and to outline the application requirements.[13]

The Policy Statement first asserted the OCC's authority to grant SPNB charters. The OCC rested its authority on the National Bank Act[14] (NBA).[15] The OCC claimed that the NBA endowed the OCC with broad authority to grant charters to any entity that engaged in the "business of banking."[16] Per OCC regulations, the "business of banking" encompasses the "three core banking functions": receiving deposits, paying checks,[17] and lending money.[18] Thus, the OCC reasoned, granting charters to fintech companies engaged in any of those functions would be within its authority.[19]

The OCC articulated several policy reasons to consider fintech applications. First, the OCC claimed that the federal banking system needed to

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[9] POLICY STATEMENT, *supra* note 6, at 1.

[10] WHITE PAPER, *supra* note 7.

[11] *See, e.g.*, OFFICE OF THE COMPTROLLER OF THE CURRENCY, OCC SUMMARY OF COMMENTS AND EXPLANATORY STATEMENT: SPECIAL PURPOSE NATIONAL BANK CHARTERS FOR FINANCIAL TECHNOLOGY COMPANIES (2017), https://www.occ.gov/topics/responsible-innovation/summary-explanatory-statement-fintech-charters.pdf [https://perma.cc/G9ZJ-8HNS].

[12] POLICY STATEMENT, *supra* note 6, at 1.

[13] *See id.*

[14] 12 U.S.C. §§ 21, 26–27 (2012).

[15] POLICY STATEMENT, *supra* note 6, at 1.

[16] *Id.* at 2.

[17] According to the OCC, "issuing debit cards or engaging in other means of facilitating payments electronically are the modern equivalent of paying checks." WHITE PAPER, *supra* note 7, at 4.

[18] POLICY STATEMENT, *supra* note 6, at 2.

[19] *Id.*

modernize to "remain relevant and vibrant."[20] Next, the agency emphasized that this particular policy statement was part of the OCC's ongoing program, begun in 2016, to support "responsible innovation" in the banking space.[21] Finally, the OCC outlined its view on the public benefits of the announcement. Allowing fintech applications, the OCC argued, would "level the playing field" between fintech companies and more traditional banks, "promote consistency in the application of laws and regulations," and "promote[] consumer choice, economic growth, modernization, and competition."[22] National regulation would also protect the financial system and ensure that chartered entities "operate in a safe and sound manner."[23]

Finally, the OCC sketched out the application requirements. Fintech companies will have to demonstrate that they "ha[ve] a reasonable chance of success, will be operated in a safe and sound manner, will provide fair access to financial services, will treat customers fairly, and will comply with applicable laws and regulations."[24] They will have to make an appropriate "commitment to financial inclusion."[25] Companies will also have to craft a "contingency" plan to weather periods of financial distress.[26] The OCC tempered these requirements by promising to consider a bank's "size, complexity, and risk profile" in evaluating applications,[27] and to provide additional details about the application process in a Licensing Manual Draft Supplement.[28]

The direct impact of the Policy Statement may be limited; few companies are eligible to apply, and the uncertainty surrounding the application process and the impact of the charters could dissuade applicants.

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[20] *Id.*

[21] *Id*; *see also* OFFICE OF THE COMPTROLLER OF THE CURRENCY, RECOMMENDATIONS AND DECISIONS FOR IMPLEMENTING A RESPONSIBLE INNOVATION FRAMEWORK 12 (2016) [hereinafter RESPONSIBLE INNOVATION], https://www.occ.gov/topics/responsible-innovation/comments/recommendations-decisions-for-implementing-a-responsible-innovation-framework.pdf [https://perma.cc/M66N-7FBL]. Among other efforts, the Responsible Innovation Framework has established the Office of Innovation to support both banks and nonbanks in financial innovation. *Id.* at 4.

[22] POLICY STATEMENT, *supra* note 6, at 2.

[23] *Id.*

[24] *Id.* at 3. Each of these requirements will be evaluated on a case-by-case basis, considering the bank's size, operations, and risk. *Id.* The OCC will also consider profitability and whether the charter would "foster healthy competition." *Id.*

[25] *Id.* The individual application requirements would be based on the specifics of the business, including the business model and the products offered. *Id.* This requirement is meant to mirror the level of commitment required of traditional banks by the Community Reinvestment Act. *Id.*

[26] *Id.*

[27] *Id.*

[28] OFFICE OF THE COMPTROLLER OF THE CURRENCY, EVALUATING CHARTER APPLICATIONS FROM FINANCIAL TECHNOLOGY COMPANIES (2017) [hereinafter SUPPLEMENT], https://www.occ.gov/publications/publications-by-type/licensing-manuals/file-pub-lm-fintech-licensing-manual-supplement.pdf [https://perma.cc/35YA-54KU]. The Supplement explained that the OCC will consider whether the bank has "organizers and management with appropriate skills and experience," "adequate capital," and a satisfactory business plan. *Id.* at 7.

