

II. *Special Purpose National Banking Charters for Fintech Companies*

A. Introduction

In December 2016, then-Comptroller of the Currency, Thomas J. Curry, issued a report that explored the possibility of extending Special Purpose National Bank (SPNB) charters to financial technology (fintech) companies that had not previously been considered banks under the supervision of the Office of the Comptroller of the Currency (OCC).¹ “The OCC—an independent bureau of the U.S. Department of the Treasury—charters, regulates, and supervises all national banks and federal savings associations as well as federal branches and agencies of foreign banks. The OCC is authorized to charter, supervise, and regulate institutions engaged in investments and lending, including banks and thrifts.”² An SPNB charter allows an institution that does not accept deposits to engage in “a limited range of banking activities.”³ The Code of Federal Regulations outlines “three core banking functions: Receiving deposits; paying checks; or lending money.”⁴ An SPNB charter is generally subject to the same laws, regulations, and supervision as other national banks.⁵

¹ OFFICE OF THE COMPTROLLER OF THE CURRENCY, EXPLORING SPECIAL PURPOSE NATIONAL BANK CHARTERS FOR FINTECH COMPANIES 2 (2016), <https://www.occ.gov/topics/responsible-innovation/comments/special-purpose-national-bank-charters-for-fintech.pdf> [<https://perma.cc/8DUP-3TLK>] [hereinafter EXPLORING SPECIAL PURPOSE NATIONAL BANK CHARTERS] (discussing the possibility of extending SPNB charters to fintech companies).

² *About the OCC*, OFFICE OF THE COMPTROLLER OF THE CURRENCY, <https://www.occ.treas.gov/about/what-we-do/mission/index-about.html> [<https://perma.cc/V739-WNY5>].

³ OFFICE OF THE COMPTROLLER OF THE CURRENCY, EVALUATING CHARTER APPLICATIONS FROM FINANCIAL TECHNOLOGIES 2 (2017), <https://www.occ.gov/publications/publications-by-type/licensing-manuals/file-pub-lm-fintech-licensing-manual-supplement.pdf> [<https://perma.cc/EFQ8-MARK>].

⁴ 12 C.F.R. § 5.20 (2018).

⁵ EXPLORING SPECIAL PURPOSE NATIONAL BANK CHARTERS, *supra* note 1, at 5 (“In general, a special purpose national bank is subject to the same laws, regulations, examination, reporting requirements, and ongoing supervision as other national banks. Statutes that by their terms apply to national banks apply to all special purpose national banks, even uninsured national banks.”).

The OCC began exploring the possibility of extending SPNB charters to fintech companies during the Obama administration with the hope of increasing access to financial services and bettering consumer protections.⁶ Fintech companies rely on digital products and do not include traditional banks that may now offer digital products.⁷ In the absence of national bank charters from the OCC, many fintech companies partnered with, rather than competed against traditional banks, which reduced consumer options.⁸ Fintech companies often offer lower operation costs and increased automation compared to traditional banks, which indicates they may be able to increase access to financial services if given charters from the OCC.⁹ After much consideration, on July 31, 2018, the OCC issued a statement announcing it would begin accepting applications for national bank charters from fintech companies.¹⁰ Despite this policy change, as of September 2018, no fintech company had applied for or received an SPNB charter from the OCC.¹¹

This article begins with a discussion of the policy considerations behind the OCC's decision to grant SPNB charters to fintech companies in Section B—notably the OCC's desire to serve the needs of customers and communities, promote a uniform application of laws and regulations across the United States, and strengthen the U.S. financial system.¹² Section C considers various concerns about SPNB charters, including initial legal challenges, and commerce concerns. Next, Section D discusses the likelihood of fintech charters in light of the cumbersome application process, the heightened scrutiny

⁶ *Id.* at 2.

⁷ Rory Van Loo, *Making Innovation More Competitive: The Case of Fintech*, 65 UCLA L. REV. 232, 239 (2018).

