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STATEMENT OF

BRIAN P. BROOKS

ACTING COMPTROLLER OF THE CURRENCY

before the

COMMITTEE ON FINANCIAL SERVICES

UNITED STATES HOUSE OF REPRESENTATIVES

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Statement Required by 12 U.S.C. § 250:
The views expressed herein are those of the Office of the Comptroller of the Currency and do not necessarily represent the views of the President.

Introduction

Chairwoman Waters, Ranking Member McHenry, and members of the Committee, thank you for this opportunity to appear before you today to discuss the activities underway at the Office of the Comptroller of the Currency (OCC) to ensure that the national banks and federal savings associations that we regulate operate in a safe, sound, and fair manner. Since assuming the role of Acting Comptroller of the Currency last May, I have been dedicated to promoting all facets of the OCC's mission and specifically fair access to capital and credit for the hundreds of millions of national bank customers, and ensuring the efficient flow of capital to businesses and communities across the country.

Growing up in poor, rural Colorado, I saw the good banks could do to promote growth and opportunity by making capital, credit, and services more available. I also witnessed the potential that remains unmet. Since those early observations, I have spent my entire adult life in financial services—as a lawyer in banking and finance, a banker, an executive in housing finance, a board member, and most recently an executive in financial services technology. At each step in my career, I have worked to expand access to banking and financial services so that consumers and businesses could meet their basic needs and achieve their financial goals. I am proud to contribute to the OCC's 157-year-old mission as Acting Comptroller. While serving in this capacity, I have a unique obligation to effect change for the collective good and work toward greater financial inclusion and better access and treatment of the underserved. Now more than ever, in the wake of the pandemic and the continued social unrest following the killing of George Floyd in May, regulators and banks have a responsibility to work to alleviate the inequities that exist in the system and remove barriers to access and inclusion. That is why I created Project REACh (Roundtable for Economic Access and Change) in July and will continue to convene bankers, civil rights leaders, and business magnates to identify and solve intractable problems that have prevented full and fair access for so many for far too long.

This testimony provides more detail on Project REACh and some of my other priorities, but first details the OCC's response to the coronavirus, provides an overview of the condition of the industry, and describes our recent activities to fulfill our statutory and regulatory responsibilities.

Agency Response to COVID-19

I joined the OCC on April 1, 2020, roughly two weeks into the nation's experience with the pandemic related to COVID-19. During the subsequent months, the OCC has worked independently and together with the other federal banking agencies to publish nearly 50 separate issuances to provide regulatory relief and guidance that have enabled the federal banking system to be a source of strength for consumers, businesses, and communities throughout the nation. I am proud of our work to provide rapid clarity and guidance that encourages the banks and savings associations (banks) we supervise so they may use their strength to meet their customers' needs during these very difficult times. National policy makers recognized the unique position and capability of banks to support the nation's pandemic response strategy as a conduit for capital, lending, and other relief. Just as banks have been a source of strength for citizens, businesses and communities during the pandemic, they will lead the national recovery as well.

Internally, the OCC has placed a priority on the health and safety of its workforce and has taken steps to safeguard its employees while maintaining their ability to continue to fulfill our important mission of ensuring the safety, soundness, and fairness of the federal banking system. While the OCC never closed its offices, we operated at a maximum telework posture from March 16 through June 21. Since then we have provided employees flexibility to work from home, and approximately 90 percent of the agency's employees have opted to do so to provide mission-critical services. As banking is one of the essential industries in this country, we recognized the importance of continuing our work uninterrupted while preserving our employees' ability to meet their families' needs and conduct their responsibilities, while observing the necessary precautions to remain safe and healthy.

We continue to support employees who face challenges with child and elder care needs by providing flexible work hours, additional leave and extended telework options. We created new options to support commuting safely for employees who were concerned with mass transit. We increased cleaning and safety protocols to meet or exceed recommendations from the Centers for Disease Control and Prevention. We limited non-essential travel, but we never ceased or suspended our supervision of the federal banking system. Managing the impact to our operations involved a great deal of complexity, coordination and flexibility assessing local needs, health and safety considerations, and potential restrictions in nearly 90 separate operating locations, including our headquarters here in Washington, D.C.

During what has been a period stress and uncertainty, we also increased the pace of our communications among executives and with staff, have been transparent about decisions, and continually promote employees' awareness of potential exposures while safeguarding employees' personal medical information.

Our communication actions included immediately setting up a web page on our intranet for employees to check regularly on issues relating to COVID-19 that affect them. We also established calls multiple times per week for executives to coordinate COVID specific issues and hosted frequent town hall calls for all 3,500 employees to hear directly from agency senior leaders and ask questions of them. Today, we continue to hold executive and town hall calls with all employees monthly.

The agency will continue to assess its operating posture and consult available information but plans to operate in an extended telework capacity until facts and circumstances change to support more normal operations.

Agency Support to Banks and Customers in Response to COVID-19

Since the pandemic began, the OCC, often with other regulatory counterparts, has published nearly 50 separate issuances including bulletins, statements, press releases, and interim final rules to provide timely information to our examiners and the banking industry. The topics of issuances ranged from encouraging financial institutions to work constructively with borrowers and other customers affected by the pandemic to issuing rules to implement the provisions required by the Coronavirus Aid, Relief and Economic Security Act (CARES Act). Several issuances were intended to alleviate regulatory burden during the pandemic, and the OCC also reduced assessments for our regulated institutions affected by the national emergency so they can focus on assisting customers. Every issuance is listed in Appendix 1 and accessible on the OCC's website under our COVID-19 heading.[1]

The OCC will continue to monitor the consumer and economic effects of the COVID-19 pandemic and will not hesitate to take additional action as necessary to help the federal banking system maintain its role as a source of strength for the country as it manages its response to and recovery from the pandemic.

Condition of the Banking System and OCC Market Monitoring Efforts

The OCC supervises nearly 1,200 national banks, federal savings associations, and federal branches and agencies of foreign banks (banks) operating in the United States. These banks range in size and complexity from small community banks to the largest most globally active banks. The vast majority of national banks and federal savings associations, numbering nearly 900, have less than $1 billion in assets, while 62 have more than $10 billion in assets. Combined, these banks

[1] See http://occ.gov/covid-19.

hold $14.1 trillion or 68 percent of all assets of U.S. commercial banks.[2]

OCC-supervised institutions also manage nearly $60 trillion in assets held in custody or under fiduciary control, which amounts to 44 percent of all fiduciary and custodial assets in insured U.S. banks, savings associations, and uninsured national trust banks.[3] The federal banking system holds more than three-quarters of the credit card balances in the country, while servicing almost a third of all first-lien residential mortgages. Through their products and services, most American families have at least one relationship with an OCC-regulated bank.

In late February, the OCC implemented enhanced market and credit monitoring activities that continue today. This effort ensures that we are aware of, and give prompt attention to, any potential adverse effects on individual banks and the federal banking system resulting from the pandemic and allows us to analyze current trends and to provide appropriate regulatory assistance to institutions as warranted.

Overall, banks in the federal banking system remain in strong condition with sound capital and liquidity levels, but we are paying close attention to several indicators of health. Credit risks are increasing as the economic downturn affects customers' ability to service their debts. Strategic risk is emerging because of the impact on bank profitability that historically low interest rates and potential credit stress have. Telework is affecting office space outlooks within commercial real estate portfolios. Operational risk is elevated because of the increasingly complex operating environment that includes cybersecurity, fraud, and telework challenges. Compliance risk also is elevated because of a combination of altered work environments, and the requirement to quickly operationalize new federal, state, and proprietary programs designed to support consumers and businesses.

The condition of the federal banking system prior to the COVID-19 pandemic and related containment measures was strong with ample capital, liquidity and sound credit quality. Today, bank capital levels still remain well above regulatory minimums. The tier 1 leverage ratio has declined from 9.2 percent at the end of 2019 to 8.4 percent as of June 2020, partly caused by the growth in assets related to CARES Act and other monetary support programs. However, the leverage ratio remains well above the 6.8 percent level in December 2008. Further, median CET1 Capital Ratio for large banks increased from 13 percent in the first quarter of 2014 to 14.2 percent at the end of the second quarter of 2020 and the quality of banks' capital has improved since the

[2] Data current as of June 30, 2020.
[3] Data current as of June 30, 2020.

Great Recession.

Earnings, however, face headwinds. Bank profitability will be challenged by low interest rates, provision expenses, and increasing operating costs. Net interest income fell 5.3 percent from the end of June 2019 while non-interest expenses increased 6.5 percent. Provision expenses increased because of the impact of strategies and actions taken to contain the pandemic. Net interest margins are at 30 year low.