However, by moving into this regulatory space, the OCC may put pressure on state regulators to improve their regulatory schemes and ultimately benefit a wider swath of fintech companies. There are undeniable benefits to national charters. SPNBs would reap the benefits of preempting state law[29] and would, in some areas, be subject to one regulatory scheme rather than fifty. Still, to rationalize applying for a national charter, a company would likely have to believe that (a) the yearly cost of federal regulation and supervision would be less than their current regulatory expense, and (b) the cost savings would justify the switching costs. Because there is substantial uncertainty about both the switching costs and the recurrent costs, companies may prefer to stick to the status quo for the time being. That said, state regulators are deeply opposed to the new charters[30] and may proactively ease their regulatory burden to incentivize fintech companies to stay state regulated. As such, the Policy Statement could be a boon to fintech companies that wouldn't qualify for a national charter as well as those that choose to take advantage of the new regulatory scheme.

Despite the challenges of applying for one, an SPNB charter would have advantages over the current options: a national bank charter could be cheaper than state-by-state regulation, more flexible than partnership with an established national bank, and more feasible than applying for an Industrial Loan Company (ILC) charter. State-by-state regulation is painful and expensive — each state has its own regulations and licenses, and some lobbyists estimate that state-level compliance and regulatory costs "could amount to as much as $2 to 5 million a year per company."[31] But state-by-state regulation is a well-trodden path[32] and may become more cost-effective as states cooperate further.[33] Partnership with a national

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[29] WHITE PAPER, *supra* note 7, at 5 ("State law applies to a special purpose national bank in the same way and to the same extent as it applies to a full-service national bank."). Specifically, "state laws on anti-discrimination, fair lending, debt collection, taxation, zoning, criminal laws, and torts" will continue to apply. *Id.*

[30] John W. Ryan, *CSBS Responds to Treasury, OCC Fintech Announcements*, CONF. OF ST. BANK SUPERVISORS (July 31, 2018), https://www.csbs.org/csbs-responds-treasury-occ-fintech-announcements [https://perma.cc/48H4-55BU].

[31] Perianne Boring, *You Down with OCC? — FinTech Firms See Promise in Special Bank Charter*, FORBES (Jan. 27, 2017, 8:09 AM), https://www.forbes.com/sites/perianneboring/2017/01/27/you-down-with-occ-fintech-firms-see-promise-in-special-bank-charter [https://perma.cc/7VLU-J7VE].

[32] There is also a growing industry around "regtech," technology that helps companies comply with regulation. *See* DELOITTE, REGTECH IS THE NEW FINTECH (2016), https://www2.deloitte.com/content/dam/Deloitte/ie/Documents/FinancialServices/IE_2016_FS_RegTech_is_the_new_FinTech.pdf [https://perma.cc/J26U-JSL7].

[33] *See, e.g.*, John L. Douglas, *New Wine into Old Bottles: Fintech Meets the Bank Regulatory World*, 20 N.C. BANKING INST. 17, 49 (2016) (suggesting that New York's virtual currency banking law could "pave the way for reciprocity" in other states). However, there are areas in which there is little reciprocity. For example, companies need individual money transmitter licenses for forty-eight states. *See* Boring, *supra* note 31.

bank allows fintech companies to piggyback on the licenses of existing national banks,[34] but may require a young company to sacrifice some of its freedom, speed, and flexibility. ILC charters are *state* charters, but allow access to the federal payments system and Federal Deposit Insurance Corporation (FDIC) insurance.[35] These charters have proven appealing to fintech companies,[36] but the FDIC has not insured any ILCs since 2008.[37] Though none of these options is perfect, each provides competition to the OCC SPNB charter and may disincentivize SPNB charter applications.

