

November 18, 2021

The Honorable Michael J. Hsu
Acting Comptroller
Office of the Comptroller of the Currency (OCC)
400 7th Street, SW
Washington, DC 20219

Dear Acting Comptroller Hsu:

During your time at the OCC, you have been outspoken on your views with respect to the regulation of financial technology, digital assets, and stablecoins. In fact, soon after your appointment, you announced a review of actions under the previous Administration, including special purpose chartering authority and the ability of banks to hold digital assets as custodians for bank customers. Instead of making significant progress on these initiatives, the OCC has thus far failed to implement a regulatory framework to encourage innovation, ensure safe and sound bank operations, and increase access to financial services.

In addition, in public statements, you've indicated your support for subjecting fintech and cryptocurrency firms that provide bank-like services to the same regulatory framework that exists for traditional banks.¹

To that end, we request your written response to the following questions.

1. What is the status of your review of the previous Administration's actions?
2. In your view, which specific products and activities would cause a firm to become a "synthetic banking provider?"
3. How does your definition of "synthetic banking provider" differ from traditional statutory definitions of "bank" as set out in the Federal Deposit Insurance Act and the Bank Holding Company Act? How does it differ from the definition of "national banking association" for purposes of the National Bank Act?
4. If "synthetic banking providers" do not fall within these definitions, in your view, does the OCC have the authority to regulate such firms?
 - a. If so, which statute or statutes grant the OCC this authority?
5. Given the broad range of activities and business models among firms and the dynamic nature of digital assets, in your view, is there a federal regulatory agency that currently has the institutional capacity to provide such supervision?

¹ OCC Acting Comptroller Michael J. Hsu Remarks before the American Fintech Council Fintech Policy Summit 2021 (Nov. 3, 2021), available at <https://www.occ.gov/news-issuances/speeches/2021/pub-speech-2021-115.pdf>.


- a. If so, upon what statutory authority would comprehensive consolidated supervision of such firms, including those issuing stablecoins rely, particularly given the Supreme Court's holding in *Board of Governors of the Federal Reserve System v. Dimension Financial Corp.*?²

Finally, given the applications by some fintech firms to become national banks and your desire to subject fintech firms to a robust regulatory regime, please provide an update on the OCC's plans for use of a special purpose fintech charter for limited-purpose national banks. In addition, please provide an update on any plans regarding the OCC's chartering authority or process that may impact the regulation of fintech firms.

The nascent fintech industry and the development of digital assets offer great promise to strengthen the U.S. financial system and improve access to credit and investment for all American consumers and small businesses. While responsible regulation is necessary to safeguard these markets, heavy-handed government intervention in this space will ultimately hinder financial innovation in the United States.

We would appreciate responses no later than December 10, 2021. If you have any questions, please do not hesitate to contact Trevor Feigleson at Trevor.Feigleson@mail.house.gov.

Sincerely,



Patrick McHenry
Ranking Member

² 474 U.S. 361 (1986).