The industry's strength ensured that the federal banking system was well equipped to carry out the range of congressional policies advanced pursuant to the CARES Act passed on March 27, 2020. The federal banking system has been the primary delivery mechanism to carry out the federal economic response to the virus, and to support programs such as the Paycheck Protection Program (PPP), the foreclosure relief programs, and the lending facilities established by the Federal Reserve Board (FRB). The banks supervised by the OCC have provided considerable relief to individual consumers, businesses and communities by serving as an important mechanism for citizens to receive their federal stimulus payments, providing new loans to small businesses to ensure they continue to keep employees on their payroll, and working with borrowers to provide mortgage and other credit forbearance programs.

Going forward, with large sectors of the economy remaining dormant, the current downturn will likely challenge some banks within the federal banking system. We expect that bank earnings will experience stress as interest rates decline and banks continue to increase provisions for expected loan losses. We are beginning to see stress on consumer and commercial borrowers because of the sharp drop in economic activity that may affect earnings and potential capital at some banks. We encourage banks to work with their borrowers as individual circumstances warrant. We also will continue to be creative and proactive to promote the health of the institutions we supervise throughout this public health emergency and to ensure the federal banking system remains a source of strength for the national economy, capable of serving consumers, businesses, and communities across the nation. The full effect on the economy and banking industry will depend on the depth and duration of the current downturn. We have seen some green shoots and have reason for optimism but will continue to watch commercial real estate, small business lending, and housing closely.

The impact of CARES Act programs on the business of banks, particularly smaller banks, was profound. Commercial and Industrial loans, driven by PPP lending, expanded about 40 percent for small banks in a span of six months ending in August.[4] Banks prudently have increased provisions in areas with greater shares of higher risk industries, such as agriculture, oil and gas, and industries most reliant on interpersonal customer interactions such as leisure and hospitality, retail trade, transportation, and industries with high unemployment risk. While too early to determine the magnitude of the risk, the consensus is that these industries will see increases in nonperforming loans and additional stress in coming months.

Origin and Scope of Project REACh

Since becoming Acting Comptroller, I have sought to increase fair access to banking and financial services and products and promote economic growth and prosperity for consumers, businesses, and communities, including LMI communities, across the country. Shortly after the killing of George Floyd and the emergence of a nationwide social justice movement, I recognized that the federal banking system can play a valuable and constructive role in reaching many of our citizens who have been left out or unable to fully participate in a financial system that has benefited others for far too long. Rather than deny or ignore the existence of structural barriers that make it difficult or impossible for many minority or underserved individuals to participate equally in the nation's great economy, regulators have a responsibility to seek out such barriers and work to eliminate them.

Barriers may exist for many reasons. They may be vestiges of long discredited beliefs or policies, or they may be the unintentional consequence of industry or regulatory practices intended to address other weaknesses or harms in the system. A good example involves credit scores. Credit scores were created to support safe and sound underwriting and to speed the flow of credit. They have served that purpose well. But, calculating traditional credit scores relies on certain formulas and data. As a result, there are approximately 45 million people in this country with no usable credit score[5] because activities in their lives have not accumulated certain data required to calculate a traditional credit score, despite paying rent, utility bills, and other recurring obligations.

With no credit score, these individuals are essentially shut out of the mainstream financial system. Where they can find financial services and products, they often pay much higher rates and face much more unfavorable terms. The absence of credit scores is a barrier that can be dramatically reduced, and as a regulator, I recognized the agency's unique position to facilitate

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[4] Haver H.8 data through Wednesday, August 26, 2020.
[5] Ann Carns. "Little Credit History? Lenders Are Taking a New Look at You." *New York Times*. February 24, 2017 (https://www.nytimes.com/2017/02/24/your-money/26money-adviser-credit-scores.html).

work to address this and other barriers.

To support that effort, I founded Project REACh in July 2020[6] to bring together heads of banking, civil rights, technology, and business organizations to identify and reduce specific barriers that prevent full, equal, and fair participation in the nation's economy. Project REACh convenes people with the ability to help reduce inherent policy and structural obstacles so underserved populations may have the same opportunities to succeed and benefit from the nation's financial system as others.

We have the ability to dramatically expand access to a financial system that provides economic opportunity to hundreds of millions of people.

The project involves three primary national work streams:

- **Inclusion for credit invisibles**: Forty-five million Americans—disproportionately including poor and minority Americans—lack a credit score and cannot obtain mortgages, credit cards, or other lending products. Yet many people in this segment of society pay rent, utilities, and other recurring financial obligations. Project REACh intends to work with technology partners to synthesize a credit score from alternative data, and the OCC could validate such a score for banks to use. This will help tear down a major barrier to economic access for millions.
- **Revitalization of Minority Depository Institutions** (MDIs): The number of MDIs has declined over the years. The remaining MDIs are critical sources of credit and financial services in their largely minority communities. Project REACh intends to explore partnerships among MDIs and other banks to provide a stable source of capital and investment and provide training, exchange programs, and mentorship opportunities to MDI executives and board members.
- **Increase inventory and accessibility of affordable housing:** A recent analysis of home mortgage data found the ability to access credit and obtain a mortgage is significantly more challenging for minority borrowers who do not have enough saved for a down payment. Project REACh intends to work with financial institutions and major civil rights and community-based organizations to develop down payment products that provide a bridge to obtaining the American dream of owning a home.

In addition to these national projects, Project REACh includes regional and local projects

[6] "OCC Announces Project REACh to Promote Greater Access to Capital and Credit for Underserved Populations" News Release 2020-89. July 10, 2020 (https://occ.gov/news-issuances/news-releases/2020/nr-occ-2020-89.html).

that focus on developing regional solutions to reduce barriers to economic access for minority communities. On October 30, Project REACh kicked off regional efforts in Los Angeles.[7] Affordable homeownership opportunities or investments in minority business enterprises to support start-up and scale-up capacity with lower collateral requirements are examples of local- and regional-specific solutions. These initiatives illustrate how banks could increase economic access for LMI communities.

Recently, several institutions participating in Project REACh launched area-specific initiatives that focus on discrete and unique challenges impacting underserved communities. One of these local projects is the expansion of a down payment assistance program offered by a participating financial institution in the Minneapolis, Twin Cities area last month. Another participating bank has structured a loan participation initiative with MDIs that would lower the cost of small business loans through a blended interest rate. We are encouraged by these examples of Project REACh participants working to translate ideas into deliverables.

The project includes contributions by the president of both the NAACP[8] and the National Urban League,[9] as well as engagement by NBA Hall of Famer Shaquille O'Neal.[10] In addition to the project's collective efforts, banks and other companies and organizations are pursuing independent initiatives consistent with the principles and spirit of Project REACh—to increase financial access by removing barriers. I am very proud of Project REACh and the impact it can have. I look forward to continuing to lead this effort.[11]

Strengthening and Modernizing Community Reinvestment Act Regulations

On May 20, 2020, the OCC finalized its rule strengthening and modernizing the

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[7] Brendan Pedersen. "OCC announces initiative to expand credit access in Los Angeles." *American Banker*. October 30, 2020 (https://www.americanbanker.com/news/occ-announces-initiative-to-expand-credit-access-in-los-angeles).

[8] President of the NAACP Derrick Johnson commented, "The NAACP is pleased to participate in this unprecedented collaboration of public, private, and non-profit institutions committed to building bridges to economic opportunities for African-Americans and closing the ever-widening wealth gap in this country; and we look forward to working collaboratively on solutions addressing systemic and institutionalized economic discrimination that has existed for decades."

[9] National Urban League President Marc Morial said, "With Black homeownership, median household wealth, and access to capital sinking like a stone, we need to get serious about dismantling the systems that keep Black and other underserved communities locked out of the American Dream. REACh represents the kind of initiative that invites the right people to the table. It contains features that can help break barriers to accessing capital and has the potential to help Black families accumulate wealth to reverse this drive to negative household wealth. If implemented in good faith and with sustained effort, REACh can be an important piece of the puzzle. We commend the OCC's efforts to lean into solutions to the unprecedented economic loss caused by this pandemic."

[10] See CNBC interview of September 9, 2020 at https://www.cnbc.com/video/2020/09/09/how-to-close-the-credit-and-capital-gap.html

[11] More about Project REACh is available at http://occ.gov/reach.