⁸ *Id.* at 234.

⁹ *Id.* at 254.

¹⁰ Press Release, Office of the Comptroller of the Currency, OCC Begins Accepting National Bank Charter Applications from Financial Technology Companies (July 31, 2018), <https://www.occ.treas.gov/news-issuances/news-releases/2018/nr-occ-2018-74.html> [<https://perma.cc/CT3N-44C6>].

¹¹ *OCC Corporate Applications Search*, OFFICE OF THE COMPTROLLER OF THE CURRENCY, https://apps.occ.gov/caas_cats [<https://perma.cc/S5MW-6LHH>] (last visited Sept. 22, 2018). It should be noted that one fintech company, Varo Bank, received an Independent National Bank Charter during this time, which is not a result of this policy change.

¹² EXPLORING SPECIAL PURPOSE NATIONAL BANK CHARTERS, *supra* note 1, at 2 (describing the OCC's three reasons for exploring SPNB charters for fintech companies).

associated with OCC charters, and pending legal challenges to the SPNB charter program, before concluding with D.

B. OCC Policy Considerations

1. *Serving the Needs of Customers and Communities*

The OCC's primary concern in pursuing national bank charters for fintech companies was to guarantee operation in a safe manner in order to best serve their customers and communities.¹³ An SPNB charter would place fintech companies under the OCC regulatory framework and ensure that they comply with the standards of fairness and sound business practices expected of traditional banks with OCC charters.¹⁴ Similarly, a guiding principle of OCC chartering is to encourage banks to "provide fair access to financial services by helping to meet the credit needs of its entire community" and "to promoting fair treatment of customers including efficiency and better service."¹⁵ OCC chartering procedures also require applicants to submit business plans that promote financial inclusion, and thus serving community needs is on the forefront of extending charters to fintech companies.¹⁶

In the United States, approximately seven percent of all households, and approximately eighteen percent of African American and Latino households, are unbanked, which requires them to pay more for basic financial services, such as check cashing.¹⁷ Other countries have been more willing to embrace fintech and as a result, mobile banking has improved financial access for millions of people who previously had no accessible banking options.¹⁸ Extending

¹³ *Id.* at 2 ("[A]pplying a bank regulatory framework to fintech companies will help ensure that these companies operate in a safe and sound manner so that they can effectively serve the needs of customers, businesses, and communities, just as banks do that operate under full-service charters.").

¹⁴ *Id.*

¹⁵ *Id.* at 12. See 12 C.F.R. § 5.20(f)(1)(ii), (iv) (2018).

¹⁶ EXPLORING SPECIAL PURPOSE NATIONAL BANK CHARTERS, *supra* note 1, at 12.

¹⁷ Van Loo, *supra* note 7, at 254 (describing current problems of financial inclusion in the United States).

¹⁸ *Id.* at 255 (2018).

charters to fintech companies is therefore consistent with the OCC's mission of improving community access to financial services.¹⁹

2. *Promote Consistent Application of Law and Regulation across the United States*

In offering SPNB charters to fintech companies, the OCC hopes to standardize the rules and regulations imposed on these institutions.²⁰ The OCC believes standardizing these rules will lead to improved experiences for consumers, in part because a national charter affords the same rights to all customers across the nation.²¹ A national bank charter will impose the same rigorous standards on fintech companies that are currently imposed on traditional banks, which promotes consistency across the entire banking industry.²² Further, a single national charter will reduce the regulatory burden placed on fintech companies by allowing them to comply only with a single, uniform set of regulations across the nation.²³ This allows fintech companies to operate under a single national framework and relieves them of expensive state-specific requirements.²⁴

¹⁹ *Id.* See 12 C.F.R. §5.20 (f)(1)(ii), (iv) (2018) (stating that when considering bank charter applications, the OCC must “[encourage] a national bank or Federal savings association to provide fair access to financial services by helping to meet the credit needs of its entire community” and “[promote] fair treatment of customers including efficiency and better service.”).