In practice, there are a limited number of fintech companies whose management and business models can meet the application requirements. To be eligible to apply, the company must engage in one of the "core banking functions": paying checks, taking deposits, or lending money.[38] The Policy Statement further limited the pool by explicitly excluding depository institutions.[39] The applicants will need to produce a detailed three-year[40] business plan, a showing of adequate capital and liquidity, and some evidence that the proposed management has adequate "experience and expertise . . . to manage the proposed bank."[41] Unsurprisingly, these charters will be all but inaccessible to small, "working-out-of-the-garage" startups.[42]

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[34] For example, "[h]aving a partner bank allows the marketplace lender to . . . purchase the loans without needing to obtain individual state banking/lending licenses." W. Scott Frame, *Marketplace Lending's Role in the Consumer Credit Market*, FED. RES. BANK OF ATLANTA, CTR. FOR FIN. INNOVATION & STABILITY: NOTES FROM THE VAULT (Sept. 2015), https://www.frbatlanta.org/cenfis/publications/notesfromthevault/1509 [https://perma.cc/4WXW-PRQL]. Partnership with a bank would also allow companies to access the OCC pilot program, which would create a sort of "regulatory sandbox[]" to test new products. RESPONSIBLE INNOVATION, *supra* note 21, at 11.

[35] *See* Saule T. Omarova & Margaret E. Tahyar, *That Which We Call a Bank: Revisiting the History of Bank Holding Company Regulations in the United States*, 31 REV. BANKING & FIN. L. 113, 152 n.146, 160–62 (2011). ILCs are also exempt from the Bank Holding Company Act, which makes them an appealing charter for a depository institution. *See id.* at 163.

[36] Todd Stone, *The Past, Present and Future of the ILC Bank*, DEBANKED (July 9, 2018), https://debanked.com/2018/07/the-past-present-and-future-of-the-ilc-bank/ [https://perma.cc/A8YL-8KF8].

[37] *Oversight of the FDIC Application Process: Hearing Before the H. Comm. on Oversight & Gov't Reform*, 114th Cong. 28 (2016) (statement of Martin J. Gruenberg, Chairman, Federal Deposit Insurance Corporation), https://www.gpo.gov/fdsys/pkg/CHRG-114hhrg25511/pdf/CHRG-114hhrg25511.pdf [https://perma.cc/5AR2-J9X3].

[38] 12 C.F.R. § 5.20(e)(1) (2018).

[39] POLICY STATEMENT, *supra* note 6, at 1. In any case, depository institutions would be unlikely to seek a charter because doing so would trigger a set of additional (and prohibitive) regulations. In theory, depository SPNBs would need to apply for FDIC insurance and comply with the Bank Holding Company Act, which forbids the commingling of commerce and banking. WHITE PAPER, *supra* note 7, at 6–7; Omarova & Tahyar, *supra* note 35, at 119.

[40] For startups this can be an eternity.

[41] WHITE PAPER, *supra* note 7, at 9. For a deeper discussion of the requirements, see SUPPLEMENT, *supra* note 28, at 6–13.

[42] *See, e.g.*, Gregory Roberts, *OCC Fintech Charter May Be a Poor Fit for Fintechs*, BLOOMBERG BNA (Feb. 2, 2017), https://www.bna.com/occ-fintech-charter-n57982083191/ [https://perma.cc/LM6V-KA4W]. The OCC has been relatively clear that it isn't interested in partnering with or supervising nascent companies whose viability is uncertain. *See* WHITE PAPER, *supra* note 7, at 2, 8. This is in stark contrast with how other countries, including the United Kingdom, have chosen to

For now, this leaves a national charter open only to more mature companies that already have experience working in the state-by-state or bank partnership framework.[43]

Even eligible and experienced companies may hesitate to apply for charters because of three key uncertainties: how the OCC will evaluate applications and regulate SPNBs, how secondary regulators will respond to the charters, and how the courts will resolve lawsuits brought by states to challenge the OCC's right to charter fintech SPNBs.[44]

Though the OCC is likely to support applicants, it's impossible to predict exactly how it will work with fintech companies. The application process may be long[45] and unpredictable. The OCC has never chartered SPNBs of this sort[46] and has left itself ample room to graft on any requirements to the application that it deems "appropriate."[47] Because the relationship will be novel, additional requirements seem plausible. The White Paper clarified that, in general, SPNBs would be subject to "the same laws, regulations, examination, reporting requirements, and ongoing supervision as other national banks."[48] However, because many fintech models are so different from traditional banks, it is hard to predict how difficult those requirements will be to meet.[49] In addition, SPNBs that wish to make changes in their business plans or add service lines will have to, at a minimum, outline mechanisms for doing so with the OCC first.[50] For technology companies relying on flexibility and innovation to overcome a lack of resources, the uncertainty about how the OCC will respond to such requests may be unpalatable.