Community Reinvestment Act (CRA) framework for national banks and savings associations.[12] That rule culminated a multi-year rulemaking process,[13] was informed by extensive outreach and public comment, and more than a decade of conversation on how to improve the federal banking system. That process included nationwide listening sessions,[14] a joint report to Congress from regulators identifying opportunities to improve CRA,[15] recommendations from the U.S. Treasury,[16] a report of feedback gathered by the FRB,[17] extensive stakeholder outreach, and a healthy and robust dialogue originating from an the initial ANPR published in August 2018.[18]

The rule addresses much needed improvement over the previous framework that was not working to address the major indicators of economic inequality and social justice which have seen little to no improvement since the regulation was last updated in 1995. Since the rules were last updated, the wealth gap has increased[19] and minority home ownership has remained virtually unchanged, with African-American homeownership sinking below 1968 levels.[20] Banks have closed thousands of branches, disproportionately affecting LMI areas and minority populations,[21] leaving millions with fewer, if any, local options to satisfy basic banking and financial service needs. Because the previous CRA framework relied entirely on branch geography, closing branches virtually eliminated banks' obligations to serve those areas, even if they maintained significant business interests there. If the previous status quo failed to make the economic conditions of many communities better, it altogether ignored other economically disadvantaged

[12] "OCC Finalizes Rule to Strengthen and Modernize Community Reinvestment Act Regulations." News Release 2020-63. May 20, 2020 (https://occ.gov/news-issuances/news-releases/2020/nr-occ-2020-63.html).
[13] Initial ANPR was published August 28, 2018. See "OCC Seeks Comments on Modernizing Community Reinvestment Act Regulations." News Release 2018-87. August 28, 2018 (https://occ.gov/news-issuances/news-releases/2018/nr-occ-2018-87.html).
[14] "CRA Public Hearings Held Summer 2010." Federal Financial Institutions Examination Council (FFIEC). June-August 2010 (https://www.ffiec.gov/cra/hearings.htm).
[15] *Joint Report to Congress: Economic Growth and Regulatory Paperwork Reduction Act*. FFIEC. March 2017 (https://www.ffiec.gov/pdf/2017_FFIEC_EGRPRA_Joint-Report_to_Congress.pdf).
[16] "Treasury Releases Community Reinvestment Act Modernization Recommendations." U.S. Department of Treasury. April 3, 2018 (https://home.treasury.gov/news/press-releases/sm0336).
[17] *Perspectives from Main Street: Stakeholder Feedback on Modernizing the Community Reinvestment Act*. Board of Governors of the Federal Reserve System. June 2019. (https://www.federalreserve.gov/publications/files/stakeholder-feedback-on-modernizing-the-community- reinvestment-act-201906.pdf).
[18] OCC News Release 2018-87, "OCC Seeks Comments on Modernizing Community Reinvestment Act Regulations." August 28, 2018 (https://occ.gov/news-issuances/news-releases/2018/nr-occ-2018-87.html).
[19] Kriston McIntosh, Emily Moss, Ryan Nunn, and Jay Shambaugh. "Examining the Black-white wealth gap." The Brookings Institution. February 27, 2020 (https://www.brookings.edu/blog/up-front/2020/02/27/examining-the-black-white-wealth-gap/).
[20] "Black Homeownership Gap: Research Trends and Why the Growing Gap Matters." Urban Institute. July 16, 2019 (https://www.urban.org/events/black-homeownership-gap-research-trends-and-why-growing-gap-matters).
[21] Nelson D. Schwartz. "Bank Closings Tilt Toward Poor Areas." *New York Times*. February 22, 2011.

communities, such as Native Americans, as well as those living in areas without a bank branch. The framework needed to change if we hoped to achieve different results and begin addressing the inequitable accessibility of credit, capital, and opportunity for these communities.

The final rule reflects the thousands of helpful comments from stakeholders of all kinds on the Advance Notice of Proposed Rulemaking (ANPR) and the Notice of Proposed Rulemaking that was issued with the Federal Deposit Insurance Corporation (FDIC) in December 2019.[22] One of my first priorities when I joined the OCC was to review the many comments received from diverse stakeholders, and to make changes to the proposal to accommodate those suggestions in useful ways. The changes made in response to the comments significantly improved the rule and made it different in important ways from the original proposal.

The rule improves upon the previous status quo by clarifying what qualifies for CRA consideration, by evaluating bank activity more objectively, by requiring banks to lend and invest wherever they have branches and receive a significant amount of their deposits, and by making reporting and recordkeeping timelier and more transparent. The rule increased and established new benefits for low and moderate-income populations, Indian Country, small and family-owned farms, and small business owners with the intent of driving more investment, lending, and services where they are needed most.

On September 21, 2020, the FRB published an ANPR soliciting public comments on how the FRB could improve its CRA framework that applies to state-chartered banks that are members of the Federal Reserve System.[23] The OCC welcomes the FRB's ANPR soliciting comments on how to improve the CRA framework for state-chartered, Fed-member banks. Public input and discourse fuels continuous improvement, and we look forward to reviewing the comments for potential insight into our own rulemaking that applies to national banks and savings associations. We are encouraged by our fellow regulators joining us in recognizing that we need to act to improve upon a system that was not working and to encourage banks to do more to support the communities they serve. We are pleased to see that many of the principles on which we worked together and that the OCC, FDIC, and FRB agreed upon prior to the finalization of the OCC rule in May will be part of their rulemaking discussion.

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[22] "FDIC and OCC Propose to Modernize Community Reinvestment Act Regulations." News Release 2019-147. December 12, 2019 (https://occ.gov/news-issuances/news-releases/2019/nr-ia-2019-147.html).
[23] "Federal Reserve Board issues Advance Notice of Proposed Rulemaking on an approach to modernize regulations that implement the Community Reinvestment Act." News Release. Board of Governors of the Federal Reserve System. September 21, 2020 (https://www.federalreserve.gov/newsevents/pressreleases/bcreg20200921a.htm).

I appreciate the Senate upholding the OCC rule in its vote on October 19, 2020.[24] By supporting the OCC rule, the Senate preserved important gains for LMI neighborhoods, Indian Country, farmers, and small businesses.

Expanding the Availability of Credit

Small Dollar Lending Opportunities

Millions of Americans rely upon short-term small-dollar credit to make ends meet. Consumers need safe, affordable choices, and banks should be part of that solution. Banks are well-suited to offer affordable short-term small-dollar lending options that can help consumers find a path to more mainstream financial services without trapping them in cycles of debt. To facilitate banks offering responsible short-term small-dollar installment loans to help meet the credit needs of their customers, the OCC published a bulletin in May 2018 setting out the core principles for banks that offer these products.

Building on this bulletin and in recognition of the important role of small dollar loans in meeting customer needs, in May 2020, the OCC joined the FRB, FDIC, and National Credit Union Administration (NCUA) in issuing "Interagency Lending Principles for Offering Responsible Small-Dollar Loans" that sets forth core lending principles for banks that offer small-dollar loans. In all programs, responsible lending products are offered in a manner that ensures fair access to financial services, fair treatment of customers, and compliance with applicable laws and regulations, including fair lending and consumer protection laws.

This year, the OCC has had discussions with several banks that are considering new small-dollar products, and some banks have initiated these offerings. The OCC is encouraged by the new activity in this area which has the potential to provide additional safe and appropriate products to assist consumers.

Legal Certainty Will Encourage Lending

Two important agency rulemakings that have been associated with small-dollar lending involve the "valid when made" and "true lender" concepts. On my first day as Acting Comptroller, I signed a final rule that provides legal certainty regarding the sanctity of a contract which holds that an interest term that is valid at the time a contract is ratified remains valid for the life of that contract.[25]

[24] John Heltman (October 19, 2020). "Senate fails to overturn OCC's CRA revamp." *American Banker* (https://www.americanbanker.com/news/senate-fails-to-overturn-occs-cra-revamp).
[25] "OCC Issues Rule to Clarify Permissible Interest on Transferred Loans." News Release 2020-71. May 29, 2020

The primary problem the rule addresses is the legal uncertainty resulting from the Madden v. Midland Funding, LLC decision,[26] and the OCC has observed considerable evidence of this uncertainty. Based on its supervisory experience, the OCC believes that this legal uncertainty has the potential to disrupt banks' ability to serve consumers, businesses, and the broader economy in an efficient and effective manner, particularly in times of stress. The rule supports the orderly function of markets and promotes the availability of credit by answering the legal uncertainty created by the "Madden" decision. Such certainty allows secondary markets to work efficiently and to serve their essential role in the business of banking and helping banks access liquidity and alternative funding, improve financial performance ratios, and meet customer needs. The legal certainty in the rule facilitates responsible lending by banks, especially in the current environment where access to credit by creditworthy consumers is essential. The rule is not intended to create opportunities for predatory lenders to export high interest rates through rent-a-charter relationships with banks, and the OCC will continue to vigorously oppose such relationships.

In fact on October 27, 2020, the OCC issued a companion final rule regarding "true lender," that for the first time defines what it means to be the "true lender" of a loan including in the context of a partnership between a bank and a third party.[27] Banks' lending relationships with third parties can facilitate access to affordable credit. However, the relationships have been subject to increasing uncertainty about the legal framework that applies to loans made as part of these relationships. This uncertainty may discourage banks and third parties from entering into relationships, limit competition, and chill the innovation that results from these partnerships—all of which may restrict access to affordable credit. The final rule resolves this uncertainty by specifying that a bank makes a loan and is the "true lender" if, as of the date of origination, it (1) is named as the lender in the loan agreement or (2) funds the loan.

