

Remarks

By

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Greetings. Thank you for that warm introduction. It's a pleasure to be with you today. Events like these play an important role in informing national policymakers of what the industry needs to provide safe and sound products and services to customers across the country and to unleash their potential to promote economic opportunity. Bringing industry together with regulators, academics, and members of Congress creates a special environment where we can have frank discussions informed by diverse perspectives. In the few minutes that I have this morning, I want to focus on economic opportunity—which has been a theme of my time as Acting Comptroller and a big part of Treasury's core financial principles released in June.¹

Before getting into the topic, I realize that not everyone is familiar with the Office of the Comptroller of the Currency (OCC). The OCC was created by President Lincoln to administer a system of national banks to meet the credit and banking needs of consumers, businesses, and communities across the country. We were born out of necessity at a time when creating national standards and an orderly nationwide system of banks promoted national unity, expansion, and economic opportunity. Over the past 154 years, the mission has evolved. It now includes the chartering, supervision, and regulation of a federal banking system that includes almost 1,400 national banks, federal savings associations, and federal branches of foreign banks operating in

¹ *A Financial System That Creates Economic Opportunities Banks and Credit Unions*. U.S. Department of the Treasury. June 2017 (<https://www.treasury.gov/press-center/press-releases/Documents/A%20Financial%20System.pdf>).

this country. The federal system is mostly made up of small community banks that provide services to consumers and businesses on Main Street, U.S.A., but it also includes the nation's largest, most complex banks operating globally. I would guess that all of you probably have experience with national banks and federal savings associations.

Some pundits see the growth of the online lending industry as a response to the nation's banking industry. And some say that if the industry had been sufficiently agile and fully met the need for lending, alternative lenders would not have grown so rapidly. I do not share that view. I see the growth of online lending and marketplace lenders as the natural evolution of banking itself. Your industry *demonstrates* a certain entrepreneurial spirit to seize economic opportunity that begins with your new *idea*. The *idea* may be leveraging the lending power of groups or using new data to assess creditworthiness. Or, the idea may be a way to make decisions faster or to give consumers more control of their financial lives.

Sweat and talent turn *your* idea into a business—hopefully a sustainable, profitable one. That takes engineering new solutions. Developing repeatable processes. Hiring staff. Marketing. Financing. Paying your debt. And, delivering the products at the core of *your* business.

Too often regulatory burden gets in the way of economic opportunity. That's another reason organizations like this one are important. As entrepreneurs, you become experts in your field, but as an industry, you need forums and advocates to champion your concerns and raise awareness of barriers to your success. Policy institutes, like this one, discuss issues that could shape the next decade for your *idea*—an idea like the one in the U.S. and Europe in 2005 to pioneer online peer-to-peer lending.² That is an idea that has come a very long way.

² Julia Werdigier, "RIT Capital to Take Stake in British Financial Start-Up." *New York Times*. December 10, 2012.

How far? Over the last decade, marketplace lenders have originated about \$40 billion in consumer and small business loans in the U.S.³ Online lending has doubled every year since 2010.⁴ Analysts vary on how high the ceiling is. Some suggest that the market will reach nearly \$300 billion by 2020, and others suggest as much as \$1 trillion by 2025. This volume would be a substantial piece of all outstanding unsecured consumer credit in the United States, which *alone* was \$3.7 trillion at the end of 2016.⁵

A *maturing* industry comes with different sorts of issues than a brand new one. Startup funding fades and shareholders begin to demand performance, or at least progress toward profitability. Last month's earnings showed promise and improvement from the previous year, but some of the most widely recognized companies still stretch for profitability. This performance and the progress it shows have occurred under relatively benign credit conditions and a long, albeit slow, economic expansion. We have seen overall delinquency rates in the country decline steadily since 2012, with minor increases in credit card, auto, and student lending delinquencies in the last year.⁶ While the consensus expects the economy to expand through 2018,⁷ we may be seeing cracks in performance with consumer unsecured charge-offs for marketplace lenders having increased since the fourth quarter of 2015. It remains to be seen how online lending companies and loans originated using new models will perform under stress. That's part of a *maturing* business, and risk is part of economic opportunity. Success requires adapting to new market conditions and effectively managing evolving risks.

³ Stephen Fromhart. *Marketplace lending 2.0: Bringing on the next stage of lending*. Deloitte Center for Financial Services. March 2017.

⁴ "Can P2P Lending Reinvent Banking?" Morgan Stanley. June 17, 2015 (<https://www.morganstanley.com/ideas/p2p-marketplace-lending>).

⁵ Fromhart.

⁶ Fromhart.