²⁰ EXPLORING SPECIAL PURPOSE NATIONAL BANK CHARTERS, *supra* note 1, at 2.

²¹ *Id.*

²² *Id.*

²³ Scott M. Pearson, *Acting OCC Comptroller Noreika Provides Further Thoughts on SPNB Charter Proposal*, BALLARD SPAHR L.L.P. (Oct. 26, 2017), <https://www.consumerfinancemonitor.com/2017/10/26/acting-occ-comptroller-noreika-provides-further-thoughts-on-spnb-charter-proposal> [<https://perma.cc/AUX8-D5L4>] (quoting Acting Comptroller of the Currency Noreika: “Providing a path for these companies to become national banks is pro-growth, can reduce regulatory burden for those companies, and can bring enhanced services to millions of people served by the federal banking system.”).

²⁴ Kalin Bornemann, *The OCC Doubles Down on Fintech Banks*, BANK L. MONITOR (Aug. 7, 2018), <https://www.banklawmonitor.com/2018/08/the-occ-doubles-down-on-fintech-banks> [<https://perma.cc/B5HG-ZCEE>].

3. *Strengthen and Modernize the Federal Banking System*

The OCC believes extending national charters will encourage companies to research and develop innovative ways to improve financial inclusion, which in turn will help the financial system grow.²⁵ Permitting fintech charters may also promote competition in the banking sector, which in turn will lead to innovation and promote economic growth.²⁶ Similarly, the reduced regulatory burden placed on fintech companies allows them to grow and innovate under a uniform set of rules.²⁷ An SPNB charter is merely one of several chartering options available to fintech companies, but it allows them to pursue the business model that best suits their corporate structure and maximizes economic output.²⁸

C. **Concerns with Granting SPNB Charters to Fintech Companies**

1. *Preliminary Resistance*

As fintech continued to evolve, traditional banks became fearful of the increased competition that this industry would bring.²⁹ Despite these preliminary concerns, fintech companies have become increasingly likely to collaborate with traditional banks rather than compete against them.³⁰ Entry barriers, including the inability to receive national banking charters, have contributed to this stifled competition.³¹ Similarly, traditional banks have engaged in anticompetitive practices in order to consolidate their market share and continue to thrive despite technological developments.³² Given their ability to benefit from technological developments, it is understandable that

²⁵ EXPLORING SPECIAL PURPOSE NATIONAL BANK CHARTERS, *supra* note 1, at 2.

²⁶ Press Release, *supra* note 10.

²⁷ Pearson, *supra* note 23 (discussing possible innovation and growth that fintech companies could bring to the financial services industries).

²⁸ Press Release, *supra* note 10.

²⁹ Van Loo, *supra* note 7, at 238 (referencing a warning from Jamie Dimon, CEO of JP Morgan Chase, to shareholders that “Silicon Valley is coming”).

³⁰ *Id.* at 241–42.

³¹ *Id.* at 243.

³² *Id.* at 242–43.

traditional banks want to prevent fintech companies from operating as banks, and therefore, have long opposed this new OCC policy.³³ Allowing fintech companies to operate more efficiently under their own charters puts more competitive pressure on traditional banks.³⁴ State regulators have also resisted this policy decision, many of whom believe this policy to be an overreach of federal authority.³⁵

The OCC faced legal challenges to their proposed policy even before it went into effect on July 31, 2018.³⁶ In *Vullo v. Office of the Comptroller of the Currency*, the OCC faced legal a legal challenge from Maria Vullo, Superintendent of the New York State Department of Financial Services, who sought to enjoin the OCC from moving forward with its then proposed policy.³⁷ The complaint alleged that extending bank charters to fintech companies exceeds the statutory authority of the OCC, arguing that a firm offering “banking services” must accept deposits.³⁸ Additionally, Vullo claimed that the policy was threatened to weaken current regulatory parameters, further consolidate large national institutions that perpetuate the “too big to fail” system, and put smaller fintech companies at a competitive disadvantage.³⁹ Ultimately, the United States District Court for the Southern District of New York dismissed the case without prejudice for lack of

³³ Jesse Hamilton & Selina Wang, *Silicon Valley’s Invasion of Banking Just Got Key U.S. Go-Ahead*, BLOOMBERG (July 31, 2018, 2:00 PM), <https://www.bloomberg.com/news/articles/2018-07-31/tech-firms-can-win-bank-charters-as-occ-unveils-fintech-policies>.