In contrast to criticisms that this rule potentially leads to predatory lending through rent-a-charter arrangements, I firmly believe the rule will achieve the opposite. In addition to defining "true lender," the rule clarifies that if a bank is the "true lender" of a loan it is ultimately accountable for the applicable compliance obligations attached to the origination of that loan. Thus, the rule negates the ability for banks to originate and walk away from the responsibility for those loans. This will result in eliminating the greatest risk associated with abusive rent-a-charter

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(https://occ.gov/news-issuances/news-releases/2020/nr-occ-2020-71.html).
[26] 786 F.3d 246 (2d Cir. 2015).
[27] "Office of the Comptroller of the Currency Issues True Lender Rule." News Release 2020-139. October 27, 2020 (https://occ.gov/news-issuances/news-releases/2020/nr-occ-2020-139.html).

arrangements.

The “valid when made” and “true lender” rules increase credit availability by ensuring that secondary markets can function efficiently, resulting in lower interest rates. The two rules provide the regulatory framework banks need to form healthy third-party lending partnerships, including those with fintech companies, which can expand economic opportunity because fintechs reach customers who are otherwise unserved.

Supporting New Technologies and Platforms for Banking Services

Consumers, businesses and markets continue to embrace innovation and seek out new technologies and platforms to access banking services. These new technologies and process developments are also enhancing bank operations and enabling financial institutions—including small and rural banks—to quickly and more effectively meet the needs of their customers and communities. Moreover, responsible innovation is continuing to help expand services to unbanked and underbanked consumers and promote financial inclusion.

Over the past several years, the OCC has been a regulatory leader in supporting the development of prudent, safe and sound, and fair infrastructure for innovative products and services through several programs and activities.[28] I am proud of the OCC’s work around responsible innovation to enable the federal banking system to respond to the new technologies and the changing needs of bank customers.

I also want to recognize the critical importance of the agency’s initiative to maintain a regulatory framework that supports a continued home in the highly regulated banking system for banking activities that have been migrating into the shadow banks. We have previously witnessed the catastrophic consequences for consumers and communities when federal regulators do not have an adequate view into instances of accumulating systemic risk and a reduced ability to ensure that banking activities are conducted in a safe, sound, and fair manner, with associated consumer protections firmly in place.

The National Bank Charter Accommodates a Variety of Business Models

As consumer and business financial service needs evolve, it is critical that the national bank charter continue to adapt to emerging trends and technology as it has done since 1863. Since its creation, the federal banking system has always adapted to banking innovations. It took the

[28] Testimony of Beth Knickerbocker, OCC Chief Innovation Officer, before the Task Force on Fintech, June 25, 2019 (https://www.occ.gov/news-issuances/congressional- testimony/2019/ct-2019-70-written.pdf).

Supreme Court in 1870 to clarify that national banks may issue certified checks—highly controversial then but taken for granted now. In the late 1960s, at the dawn of the computer age, our agency again fought all the way to the high court to establish that banks could offer data-processing services. In the early 1990s, the justices held that banks could offer variable annuities because those products served the same purpose as savings accounts. In each of these cases, the forces of the status quo fought change, but progress prevailed to allow the federal banking system to evolve to meet the needs of the customers banks serve. All of these innovations, controversial at the time, are now well accepted banking products and services that customers have come to expect.

The ability of the national bank charter to adapt to emerging trends and innovations is more critical now than ever given the depth and breadth of innovation and the decentralization and unbundling of financial services and products. In an article for the *Wall Street Journal*, cowritten by Senior Deputy Comptroller and OCC Chief Economist Dr. Charles Calomiris,[29] we note that, before the financial crisis, national banks conducted the majority of consumer lending and virtually all payment activity in the United States. But the past decade witnessed dramatic change. By 2018 banks' share of personal loans fell to 28 percent while fintech's share of that market rose to 38 percent.[30] Fintech unicorns such as Square, PayPal and Stripe have similarly captured a large and growing segment of the payments business that national banks previously dominated. Further, these banking products and services are migrating to less regulated and supervised entities, without the foundational framework of traditional banking supervision.

This is why it is imperative that the OCC, through its chartering authority, provide a robust supervision framework for companies that provide banking products. In December 2016, Comptroller of the Currency Thomas Curry thoughtfully considered the relationship between innovation and the business of banking and concluded that a national bank charter is flexible enough to accommodate innovative financial technology firms. The research conducted, comments received, and resulting supervisory framework[31] is explained in the *Comptroller's Licensing Manual Supplement: Considering Charter Applications From Financial Technology Companies*.[32]

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[29] Brian P. Brooks and Charles Calomiris. "Fintech Can Come Out of the Shadows." *Wall Street Journal*. September 9, 2020 (https://www.wsj.com/articles/fintech-can-come-out-of-the-shadows-11599693184).

[30] Kate Rooney. "Fintechs help boost US personal loan surge to a record $138 billion." CNBC. February 21, 2020 (https://www.cnbc.com/2019/02/21/personal-loans-surge-to-a-record-138-billion-in-us-as-fintechs-lead-new-lending-charge.html).

[31] "OCC Adopts Framework for Receiverships for Uninsured Federally Chartered National Banks." News Release 2016-160. December 10, 2016 (https://occ.gov/news-issuances/news-releases/2016/nr-occ-2016-160.html).

[32] *Comptroller's Licensing Manual Supplement: Considering Charter Applications From Financial Technology Companies.* OCC. July 2018 (https://occ.gov/publications-and-resources/publications/comptrollers-licensing-

On December 19, 2019, the OCC appealed a decision by the U.S. District Court for the Southern District of New York that blocks the agency's issuance of special purpose national bank charters to businesses engaged in banking but that do not take deposits. In appealing the court's decision, the OCC is defending long standing authority granted by the National Bank Act to charter national banks, including special purpose national banks that engage in at least one of the core banking functions—paying checks or lending money or taking deposits. The OCC's brief in the case was filed on April 23, 2020. I expect the litigation to be favorably resolved so that this charter option will remain available to companies engaged in any combination of the widely recognized core functions of banking. The OCC supports the dual banking system and recognizes that companies engaged in functions inherent to the business of banking should have choices to conduct their businesses through a national bank charter, state charter or state license. Charter choice is a keystone of the U.S. banking system. The national charter should remain available when it makes sense for a company's business model and the company meets the rigorous and high standards and criteria for becoming a national bank, whether that company provides a broad range of services or a more limited range of banking activities.

Several mature fintech companies, offering products and services historically provided by banks, have already made that choice. This year, we approved new entrants into the national banking system that employ new technologies and business models including Varo Bank, Jiko and SoFi. These institutions have received full service national bank charters (or been granted preliminary approval for a charter in the case of SoFi) and are expected to maintain sufficient capital and liquidity levels, comply with appropriate rules and consumer protections, and be subject to stringent OCC supervision as required of every national bank. There remains significant interest in federal charters, including full service and limited purpose charters such as the national trust bank charter, by companies seeking to offer products and services under the robust supervision of the OCC.

Responding to Industry Cryptocurrency and Stablecoin Use

Today, roughly 60 million Americans own some type of cryptocurrency, with a total market cap of nearly $430 billion.[33] These figures clearly illustrate that this payment mechanism is now firmly entrenched in the financial mainstream. Cryptocurrency has become a popular

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manual/files/pub-considering-charter-apps-from-fin-tech-co.pdf).

[33] See: https://www.forbes.com/sites/ronshevlin/2020/07/27/the-coronavirus-cryptocurrency-craze-whos-behind-the-bitcoin-buying-binge/#578251402abf

mechanism for sending and receiving payments for goods and services because transactions post in real time and provide convenience and security. Cryptocurrency also describes categories of specific currencies of value, and the rise in the use of stablecoins demonstrates consumers' comfort with its use.

This year, the OCC took two actions to respond to specific questions from the industry regarding cryptocurrencies, distributed ledger technology and stablecoin activity already being conducted or considered by banks the OCC oversees. Our actions have clarified authority and regulatory expectations for banks in ways that reduce the overall risk to the banking system and support its continuous evolution and innovation.

On July 22, 2020, the OCC published an interpretive letter clarifying national banks' and federal savings associations' authority to provide cryptocurrency custody services for customers.[34] National and state banks and thrifts have long provided safekeeping and custody services, including physical objects and electronic assets. The OCC has specifically recognized the importance of digital assets and the authority for banks to provide safekeeping for such assets since 1998. The July letter simply concludes that providing cryptocurrency custody services, including holding unique cryptographic keys associated with cryptocurrency, is a modern form of traditional bank activities related to custody services.