⁷ See *Semiannual Risk Perspective*. Office of the Comptroller of the Currency. Spring 2017 (<https://www.occ.gov/publications/publications-by-type/other-publications-reports/index-semiannual-risk-perspective.html>).

One way a maturing industry adapts to changing market conditions is to diversify its funding sources and expand into other sources that offer greater stability. In the earliest stages of the industry's development, funding primarily came from startup lending and then selling fractional loans to retail investors. As the market has grown, more companies have sold entire loans to institutional investors, including banks, private equity, and hedge funds. As the industry matured, companies have found a balance that includes selling loans to retail and wholesale investors, securitizing loans, and even exploring the potential for deposits.

A more fundamental response to changing market conditions involves adapting new business models and adjusting long-term strategies. Some companies that set out to be “bank killers” a few years ago are discovering the advantages of being part of the banking system.

Some companies now desire to become a bank and a large number of companies are choosing to partner with banks. Other companies are choosing different paths. Some, created by serial entrepreneurs, were never intended to be long-term businesses and may be sold or combined with other companies. Such moves demonstrate that as companies grow, they explore alternatives to meet *their* business goals. Whatever your choice, it should be pursued because it supports *your* business model and fits the economic opportunity in front of you. Too often, regulatory burden and inefficiency limit those decisions, get in your way, and place a drag on your individual and collective economic opportunity.

Let me shift gears and discuss the OCC's work to promote economic opportunity and responsible innovation. I am very optimistic about the power of innovation to improve banking, expand access, and deliver better products and services in more affordable and sustainable ways. While much of the innovation comes from within the banking system itself, other innovations come from outside the system—from companies like yours.

The OCC launched its innovation effort in the summer of 2015. Since then, it has published practical guiding principles, held a public forum, and established a framework for supporting responsible innovation. To implement that framework, the agency established an Office of Innovation that has been up and running since January. Its primary purpose is to make certain that institutions with federal charters have a regulatory framework that is receptive to responsible innovation and supervision that supports it. Part of that mission is to assist companies like yours that want to partner with or provide services to banks or even become one.

The office, headed by Chief Innovation Officer Beth Knickerbocker, serves as a clearinghouse for innovation-related matters and a central point of contact for OCC staff, banks, nonbank companies, and other industry stakeholders. Internally, the office has worked to raise awareness and understanding of industry trends and issues among OCC staff. The office has published a number of guides and reference materials for community banks, as well as financial technology companies and nonbank institutions.⁸ It collaborates on innovation-related issues with OCC business lines and other regulators, and facilitates related activities. Externally, the office conducts a variety of outreach activities. One involves hosting “Office Hours” in hubs of significant financial innovation. So far, the team has held Office Hours in San Francisco and New York. During those meetings, team members heard from banks exploring potential innovations, companies seeking to work with banks, and more than a few companies interested in becoming national banks. These meetings also allow the agency to share OCC’s perspective early in the innovation development process. The office has already become a valuable resource for national banks and thrifts, and its utility will only increase over time.

⁸ See “Responsible Innovation” on OCC.gov (<https://www.occ.gov/topics/responsible-innovation/index-innovation.html>).

One aspect of the innovation framework about which many have expressed interest in is the notion of “regulatory sandboxes” and bank pilots. In October 2016, the OCC stated that one of its priorities would be to develop and implement an optional program for banks to conduct pilots with OCC participation to foster responsible innovation by OCC-supervised banks.⁹ The idea is to create principles that support the industry’s need for a place to experiment while furthering the OCC’s understanding of innovative products, services, and technologies. Information gathered in the pilots would also inform OCC policy initiatives.

The OCC generally supports agency participation in bank pilots as a useful way to gain valuable regulatory insight and to provide banks a better means of developing products and services in a controlled environment. However, any program we pursue will be voluntary for banks and cannot provide a safe harbor from many compliance requirements. We are still in the early stages of developing our approach and will share additional details as we make progress.

Another aspect of the agency’s support for responsible innovation involves chartering fintech companies that want to become national banks. I detailed my view in July that the health of the federal banking system depends on its ability to adapt to meet the changing needs and preferences of customers and the market.¹⁰ We must avoid defining banking too narrowly or in a stagnant way that prevents the system from evolving or taking proper and responsible advantage of economic opportunities that result from advances in technology and commerce.

Companies that offer banking products and services should be allowed to apply for national bank charters if they choose, and if they meet the standards for doing so. Companies engaged in the business of banking can seek a national bank charter under the agency’s existing

⁹ See *Recommendations and Decisions for Implementing a Responsible Innovation Framework*. October 2016 (<https://www.occ.gov/topics/responsible-innovation/comments/recommendations-decisions-for-implementing-a-responsible-innovation-framework.pdf>).