³⁴ *Id.* (referencing statements by Mike Whalen of Goodwin Procter’s fintech group indicating that established fintech companies will be able to exert more control over their operations and ultimately be more efficient as a result of this policy change).

³⁵ *Id.* (“‘An OCC fintech charter is a regulatory train wreck in the making,’ said John W. Ryan, president of the state regulators’ group that brought the previous legal challenge. States ‘are keeping all options open to stop this regulatory overreach,’ he said in a statement.”).

³⁶ *Vullo v. Office of the Comptroller of the Currency*, No. 17 Civ. 3574 (NRB), 2017 WL 6512245 (S.D.N.Y. Dec. 12, 2017).

³⁷ Complaint for Declaratory and Injunctive Relief at *20, *Vullo v. Office of the Comptroller of the Currency*, No. 17 Civ. 3574 (NRB) (S.D.N.U. 2017) (No. 1:17-cv-03574), 2017 WL 2115444.

³⁸ *Id.* at *4 (“Yet even the most cursory reading of the NBA’s language, history, and purpose reveals that Congress clearly intended the “business of banking” necessarily to include deposit taking.”).

³⁹ *Id.* at *3.

subject matter jurisdiction on December 12, 2017.⁴⁰ The court held that the plaintiff's claim was not ripe because it relied on the future contingency that the OCC would actually implement the policy.⁴¹ State regulators have vowed to continue the fight against this policy.⁴²

Vullo has subsequently filed a new complaint seeking the same relief and attempting to prevent the OCC from implementing this policy.⁴³ Vullo's lawsuit seeks to invalidate the OCC's SPNB chartering policy on the grounds that it violates the Tenth Amendment.⁴⁴ She believes SPNB charters for fintech companies will interfere with New York's numerous financial regulatory bodies.⁴⁵ Vullo and other critics think SPNB charters may protect nefarious activity from state regulators.⁴⁶ It is not yet clear how the court will rule in this pending lawsuit because it did not rule on the merits when it dismissed Vullo's previous lawsuit.⁴⁷ Some believe that simply because Vullo's claim is now ripe does not itself mean she will prevail; instead they believe that her claim is weak on the merits and ultimately will not persuade the court.⁴⁸ Some experts believe the lawsuit includes hyperbolic language and may not be entirely correct in its allegations.⁴⁹

⁴⁰ *Vullo*, 2017 WL 6512245, at *10.

⁴¹ *Id.* at *9.

⁴² Hamilton & Wang, *supra* note 33.

⁴³ Jon Hill, *NY Bank Regulator Sues OCC Again over Fintech Charter*, LAW360 (Sept. 14, 2018, 8:23 PM), <https://www.law360.com/articles/1083151/ny-bank-regulator-sues-occ-again-over-fintech-charter>.

⁴⁴ *Id.*

⁴⁵ See Jonathan Stepel, *New York Sues U.S. to Stop Fintech Bank Charters*, NASDAQ (Sept. 14, 2018), <https://www.nasdaq.com/article/new-york-regulator-sues-occ-for-allowing-fintech-bank-charters-20180914-00474>.

⁴⁶ *Id.*

⁴⁷ See *Vullo v. Office of the Comptroller of the Currency*, No. 17 Civ. 3574 (NRB), 2017 WL 6512245, at *10 (S.D.N.Y. Dec. 12, 2017) (dismissing Vullo's suit because the claim was not ripe).