On September 21, 2020, the OCC published a second interpretive letter to clarify bank's authority to hold reserves on behalf of customers who issue certain stablecoins.[35] The letter responded to questions from the industry and concluded that banks may hold "reserves" on behalf of customers who issue stablecoins in situations where the coins are purchased by customers through hosted wallets. The letter addresses the use of stablecoins backed by a single fiat currency on a one-to-one basis where the bank verifies at least daily that reserve account balances meet or exceed the number of the issuer's outstanding stablecoins.

The agency continues to consider other issues relevant to cryptocurrency assets and distributed ledger technology including the application of the technology to support payments services conducted within the federal banking system.

OCC's Office of Innovation Provides Assistance and Clarity to the Industry

The OCC's Office of Innovation serves as a resource for the banks we supervise to discuss

[34] "Federally Chartered Banks and Thrifts May Provide Custody Services For Crypto Assets." News Release 2020-98. July 22, 2020 (https://occ.gov/news-issuances/news-releases/2020/nr-occ-2020-98.html).
[35] Stablecoins are digital tokens representing fiat currency on a fixed one-to-one ratio.

emerging trends including partnerships with fintech firms, and as a source of information to the fintech industry and OCC employees about innovation. The Office provides training and awareness materials for OCC's examiners and engages the industry through a number of outreach events annually. Earlier this year, I participated in a series of listening sessions[36] around the PPP held in response to feedback from banks and trade associations regarding several technology and other challenges they identified. The OCC facilitated discussions between banks and financial technology companies about possible technology solutions[37] available to assist banks in overcoming the challenges identified and to scale up participation in the PPP quickly to serve the needs of small businesses. Nearly 200 banks, nonbanks, and other industry stakeholders attended each of these calls. The OCC has made the summaries of the calls available on its public website. Given the response to these listening sessions, the OCC anticipates holding other similar sessions on emerging topics and trends on a more frequent basis.

Currently, I also am working to support our Office of Innovation in developing capabilities to evaluate emerging technologies and developments to reduce regulatory uncertainty, promote responsible innovation, and support community banks' ability to adapt new technologies to improve the efficiencies of their operations and the quality of the products and services delivered to their customers. Called, "Evolve," this function builds on the OCC's innovation initiatives and expands on the OCC's strategic goals to provide constructive, effective and proactive supervision, and to be a valuable resource to the banking industry. Evolve provides a process for the OCC to study emerging trends and engage with multiple entities where regulatory uncertainty might otherwise stifle innovation. Evolve provides a framework for the OCC to complete a more in-depth analysis of innovative activities raising industry-wide questions with a variety of impacted entities, including nonbanks.

The OCC also is seeking additional information regarding the range of digital activities conducted by banks and clarifying the existing authorities that national banks and federal savings associations have regarding new and emerging capabilities.

In June, the agency also published an NPR proposing to update its rules for national bank and federal savings association activities and operations. On the same date, the agency released an

[36] Listening sessions are used to inform the OCC and participants about emerging topics, issues, or concerns of stakeholders such as banks and nonbanks, including financial technology companies. The goal of listening sessions is to encourage an open dialogue between participants. Listening sessions are not intended to result in a group consensus on recommendations to guide OCC policy or regulation.
[37] The OCC does not endorse any particular solutions, companies, or technologies.

ANPR seeking comment on rules addressing banks' digital activities.[38] The ANPR invited comment on the OCC's regulations at 12 CFR 7, subpart E and 155, and any other banking issues related to digital technology and innovation, including:

- whether the legal standards in 12 CFR 7, subpart E, and 12 CFR 155 are sufficiently flexible and clear in light of the technological advances that have transformed the financial industry over the past two decades;
- whether these legal standards create unnecessary hurdles or burdens to innovation by banks;
- whether there are digital banking activities or issues that are not covered by these rules that the OCC should address (e.g., digital finders' activities, certain software, and correspondent services);
- what activities related to cryptocurrencies or cryptoassets are financial services companies or bank customers engaged in and what are the barriers or obstacles to further adoption of crypto-related activities in the banking industry;
- how is distributed ledger technology used or potentially used in activities related to banking;
- how are artificial intelligence and machine learning techniques used or potentially used in activities related to banking;
- what new payments technologies and processes should the OCC be aware of and what are the potential implications of these technologies and processes for the banking industry;
- what new or innovative tools do financial services companies use to comply with regulations and supervisory expectations (i.e., "regtech");
- what issues are unique to smaller institutions regarding the use and implementation of innovative products, services, or processes that the OCC should consider;
- what other changes to the development and delivery of banking products and services should the OCC be aware of and consider; and
- whether there are issues the OCC should consider in light of changes in the banking system that have occurred in response to the COVID-19 pandemic.

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[38] "OCC Requests Comment on Proposal to Update Activities and Operations Rules and its Rules on Digital Activities." News Release 2020-76. June 4, 2020 (https://occ.gov/news-issuances/news-releases/2020/nr-occ-2020-76.html).

The comment period closed on August 3, 2020, and the agency is reviewing those comments to determine additional actions.

Fair Access to Banking Services and Products

The Dodd-Frank Act clarified the OCC's mission by emphasizing our role in ensuring fair access to financial services and treating customers fairly.[39] When allegations surface that a bank or group of banks may be denying access to banking products and services including deposit and other account services to entire categories of customers engaged in legal businesses, it raises questions. The regulators' role is to answer those questions.

That is why the OCC sought additional information from large banks related to their provision of services to oil and gas companies. Upon hearing allegations that such businesses which affect all Americans were being curtailed, the agency in September requested information from the banks we oversee. We are in the process of reviewing the responses to that request to help us analyze whether bank actions were taken based on risk assessments and consistent with the bank's policies and procedures, or if they violate any duty or obligation under the law. We will assess our options for affirmative steps to ensure the federal banking system continues to serve our nation by providing fair access to all legal businesses and consumers.

As the agency has stressed repeatedly and for more than a decade, the OCC, as a general matter, does not recommend or encourage banks to engage in the wholesale termination of categories of customer accounts. Rather, we expect banks to assess the risks posed by individual customers on a case-by-case basis and to implement appropriate controls to manage each relationship. No matter what type of business banks engage, bankers have to exercise sound judgment, conduct appropriate due diligence, and evaluate customers individually.

Holding Banks Accountable

At its core, effective bank supervision ensures that OCC-regulated institutions that serve large and small businesses and customers across the nation do so in a manner consistent with legal and regulatory requirements. OCC-regulated institutions are subject to comprehensive, ongoing supervision designed to enable examiners to identify problems early and obtain corrective action quickly. Such supervision permits most bank problems to be resolved through the supervisory process via official transmittals in Reports of Examination, Supervisory Letters, and Matters Requiring Attention tailored to specific bank weaknesses. Sometimes, however, supervisory

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[39] 12 USC 1(a)

actions fail to remedy the problem, or the seriousness of the problem requires a heightened enforcement response. In those instances, the OCC has a range of tools available ranging from informal enforcement actions such as a commitment letter to formal enforcement actions such as a formal agreement, cease and desist order or removal and prohibition order. Depending on the circumstances, the OCC selects the best approach to swiftly and forcefully require a bank to take corrective action.

Since I became Acting Comptroller, the OCC has taken a number of enforcement actions. Last month, the OCC took three significant enforcement actions and assessed a total of $545 million in civil money penalties. On October 7, 2020, the OCC fined Citibank $400 million and required corrective actions related to deficiencies in its enterprise-wide risk management, compliance risk management, data governance and internal controls.[40] On October 8, the OCC fined Morgan Stanley Bank and Morgan Stanley Private Bank $60 million in response to their failure to exercise proper oversight of the 2016 decommissioning of two Wealth Management business data centers.[41] The following week, on October 14, the OCC assessed an $85 million fine against USAA, due to the bank's failure to implement and maintain an effective compliance risk management program and effective informational technology risk governance program, and required the bank remedy these programs.

In addition, if an individual bank employee operates in such a way that jeopardizes the safety and soundness of the institution or causes consumer harm, the OCC will hold those individuals accountable. On September 21, 2020, the OCC announced settlements with three former senior executives at Wells Fargo Bank in response to their role in the bank's widespread sales practices misconduct.[42] These settlements were in addition to the actions the OCC announced on January 23, 2020, including the issuance of charges against five other former senior bank executives and settlements with three others. The OCC has a proven track record to take public enforcement actions when the supervisory process fails to adequately remediate bank deficiencies.

Streamlining Bank Secrecy Act and Anti-Money Laundering Compliance

Ensuring compliance with the provisions of the Bank Secrecy Act (BSA) and other Anti-

[40] "OCC Assesses $400 Million Civil Money Penalty Against Citibank," October 7, 2020, News Release 2020-132 (https://occ.gov/news-issuances/news-releases/2020/nr-occ-2020-132.html).
[41]"OCC Assesses $60 Million Civil Money Penalty Against Morgan Stanley," October 8, 2020, News Release 2020-132 (https://www.occ.gov/news-issuances/news-releases/2020/nr-occ-2020-134.html).
[42] "OCC Announces Settlements With Three Former Senior Wells Fargo Bank Executives," September 21, 2020, News Release 2020-124 (https://www.occ.gov/news-issuances/news-releases/2020/nr-occ-2020-124.html).