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handle the issue. *See* FIN. CONDUCT AUTH., REGULATORY SANDBOX 2 (2015), https://www.fca.org.uk/publication/research/regulatory-sandbox.pdf [https://perma.cc/WUB8-PDW6].

43 This could change, but it would be a departure from the existing fintech model. *See, e.g.*, Roberts, *supra* note 42.

44 An additional disincentive will be the high cost of being the first mover. Once one application has been accepted, it will greatly lower the switching costs for similar fintech companies.

45 The OCC has stated that applicants will undergo the same rigorous examination as traditional banks, which has typically taken twelve to eighteen months. DAVIS POLK & WARDWELL LLP, BEYOND FINTECH: THE OCC'S SPECIAL PURPOSE NATIONAL BANK CHARTER 10 (Dec. 9, 2016), https://www.davispolk.com/files/2016-12-9_occs_special_purpose_national_bank_charter.pdf [https://perma.cc/B7C3-VFSY].

46 SPNBs have been limited, in the past, to trust banks and credit card banks. WHITE PAPER, *supra* note 7, at 2.

47 *See id.* at 6.

48 *Id.* at 5. More specifically, SPNBs would be subject to the Bank Secrecy Act, anti–money laundering laws, Dodd-Frank, and any laws specific to their line of business. *Id.* at 5–6.

49 For example, fintech companies do not know what community responsibilities (analogous to the Community Reinvestment Act) they will have. *Id.* at 11–13 ("The nature of the commitment would depend on the entity's business model and the . . . services it intends to provide." *Id.* at 12.).

50 *See* SUPPLEMENT, *supra* note 28, at 12. Depending on the magnitude of the deviation from the original plan, the requirements may vary. *See id.* at 12 n.30; *see also* OFFICE OF THE COMPTROLLER OF THE CURRENCY, COMPTROLLER'S LICENSING MANUAL: CHARTERS 105–07 (2016), https://www.occ.treas.gov/publications/publications-by-type/licensing-manuals/charters.pdf [https://perma.cc/U9CW-8YZQ].

It's also uncertain how secondary regulators will respond to the SPNBs. The White Paper laid out a preliminary plan for how the SPNB charter will interact with the rest of the regulatory environment: banks may be subject to oversight by the Consumer Financial Protection Bureau (CFPB) and more importantly would need to apply and be accepted to the Federal Reserve System (the Fed).[51] Some of these secondary regulators *have* indicated that they want to work with fintech companies generally,[52] but they have not responded to SPNB charters specifically. For example, as of this writing, the Fed has not commented on how receptive it will be to applications from SPNBs. Secondary regulators *may* play along, but working with more agencies creates more uncertainty and higher costs for fintech companies.

The final uncertainty lies in whether courts will accept the OCC's authority to issue SPNB charters in the first place. In the spring of 2017, two lawsuits were filed in response to the OCC plan to charter fintech companies. The first, *Conference of State Bank Supervisors (CSBS) v. OCC*,[53] alleged that the OCC lacked statutory authority to charter non-depository fintech companies, that the OCC should have used notice-and-comment rulemaking procedures, that the OCC decision to begin accepting applications was arbitrary and capricious, and that the preemption of state law violated the Tenth Amendment.[54] The second made similar arguments.[55] Both cases were dismissed on jurisdictional grounds.[56] The suits are almost certain to be revived when the first SPNB charter is granted, creating a strong disincentive to be the first to apply for a charter.

Despite all its drawbacks, the OCC announcement is cause for (tentative) celebration. It is a sign of bipartisan federal support for fintech innovation and reducing the associated regulatory burdens.[57] More importantly, the announcement may push states to make adherence to state-by-state regulation easier. State regulators are strongly opposed to the charters. The President and CEO of CSBS called the fintech charter

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[51] *See* WHITE PAPER, *supra* note 7, at 7.

[52] Several agencies have tried to foster innovation in fintech. Some examples include the OCC's Responsible Innovation initiative, the CFPB's Project Catalyst, and the Securities and Exchange Commission's Fintech Working Group. NAT'L ECON. COUNCIL, *supra* note 4, at 3.

[53] 313 F. Supp. 3d 285 (D.D.C. 2018).

[54] *See* Complaint for Declaratory and Injunctive Relief at 26–29, *CSBS*, 313 F. Supp. 3d 285 (No. 17-cv-00763).