¹⁰ See Keith A. Noreika. “Remarks before the Exchequer Club.” July 19, 2017 (<https://www.occ.gov/news-issuances/speeches/2017/pub-speech-2017-82.pdf>).

authority to charter full-service national banks and federal saving associations, as well as other long-established special purpose national banks, such as trust banks, bankers' banks, and other so-called CEBA banks. Many fintech and online lending business models fit well into these categories of national bank charters. 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.

Interest also remains in the possibility of the OCC offering special purpose national bank charters to nondepository fintech companies engaged in the business of banking. As you know, the Conference of State Bank Supervisors and the New York Department of Financial Services have challenged the OCC's authority in this area.¹¹ We have filed our responses in both cases and will continue to defend our authority vigorously. We have not, however, decided whether we will exercise that specific authority to issue special purpose national bank charters to nondepository fintech companies. We will keep you posted.

The OCC's initiatives to support innovation are not the only ways we are working to promote economic opportunity. The agency has taken a number of actions to reduce unnecessary burden following its multiyear review of rules and regulations required under the Economic Growth and Regulatory Paperwork Reduction Act.¹² In my Senate testimony in June, I described a number of actions that the agencies and Congress could take to reduce burden and promote

¹¹ Litigation specifically relates to the special purpose charters under 12 CFR 5.20(e)(1).

¹² Joint Report to Congress Economic Growth and Regulatory Paperwork Reduction Act. Board of Governors of the Federal Reserve System, Office of the Comptroller of the Currency, Federal Deposit Insurance Corporation, and National Credit Union Administration. March 2017 (<https://www.occ.gov/news-issuances/news-releases/2017/nr-ia-2017-33a.pdf>).

economic growth.¹³ You may have read about work to revise the Volcker Rule¹⁴ and simplify capital requirements.

One example of action that Congress could take involves clarifying the long-held “valid when made” doctrine at the heart of the *Madden v. Midland Funding, LLC*.¹⁵ The Congressional “fix” supported by the OCC would provide that the rate of interest on a loan made by a bank, savings association, or credit union that is valid when the loan is made remains valid after transfer of the loan. This proposal reduces uncertainty by reestablishing well-settled law and would create a uniform standard eliminating the differences in treatment of loans made in different judicial circuits. The proposal supports economic opportunity by helping banks, savings associations, and credit unions to sell their loans, thereby promoting liquid markets.

Another barrier regarding economic opportunity that I have heard from some online lenders involves difficulty of getting bank accounts and certain banks terminating business accounts and other banking services of online lenders and fintech companies without providing sufficient reason. Some companies have even been told that regulators—and specifically the OCC—are the reason behind terminating the accounts. Little can affect the economic opportunity of a business more than the inability to obtain banking services. So, let me address that head on. I added my voice to that chorus in letters to Congress denouncing Operation Chokepoint last month. Let me repeat those key points here. We, at the OCC, expect banks to assess the risks posed by individual customers on a case-by-case basis and to implement appropriate controls to manage their relationships. The controls banks put in place to manage

¹³ Testimony of Keith A. Noreika, Acting Comptroller of the Currency, Before Committee on Banking, Housing, and Urban Affairs. U.S. Senate. June 22, 2017 (<https://www.occ.gov/news-issuances/news-releases/2017/nr-occ-2017-71b.pdf>).

¹⁴ “OCC Solicits Public Comments on Revising the Volcker Rule.” OCC News Release 2017-89. August 2, 2017. (<https://www.occ.gov/news-issuances/news-releases/2017/nr-occ-2017-89.html>).

¹⁵ *Madden v. Midland Funding, LLC*, No. 14-2131 (2d Cir. 2015).

their risks and the decisions about whom to bank are business decisions and matters of banker judgment and should be effective to manage the risks of their activities.

The OCC's policy is not to direct banks to open or close individual accounts, nor to encourage banks to terminate entire categories of accounts without assessing the risks presented by individual customers or the bank's ability to manage the risk. Banks make the decisions to retain or terminate customer relationships, not the regulators, and not the OCC.

When banks fail to provide fair access and fair treatment, they cut off economic opportunity for bank customers, whether those customers are individuals or businesses. If the system fails to provide fairness to all, it cannot be a source of strength to any.

I want to close by sharing my optimism for this industry. Whatever business model and long-term path you choose to achieve your business goals, the future is bright. You are changing how financial services are delivered, and in some ways, you are raising the bar for what consumers of financial services should expect. The market domestically and internationally has plenty of room to grow, and today in Washington there is real energy around reducing unnecessary regulatory burden and promoting economic opportunity. Those are good reasons to be optimistic.

Thank you again for having me and I would be happy to answer any questions as time permits.