Money Laundering (AML) regulations remains a key area of OCC supervisory focus in order to better protect the financial system from criminals who would exploit it for their own illegal purposes or use it to finance terrorism. At the same time, the OCC continues to work toward improving the BSA regime by reducing unnecessary burden associated with some existing practices. The OCC has supported the bipartisan work of the Congress this session to consider legislative reform that would promote both goals.

The success of the BSA/AML compliance regime in achieving its objective of preserving the integrity of the financial system is based on its efficiency and effectiveness. To this end, the OCC has had a leadership role in coordinating with the other federal regulatory agencies, Treasury's Office of Terrorism and Financial Intelligence, and the Financial Crimes Enforcement Network (FinCEN) efforts to streamline BSA/AML compliance, while reducing unnecessary compliance burden and meeting the needs of law enforcement. Increased transparency and clarity on how we supervise for BSA/AML compliance have been key characteristics of our strategic approach to strengthening the compliance regime.

In April 2020, the OCC joined with the other FFIEC agencies in issuing updates and revisions to sections of the BSA/AML examination manual that bank examiners use to evaluate compliance with the BSA/AML requirements. These updates offer further transparency into the examination process and incorporate recent regulatory changes. The overall objective of this year's update was to clearly distinguish mandatory regulatory requirements from supervisory expectations set forth in guidance, and to increase transparency into the agencies' risk-focused approach to BSA/AML supervision. These goals were not sufficiently addressed in previous versions of the manual.

In August 2020, the agencies issued a joint statement clarifying BSA due diligence requirements for customers who may be considered politically-exposed persons.[43] The agencies also updated the interagency statement on enforcement enhancing transparency regarding how they evaluate enforcement actions that are required by statute when financial institutions fail to meet their BSA/AML obligations.[44] The agencies are continuing to collaborate with law enforcement on

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[43] "Joint Statement on Bank Secrecy Act Due Diligence Requirements for Customers Who May Be Considered Politically Exposed Persons." August 21, 2020 (https://www.occ.gov/news-issuances/bulletins/2020/bulletin-2020-77.html).

[44] "Joint Statement on Enforcement of Bank Secrecy Act/Anti-Money Laundering Requirements." August 13, 2020 (https://www.occ.gov/news-issuances/news-releases/2020/nr-ia-2020-105.html).

informational needs to support the fight against criminal activities, as well as working on additional clarifying guidance for industry and updates to other sections of the FFIEC manual.

The OCC also recognizes that efforts to streamline BSA/AML compliance can benefit significantly from advances in technology, especially in monitoring suspicious activity to generate information of importance to law enforcement. In keeping with our commitment to promoting innovation, we joined with the other agencies in December 2018 to issue a joint statement encouraging banks to consider the use of innovative technologies for increasing efficient and effective anti-money laundering compliance.[45] The OCC put the spirit of this statement into action in 2019, when we published an interpretive letter setting forth our conclusion that a bank's automated filing proposal for suspicious activity reports (SARs) involving certain structuring transactions was permissible, subject to the conditions outlined in the letter and representations made by the bank.[46] Most recently, the OCC supported FinCEN's development and issuance of an Advance Notice of Proposed Rulemaking that seeks comment and input relating to agency efforts to explicitly integrate and define an effectiveness requirement for BSA compliance programs. Clearly defining BSA/AML effectiveness to include bank efforts that address national strategic priorities in a manner that is consistent with the bank's risk profile will support innovative efforts by banks to enhance the effectiveness and efficiency of the BSA/AML regime and improve the security of our nation's financial system.

OCC's Commitment to Diversity and Inclusion[47]

The OCC relies on a committed workforce of more than 3,500 individuals to fulfill its mission, and the strength of this workforce depends on how effectively the agency recruits and retains management and staff who have a wide range of diverse perspectives, experiences, and backgrounds. Over the past ten years, the OCC's total minority population has increased, and both manager and senior-level manager positions held by minority and female populations also have increased.[48] Today, the composition of the OCC Executive Committee is 22 percent minority and 44 percent female, compared to 13 percent and 25 percent, respectively, in 2010.

[45] "Agencies Issue a Joint Statement on Innovative Industry Approaches." News Release 2018-130.December 3, 2018 (https://occ.gov/news-issuances/news-releases/2018/nr-occ-2018-130.html).
[46] "Request for interpretive letter to streamline SARs for potential structuring activity." OCC Interpretive Letter 116. September 27, 2019 (https://occ.gov/topics/charters-and-licensing/interpretations-and-actions/2019/int1166.pdf).
[47] Testimony of OMWI Director Joyce Byrd Cofield before the House Financial Services Subcommittee on Diversity and Inclusion, September 8, 2020 for a detailed explanation of our diversity and inclusion programs (https://www.occ.gov/news-issuances/congressional-testimony/2020/ct-occ-2020-118-written.pdf).
[48] The OCC's minority population has increased from 30 to 36 percent. Manager positions held by minority and female populations increased from 21 to 28 percent and 37 to 39 percent respectively. Senior level manager positions

The OCC engages in comprehensive hiring, recruitment and employee retention strategies to support efforts to expand agency diversity. We also provide a wide range of formal and informal career development opportunities to provide leadership skills to our employees, which are crucial for career development. Additionally, the OCC has eight employee network groups,[49] each of which serve as a collective voice in communicating workplace concerns and providing input to management around diversity and inclusion programs within the OCC. These have proven to be a valuable means to attract and retain employees from diverse backgrounds and create an inclusive work environment for all employees. Finally, this past summer, the OCC continued its High School Scholars Internship Program, a six-week paid internship for students from public and charter high schools in the District of Columbia. This program provides an opportunity for participants to explore a variety of career paths at the OCC, gain an understanding of the financial services industry, and engage in enrichment activities on financial literacy and leadership fundamentals. Teams at the OCC already have begun planning for our third year of hosting the program at the agency next summer.

Conclusion

The OCC is committed to ensuring that the national banking system operates in a safe and sound manner, provides fair access to services and fair treatment of customers. As the economy, consumers and businesses respond to and recover from the coronavirus pandemic, we are doing our part to ensure that the national banking system continues to serve as a source of strength, extends opportunities to underserved citizens, and remains committed to the appropriate use of technology.

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held by minority and female employees increased from 20 to 25 percent and 27 to 30 percent respectively.

[49] These employee network groups are the Coalition of African-American Regulatory Employees (CARE); Generational Crossroads; HOLA; Network of Asian Pacific Americans (NAPA); PRIDE; The Women's Network (TWN); Veterans Employee Network (VEN); and the Differently Abled Workforce Network (DAWN).

Appendix 1

OCC Issuances to Provide Support to Banks and Customers in Response to COVID-19

Below is a list of issuances the OCC issued individually or together with other regulatory bodies to provide support and guidance to supervised institutions and their customers while the country responds to the COVID-19 pandemic. Each issuance can be accessed in its entirety on the OCC's website.

- On March 6, 2020, the Federal Financial Institutions Examination Council (FFIEC) issued the *Interagency Statement on Pandemic Planning* that identifies actions that financial institutions should take to minimize the potential adverse effects of a pandemic, recognizing that sound planning in advance of any imminent risk helps to reduce disruptions in services to consumers, businesses, and communities when such contingencies occur.[50]
- On March 9, 2020, the federal bank regulators issued a news release encouraging financial institutions to work constructively with borrowers and other customers affected by COVID-19 related issues. The release stated that prudent efforts that are consistent with safe and sound lending practices should not be subject to examiner criticism.[51]
- On March 13, 2020, the OCC issued guidance recognizing the potential for COVID-19 related issues to affect the customers and operations of banks and providing further encouragement to banks to work with borrowers.[52] The statement also emphasizes that prudent efforts to modify terms on existing loans such as deferring payments or extending payment due dates, will not be subject to examiner criticism.
- On March 16, 2020, federal bank regulators encouraged banks to use the Federal Reserve's "discount window" so that they can continue supporting households and businesses.[53]
- On March 17, 2020, federal bank regulators published an interim final rule to phase in the

[50] OCC Bulletin 2020-13, "Pandemic Planning: Updated FFIEC Guidance." March 6, 2020 (https://occ.gov/news-issuances/bulletins/2020/bulletin-2020-13.html).
[51] OCC News Release 2020-30, "Agencies Encourage Financial Institutions to Meet Financial Needs of Customers and Members Affected by Coronavirus." March 9, 2020 (https://occ.gov/news-issuances/news-releases/2020/nr-ia- 2020-30.html).
[52] OCC Bulletin 2020-15, "Pandemic Planning: Working With Customers Affected by Coronavirus and Regulatory Assistance." March 13, 2020 (https://occ.gov/news-issuances/bulletins/2020/bulletin-2020-15.html).
[53] OCC News Release 2020-32, "Federal Banking Agencies Encourage Banks to Use Federal Reserve Discount Window." March 16, 2020 (https://occ.gov/news-issuances/news-releases/2020/nr-ia-2020-32.html).

