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Sizing Up the Government's New Fintech Plan

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By Peter Rudgeair and Telis Demos – December 2, 2016

A proposal from a top U.S. banking regulator to allow financial-technology companies to apply for bank charters drew a range of reactions on Friday from industry executives, policy makers, attorneys and advocacy groups. Here are a few of the early takes on the proposal:

Favorable/Positive

- Ken Rees, chief executive of online lender Elevate Credit Inc., said that the new charter could enable innovation, but partnerships between a bank and a fintech company would still offer big opportunities to provide better financial services to consumers. “I don’t think fintech companies have to go it alone to get the advantages we want because banks do a lot of things really well and fintech companies do a lot of things really well [and] those things don’t necessarily overlap.”
- Marla Blow, chief executive of FS Card Inc., a startup that offers subprime credit cards via a partnership with a bank, said that she would “absolutely be taking a long hard look” at the new charters. Currently, only banks can issue debit cards that work with networks like Visa Inc. and Mastercard Inc. and pull money from checking accounts. Expanding that to fintech firms, she said, “would cause a lot of creative juices to start flowing. There are lots of possibilities for financial inclusion.”
- Colin Walsh, CEO and co-founder of online banking startup Varo Money Inc., has said in the past that the firm would consider pursuing a bank charter. Of today’s announcement, he said it was “very good news,” and that “a national bank charter is a major stamp of approval and consumer trust. It ushers in a whole new opportunity.” Varo, which is building a mobile-banking app that uses artificial intelligence to offer financial advice, presently partners with a bank to provide deposit accounts. Varo is also seeking state lending licenses.
- Brian Peters, head of the Financial Innovation Now, an industry group representing big technology companies that offer some banking services. “A surprisingly large number of players are very closely watching.... A lot of people are calling this a historic announcement. It will all depend on the details.”

Cautious/Negative

- Maria Vullo, the superintendent of New York’s Department of Financial Services, said that her agency would defend states’ ability to enforce consumer-protection laws, adding that it “opposes any effort to federalize what states have been doing – and doing well – for over a century.” Ms. Vullo added that the OCC’s proposal “would be irresponsible if it were to ignore the states’ historical role and longstanding expertise in this arena.”
- Michelle Sternthal, deputy director of policy and government affairs for small-business advocacy group Main Street Alliance, said preemption of state law by a new federal OCC charter could be harmful for

small businesses. "While the fintech industry has the potential to expand lending for small business owners, it is also a breeding ground for costly, and often predatory, lending practices," Ms. Sternthal said in a statement.

- Sen. Jeff Merkley of Oregon said permitting fintech companies to preempt state regulations the way that the OCC proposes could harm consumers. "I am deeply concerned that the OCC's plan to offer a national charter will weaken consumer protection standards in online lending and allow FinTech firms to sink to the lowest common denominator rather than abiding by stronger state laws, such as Oregon's payday lending law," Sen. Merkley said in a statement.
- Camden Fine, president and chief executive of trade group Independent Community Bankers of America, said that the OCC's proposal would codify an uneven playing field where fintech companies faced less scrutiny than traditional banks. "ICBA has been deeply concerned that nonbank online lenders' lack of oversight has provided them with regulatory advantages... while putting consumers and the financial system at risk."

Other

- Brian Korn, an attorney at Manatt, Phelps & Phillips LLP, said that online lenders that obtain one of these charters from the OCC would make contracts many have entered into with outside banks unnecessary. In so-called rent-a-charter deals, online lenders including LendingClub Corp and Prosper Marketplace Inc have outsourced the technical parts of making a loan to regulated banks, a setup that has been called into question by recent court decisions. Under the OCC proposal, though, an online lender "doesn't have to construct a mechanic to run a loan through a bank," Mr. Korn said.

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