



August 20, 2020

Mr. Rob Nichols
President and CEO
American Bankers Association
1120 Connecticut Avenue, N.W.
Washington DC 20036

Subject: National Bank Charters and Payments

Dear Rob:

Thank you for your letter dated July 29, 2020, regarding the Office of the Comptroller of the Currency's (OCC) assessment of legal and policy issues surrounding the possible chartering of nondepository payments companies as national banks.

I appreciate the concern that you and others raise regarding safety and soundness, consumer protection, and competitiveness. I assure you that, as the OCC proceeds, we will do so in a manner that is transparent, deliberate, measured, and consistent with the laws and regulations governing the federal banking system. We observe these principles in every bank charter application we consider and will do so for applicants focused on payments businesses no less than for any other charter applicant.

A decade ago virtually all payments activity was conducted by traditional depository institutions, or by service providers to depositories. In either situation, the payments activity received regular and rigorous supervision by the OCC or other relevant federal prudential regulator. To this day, the majority of payments activity is conducted inside the national banking system. However, for various reasons consumer and business customers are increasingly turning to specialized firms that operate outside of supervised and chartered banks for payments services.¹ While these firms provide services that compete directly with services provided by chartered banks, they do not currently face the same examination, regulatory, and supervisory expectations that your members face.

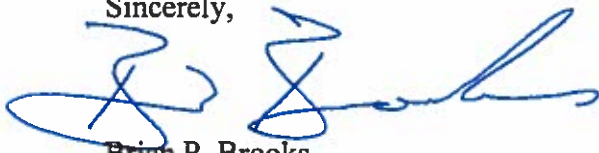
¹ For an analysis of various reasons why customers who historically relied on banks to provide such services have recently turned to nonbanks, see McKinsey & Co., *Global Payments Report 2019: Amid Sustained Growth, Accelerating Challenges Demand Bold Actions*, available at <https://www.mckinsey.com/~/media/mckinsey/industries/financial%20services/our%20insights/tracking%20the%20sources%20of%20robust%20payments%20growth%20mckinsey%20global%20payments%20map/global-payments-report-2019-amid-sustained-growth-vf.ashx>.

Chartering companies that perform activities provided by regulated banks helps ensure that the companies delivering payments services receive the same level of oversight that any bank currently providing payments receives. I know from our conversations that the ABA agrees with the principle that similar banking activity should be regulated and supervised similarly regardless of the company conducting that activity—that is the very definition of a level playing field. With that in mind, providing a path for payments companies to obtain a national bank charter and conduct their activities within the banking system will allow the OCC to supervise that activity with the same rigor that we apply in the context of supervising that same activity as conducted by your members.

Such oversight is good for the payments companies in that it provides a national platform and customer confidence in their safety and soundness. It is good for incumbent banks in that it reduces the regulatory arbitrage that currently drives much payments activity outside the banking system and into the more lightly regulated shadow banking system. It is good for customers because it provides greater assurance of safety and soundness given the lower failure rate of OCC-regulated institutions as compared to state-chartered or licensed entities. And, it is good for the financial system because it allows common oversight, data analysis, and regulation of fundamentally similar activities.

I look forward to continuing this important dialogue and our valuable partnership that has helped make our nation's banking system the most respected in the world. I am happy to discuss these issues personally with you and your members. If you have specific additional questions regarding the issuance of national bank charters, please always feel free to contact me or Director of Banking Relations Ralph DeLeon at (202) 649-6736.

Sincerely,



Brian P. Brooks
Acting Comptroller of the Currency

CC:
Bank Policy Institute
Consumer Bankers Association
Credit Union National Association
Independent Community Bankers of America
National Association of Federally-Insured Credit Unions
The Clearing House