automatic distribution restrictions gradually if a bank's capital levels decline and a statement encouraging banks to use their resources to support households and businesses.[54] Clarifying questions and answers were published on March 19, 2020.[55]

- On March 19, 2020, federal bank regulators announced an interim final rule to ensure that financial institutions will be able to effectively use the Money Market Mutual Fund Liquidity Facility established by the Federal Reserve Board (FRB).[56]
- On March 19, 2020, the federal bank regulators issued a statement encouraging financial institutions to work with affected customers and communities, particularly those that are low- and moderate-income (LMI), and clarifying that financial institutions will receive Community Reinvestment Act (CRA) consideration for qualifying community development activities.[57]
- On March 20, 2020, the OCC encouraged electronic submission of licensing filings to greater support remote processing while continuing to support the federal banking system's orderly operations.[58]
- On March 22, 2020, the federal and state bank regulators issued an interagency statement encouraging financial institutions to work constructively with borrowers affected by COVID-19 and providing additional information regarding loan modifications.[59] The agencies encourage financial institutions to work with borrowers, will not criticize institutions for doing so in a safe and sound manner, and will not direct supervised institutions to automatically categorize loan modifications as troubled debt restructurings. The joint statement also provides supervisory views on past-due and nonaccrual regulatory reporting of loan modification programs.

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[54] OCC News Release 2020-34, "Federal Banking Agencies Provide Banks Additional Flexibility to Support Households and Businesses." March 17, 2020 (https://occ.gov/news-issuances/news-releases/2020/nr-ia-2020-34.html).
[55] OCC Bulletin 2020-17, "Pandemic Planning: Joint Questions and Answers Regarding Statement About the Use of Capital and Liquidity Buffers." March 19, 2020 (https://occ.gov/news-issuances/bulletins/2020/bulletin-2020-17.html).
[56] OCC News Release 2020-36, "Federal Bank Regulatory Agencies Issue Interim Final Rule for Money Market Liquidity Facility." March 19, 2020 (https://occ.gov/news-issuances/news-releases/2020/nr-ia-2020-36.html).
[57] OCC Bulletin 2020-19, "Pandemic Planning: Joint Statement on Community Reinvestment Act Consideration for Activities in Response to COVID-19." March 19, 2020 (https://occ.gov/news-issuances/bulletins/2020/bulletin- 2020-19.html).
[58] OCC Bulletin 2020-20, "Licensing Filings: Use of Electronic Methods for Submission of Licensing Filings." March 20, 2020 (https://occ.gov/news-issuances/bulletins/2020/bulletin-2020-20.html).
[59] OCC News Release 2020-39, "Agencies Provide Additional Information to Encourage Financial Institutions to Work with Borrowers Affected by COVID-19." March 22, 2020 (https://occ.gov/news-issuances/news-releases/2020/nr-ia-2020-39.html).

- On March 22, 2020, the OCC announced an interim final rule to revise its short-term investment fund rule for national banks acting in a fiduciary capacity.[60] The rule allows the OCC to authorize banks to temporarily extend maturity limits of these funds because the financial markets are in a period of significant stress negatively affecting the ability of banks to operate in compliance with maturity limits identified in the rule.
- On March 25, 2020, the OCC published a bulletin notifying regulated institutions of relief for regulatory reporting for institutions affected by COVID-19.[61]
- On March 25, 2020, the OCC published a bulletin providing information for essential critical infrastructure workers during the COVID-19 emergency response.[62]
- On March 26, 2020, the federal bank regulators encouraged regulated financial institutions to support their customers by offering more responsible short-term small-dollar lending products.[63] The OCC issued a bulletin emphasizing the statement for banks and thrifts.[64]
- On March 26, 2020, the OCC issued a statement describing the strength and resiliency of the federal banking system in light of COVID-19.[65]
- On March 27, 2020, the federal bank regulators issued two interim final rules: the first involved the standardized approach for measuring counterparty credit risk, or SA-CCR, and the second addressed the "current expected credit loss," or CECL, accounting standard in bank regulatory capital.[66]
- On March 31, 2020, the federal bank regulators issued a joint statement on the interaction of the revised transition of the CECL method for allowances with section 4014 of the CARES Act.[67]

[60] News Release 2020-38, "OCC Revises Short-Term Investment Fund Rule." March 22, 2020 (https://occ.gov/news-issuances/news-releases/2020/nr-occ-2020-38.html).
[61] OCC Bulletin 2020-24, "Consolidated Reports of Condition and Income: 30-Day Grace Period for the March 31, 2020, Call Report Date." March 25, 2020 (https://occ.gov/news-issuances/bulletins/2020/bulletin-2020-24.html).
[62] OCC Bulletin 2020-23, "Pandemic Planning: Essential Critical Infrastructure Workers in the Financial Services Sector." March 25, 2020 (https://occ.gov/news-issuances/bulletins/2020/bulletin-2020-23.html).
[63] OCC News Release 2020-40, "Federal Agencies Encourage Banks, Savings Associations and Credit Unions to Offer Responsible Small-Dollar Loans to Consumers and Small Businesses Affected by COVID-19." March 26, 2020 (https://occ.gov/news-issuances/news-releases/2020/nr-ia-2020-40.html).
[64] OCC Bulletin 2020-25, "Small-Dollar Lending: Joint Statement Encouraging Responsible Small-Dollar Lending in Response to COVID-19." March 26, 2020 (https://occ.gov/news-issuances/bulletins/2020/bulletin-2020-25.html).
[65] OCC News Release 2020-41, "Statement of the Comptroller of the Currency on the Condition of the Federal Banking System and the Response to COVID-19." March 26, 2020 (https://occ.gov/news-issuances/news-releases/2020/nr-occ-2020-41.html).
[66] OCC News Release 2020-42, "Agencies Announce Two Actions to Support Lending to Households and Businesses." March 27, 2020 (https://occ.gov/news-issuances/news-releases/2020/nr-ia-2020-42.html).
[67] OCC Bulletin 2020-30, "Regulatory Capital: Joint Statement on the Interaction of the Revised Transition of the

- On April 2, 2020, the OCC made banks and savings associations aware of the new and expanded small business relief programs administered by the U.S. Small Business Administration (SBA), included in the CARES Act.[68]
- On April 3, 2020, the federal bank regulators issued a statement providing needed regulatory flexibility to enable mortgage servicers to work with struggling consumers affected by COVID-19.[69]
- On April 6, 2020, the federal bank regulators announced two interim final rules to implement Section 4012 of the CARES Act, which requires the agencies to temporarily lower the community bank leverage ratio to 8 percent.[70]
- On April 7, 2020, the federal bank regulators, in consultation with state regulators, issued a revised interagency statement to provide additional information to financial institutions that are working with borrowers affected by COVID-19 to provide loan modifications and mortgage relief.[71]
- On April 7, 2020, the OCC issued a bulletin in response to COVID-19 to support FinCEN's regulatory relief and risk-based approach for financial institution compliance with the Bank Secrecy Act (BSA).[72]
- On April 9, 2020, the federal bank regulators released an interim final rule regarding the capital treatment of loans related to the Paycheck Protection Program (PPP).[73]
- On April 14, 2020, the OCC announced it would hold a series of listening sessions with banks and financial technology companies to discuss challenges and solutions to support

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CECL Methodology for Allowances With Section 4014 of the CARES Act." March 31, 2020 (https://occ.gov/news-issuances/bulletins/2020/bulletin-2020-30.html).

[68] OCC Bulletin 2020-31, "Small Business Administration Lending: New Programs for Small Business Relief." April 2, 2020 (https://occ.gov/news-issuances/bulletins/2020/bulletin-2020-31.html).

[69] OCC News Release 2020-48, "Federal Agencies Encourage Mortgage Servicers to Work With Struggling Homeowners Affected by COVID-19." April 3, 2020 (https://occ.gov/news-issuances/news-releases/2020/nr-ia- 2020-48.html).

[70] OCC News Release, "Agencies Announce Changes to the Community Bank Leverage Ratio." April 6, 2020 (https://occ.gov/news-issuances/news-releases/2020/nr-ia-2020-49.html).

[71] OCC News Release, "Agencies Issue Revised Interagency Statement on Loan Modifications by Financial Institutions Working with Customers Affected by the Coronavirus." April 7, 2020 (https://occ.gov/news-issuances/news-releases/2020/nr-ia-2020-50.html).