[55] *See* Vullo v. OCC, No. 17 Civ. 3574, 2017 WL 6512245, at *4 (S.D.N.Y. Dec. 12, 2017).

[56] *CSBS*, 313 F. Supp. 3d at 299; *Vullo*, 2017 WL 6512245, at *10.

[57] The Department of the Treasury has supported the OCC charter in part to respond to President Trump's Executive Order 13,772, which asks regulators to foster a "vibrant" financial sector. Exec. Order No. 13,772 § 1(c), 82 Fed. Reg. 9965 (Feb. 3, 2017); CLEARY GOTTLIEB STEEN & HAMILTON LLP, OCC BEGINS ACCEPTING APPLICATIONS FOR FINTECH CHARTERS 1 (2018), https://www.clearygottlieb.com/-/media/files/alert-memos-2018/occ-begins-accepting-applications-for-fintech-charters.pdf [https://perma.cc/2VYL-63CQ].

scheme "a regulatory train wreck in the making" that will give the federal government undue power to affect the competitive environment and expose taxpayers to failing fintech companies.[58] States are also concerned that federal regulation will excuse fintech companies from complying with their own consumer protection laws.[59] If they want to keep fintech companies chartered at the state level, they will have to make state regulation more appealing than the federal option, which will become more difficult as the federal regulators modernize and companies apply for and receive charters.

The states have a variety of tools to fight back. States are already making efforts to compete with federal regulators. Some states, echoing initiatives in other countries,[60] have created "regulatory sandboxes," which allow fintech companies to test products in the open market without navigating the traditional regulatory hurdles.[61] Others are negotiating regulatory "passports,"[62] which will allow fintech companies to file a single application to get approvals in multiple states.[63] States have also made big promises to automate state regulation.[64] These efforts have been at least somewhat successful — CSBS claims to have "slashed approval times by half in recent years."[65] As the leading fintech companies such as Square and SoFi[66] mature, the federal option will start to look more enticing if the states don't meet their goals. It is the states' battle to lose, but now they have competition.

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[58] Ryan, *supra* note 30.

[59] *See id.* Senators Sherrod Brown and Jeffrey Merkley also criticized the plan. Letter from Senators Sherrod Brown & Jeffrey A. Merkley to Thomas J. Curry, Comptroller, Office of the Comptroller of the Currency (Jan. 9, 2017), https://brown.senate.gov/download/occ-fintech [https://perma.cc/3TMA-BYXH] ("Offering a new charter to non-bank companies seems at odds with the goals of financial stability, financial inclusion, consumer protection, and separation of banking and commerce that the OCC has upheld under your tenure." *Id.* at 1.).

[60] *See* Dirk Zetzsche et al., *Regulating a Revolution: From Regulatory Sandboxes to Smart Regulation*, 23 FORDHAM J. CORP. & FIN. L. 31, 64 (2017).

[61] *See* Press Release, Mark Brnovich, Ariz. Attorney Gen., Arizona Becomes First State in U.S. to Offer Fintech Regulatory Sandbox (Mar. 23, 2018), https://www.azag.gov/press-release/arizona-becomes-first-state-us-offer-fintech-regulatory-sandbox [https://perma.cc/YDY3-G6HY].

[62] As done in the European Union. *See* Andrew Walker, *What Is an EU "Bank Passport"?*, BBC NEWS (June 25, 2016), https://www.bbc.com/news/business-36630606 [https://perma.cc/GG73-4ASD].

[63] *See* Gregory Lisa & Ashley Hutto-Schultz, *U.S. Multi-State Agreement on Money Services Business License Applications: Regulators Are Listening to FinTechs*, HOGAN LOVELLS: FISION BLOG (Feb. 20, 2018), https://www.hoganlovells.com/en/blogs/fision/us-multi-state-agreement-on-money-services-business-license-applications-regulators-are-listening-to-fintechs [https://perma.cc/2PV4-JG8K].

[64] *See Vision 2020 for Fintech and Non-Bank Regulation*, CONF. OF ST. BANK SUPERVISORS (June 7, 2018), https://www.csbs.org/vision2020 [https://perma.cc/GT5G-P76J].

[65] *See* John W. Ryan, *The OCC Fintech Charter*, CONF. OF ST. BANK SUPERVISORS (June 1, 2017), https://www.csbs.org/occ-fintech-charter [https://perma.cc/PUB2-M3WH].

[66] Both have applied to be ILCs. Stone, *supra* note 36.