[72] OCC Bulletin 2020-34, "Bank Secrecy Act/Anti-Money Laundering: OCC Supports FinCEN's Regulatory Relief and Risk-Based Approach for Financial Institution Compliance in Response to COVID-19." April 7, 2020 (https://occ.gov/news-issuances/bulletins/2020/bulletin-2020-34.html).

[73] OCC News Release 2020-51, "Federal Bank Regulators Issue Interim Final Rule for Paycheck Protection Program Facility." April 9, 2020 (https://occ.gov/news-issuances/news-releases/2020/nr-ia-2020-51.html).

the effective and efficient implementation of the PPP.[74]

- On April 14, 2020, the federal bank regulators issued an interim final rule to temporarily defer real estate-related appraisals and evaluations under the agencies' interagency appraisal regulations.[75] The agencies also issued a statement to address challenges relating to appraisals and evaluations for real estate-related financial transactions affected by COVID-19.[76]
- April 20, 2020, the OCC published a bulletin providing awareness to banks about facilities and programs established or expanded by the Board of Governors of the Federal Reserve System to assist households and employers of all sizes and bolster the ability of state and local governments to deliver critical services during the COVID-19 emergency.[77]
- April 24, 2020, the OCC published a bulletin recognizing that a wide range of stakeholders, including state and local officials, have an interest in the successful implementation of these programs, but reminding banks that it has exclusive visitorial authority over them.[78]
- April 27, 2020, the OCC released a bulletin to encourage banks providing loans under the Small Business Administration's (SBA) Paycheck Protection Program (PPP) to prudently document their implementation and lending decisions.[79] Additionally, banks are encouraged to identify and track the PPP loans made to small business borrowers that have annual revenues of $1 million or less and are located in LMI areas.
- May 1, 2020, the OCC and the FRB published a response to a frequently asked question about the capital implication under the market risk capital rule in light of current market conditions.[80]

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[74] OCC News Release 2020-53, "OCC Announces Paycheck Protection Program Listening Sessions." April 14, 2020 (https://occ.gov/news-issuances/news-releases/2020/nr-occ-2020-53.html).
[75] OCC News Release 2020-54, "Federal Banking Agencies to Defer Appraisals and Evaluations for Real Estate Transactions Affected by COVID-19." April 14, 2020 (https://occ.gov/news-issuances/news-releases/2020/nr-ia- 2020-54.html).
[76] "Interagency Statement on Appraisals and Evaluations for Real Estate Related Financial Transactions Affected by the Coronavirus." April 14, 2020 (https://occ.gov/news-issuances/news-releases/2020/nr-ia-2020-54b.pdf).
[77] "Federal Reserve Lending Programs: COVID-19-Related Programs to Support Households, Employers, and Communities." OCC Bulletin 2020-41. April 20, 2020 (Federal Reserve Lending Programs: COVID-19-Related Programs to Support Households, Employers, and Communities).
[78] "COVID-19 Financial Support Programs: Visitorial Authority." OCC Bulletin 202-43. April 24, 2020 (https://occ.gov/news-issuances/bulletins/2020/bulletin-2020-43.html).
[79] "Credit Administration: Documentation of SBA Paycheck Protection Program Loans." OCC Bulletin 2020-45. April 27, 2020 (https://occ.gov/news-issuances/bulletins/2020/bulletin-2020-45.html).
[80] "Market Risk: Joint Response About the Effect of Recent Financial Market Volatility on the Market Risk Capital Rule." OCC Bulletin 2020-47. May 1, 2020 (https://occ.gov/news-issuances/bulletins/2020/bulletin-2020-47.html).

- On May 5, 2020, the federal bank regulators announced an interim final rule to modify the agencies' Liquidity Coverage Ratio (LCR) rule to support banks' participation in the Federal Reserve's Money Market Mutual Fund Liquidity facility and the Paycheck Protection Program Liquidity Facility.[81] The interim final rule neutralizes the LCR impact associated with the non-recourse funding provided by these facilities.
- May 12, 2020, the OCC issued a bulletin to provide banks and savings associations guidance regarding their governance and annual meetings in light of COVID-19.[82] The bulletin responds to inquiries from banks and savings associations considering changes to the date, time, or location of their annual meetings as a result of stay-at-home and similar orders and potential health concerns.
- May 15, 2020, the federal bank regulatory agencies announced temporary changes to their supplementary leverage ratio rule to provide flexibility to certain depository institutions to expand their balance sheets to provide credit to households and businesses in light of the challenges arising from COVID-19.[83]
- On May 26, 2020, the OCC issued an interim final rule to clarify that national banks and federal savings associations may permit telephonic and electronic participation at all board of directors, shareholder, and member meetings.[84]
- On June 17, 2020, the OCC issued a bulletin reminding stakeholders that banks are governed primarily by uniform federal standards.[85] OCC regulations preempt state laws that conflict with the real estate lending powers of banks and specifically preempt state laws that interfere with banks' ability to make mortgage loans secured by real estate. State action that limits banks' ability to foreclose on a defaulted loan and take possession of collateral, beyond what is provided for in the CARES Act, would interfere with banks' powers to make secured mortgage loans.

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[81] "Federal Bank Regulatory Agencies Modify Liquidity Coverage Ratio For Banks Participating in Money Market Mutual Fund Liquidity Facility and Paycheck Protection Program Liquidity Facility." News Release 2020-59. May 5, 2020 (https://occ.gov/news-issuances/news-releases/2020/nr-ia-2020-59.html).
[82] "Corporate Governance: Annual Meetings and the COVID-19 Emergency." OCC Bulletin 2020-51. May 12, 2020 (https://occ.gov/news-issuances/bulletins/2020/bulletin-2020-51.html).
[83] "Supplementary Leverage Ratio: Interim Final Rule." OCC Bulletin 2020-52. May 15, 2020. (https://occ.gov/news-issuances/bulletins/2020/bulletin-2020-52.html).
[84] "Director, Shareholder, and Member Meetings: Interim Final Rule." OCC Bulletin 2020-44. May 26, 2020 (https://occ.gov/news-issuances/bulletins/2020/bulletin-2020-55.html).
[85] "COVID-19 Relief Programs: Preemption." OCC Bulletin 2020-62. June 17, 2020 (https://www.occ.treas.gov/news-issuances/bulletins/2020/bulletin-2020-62.html).

- June 22, 2020, the OCC published an interim final rule to reduce assessments in response to the national emergency declared in connection with the coronavirus disease (COVID-19).[86]
- June 23, 2020, the four federal agencies in conjunction with the state bank and credit union regulators issued examiner guidance to promote consistency and flexibility in the supervision and examination of financial institutions affected by the COVID-19 pandemic.[87]
- August 4, 2020, the OCC issued a rule creating an exception to the withdrawal period requirement for collective investment funds to help ease impact of COVID-19.[88]
- August 7, 2020, the OCC announced it is reducing assessments in response to the national health emergency related to COVID-19.[89]
- August 13, 2020, the OCC published an IFR that revises the requirements in 12 CFR 9.18(b)(5)(iii) applicable to a national bank or federal savings association (collectively, a bank) that administers a collective investment fund (CIF) invested primarily in real estate or other assets that are not readily marketable.[90]
- On September 29, 2020, the federal regulatory agencies finalized two interim final rules. The first would temporarily defer appraisal and evaluation requirements after the closing of certain residential and commercial real estate transactions and the second neutralizes the regulatory and capital and liquidity effects for banks that participate in certain Federal Reserve liquidity facilities.[91]

[86] "Assessments: Interim Final Rule." OCC Bulletin 2020-63. June 22, 2020 (https://www.occ.gov/news-issuances/bulletins/2020/bulletin-2020-63.html).
[87] "Federal and State Regulatory Agencies Issue Examiner Guidance for Assessing Safety and Soundness Considering the Effect of the COVID-19 Pandemic on Financial Institutions." News Release 2020-80. June 23, 2020 (https://www.occ.gov/news-issuances/news-releases/2020/nr-ia-2020-80.html).
[88] "OCC Issues Rule Creating Exception to Withdrawal Period Requirement for Collective Investment Funds, Eases Impact of COVID-19." News Release 2020-100. August 4, 2020 (https://occ.gov/news-issuances/news-releases/2020/nr-occ-2020-100.html).
[89] "OCC Reduces September 2020 Assessments in Response to COVID-19." News Release 202-102. August 7, 2020 (https://www.occ.gov/news-issuances/news-releases/2020/nr-occ-2020-102.html).
[90] "Collective Investment Funds: Prior Notice Period for Withdrawals." OCC Bulletin 2020-74. August 13, 2020 (https://occ.gov/news-issuances/bulletins/2020/bulletin-2020-74.html).
[91] "Agencies Issue Two Final Rules." News Release 2020-129. September 29, 2020. (https://occ.gov/news-issuances/news-releases/2020/nr-ia-2020-129.html).