⁴⁸ See Hill, *supra* note 43.

⁴⁹ *Id.* (quoting Hudson Cook LLP partner Catherine Brenan: "There is a lot of hyperbolic language in the DFS complaint that completely disregards the hundred-plus-year history of the National Bank Act as well as the long history of national banks' ability to export their interest rates into other states and to work with technology partners to accomplish this.").

Fintech companies may be deterred from pursuing SPNB charters until this lawsuit is resolved.⁵⁰ Further, given New York's status as a hub of the financial industry, this lawsuit could greatly affect the prospects of fintech charters.⁵¹ As a result, fintech companies may not wish to begin the chartering process before the court renders its decision.⁵² Additionally, Vullo's new lawsuit could actually subject fintech companies to more regulation if they pursue a SPNB charter, which is contrary to the OCC's goal in issuing SPNB charters to fintech companies, because it questions the OCC's ability to preempt state law in this context.⁵³ Other states may file similar lawsuits in the hope of preventing the OCC from moving forward with this policy, which may lead to even more confusion about the future status of SPNB charters for fintech companies.⁵⁴ Despite current legal challenges to its fintech SPNB chartering policy, the OCC has stated its intention to "vigorously defend its authority to grant national charters to qualified companies 'engaged in the business of banking,'" and remains committed to "encourag[ing] financial ingenuity to foster the nation's vibrant financial service and technology sectors."⁵⁶

2. Commerce Concerns

Some worry that the extension of SPNB charters to fintech companies may erode the divide between commerce and banking.⁵⁷

⁵⁰ See Caroline Spiezio, *NY Suit Against OCC Could Delay Regulatory Clarity for Fintech Companies*, N.Y. L.J. (Sept. 17, 2018, 4:37 PM), <https://www.law.com/newyorklawjournal/2018/09/17/091718fintech/?slreturn=20180928135914> [<https://perma.cc/S5R7-3RX8>].

⁵¹ *Id.*

⁵² *Id.*

⁵³ *Id.* (quoting Pryor Cashman LLP partner Jeffrey Alberts "I think fintech companies are reluctant to invest resources into getting that charter because they won't know what the status of this pre-emption is . . . until the solution is resolved, they would be subject to regulation both by the OCC and by the states, and wouldn't know who ultimately was going to win.").

⁵⁴ *Id.*

⁵⁵ Stepel, *supra* note 45.

⁵⁶ *Id.* (quoting Treasury Secretary Steven Mnuchin).

⁵⁷ Hamilton & Wang, *supra* note 33 ("[T]he agency drew attention for Noreika's remarks that the longstanding separations of commerce and banking might be growing obsolete. Though that debate raised the possibility of such retail giants as Amazon.com Inc. taking over swaths of the financial system . . .").

Some opponents fear that e-commerce giants, in particular, may be able to coopt large swaths of the financial services industry through these SPNB charters.⁵⁸ In October 2017, then-Acting Comptroller, Keith Norieka, downplayed these concerns, and insisted that the policy would not alter the current divide between commerce and banking.⁵⁹ More specifically, he asserted that there have been numerous instances of commercial entities owning banks without any of the potential harms opponents fear may arise as a result of this current policy.⁶⁰ Further, he contended that fears of immense destabilization have been blown out of proportion and that these charters are limited to firms that provide core banking functions.⁶¹

D. Likelihood of Fintech Charters

1. Cumbersome Chartering Process

The process for of receiving a charter is a long and arduous one.⁶² The chartering process has four phases: a pre-filing phase, a filing phase, a review phase, and a decision phase.⁶³ The pre-filing phase involves meeting with the OCC to discuss the chartering process and the company's potentially proposal.⁶⁴ The filing phase requires a complete application and includes publication of the proposal for public comment.⁶⁵ During the review phase, the OCC considers the application and determines whether the bank would operate in a safe manner that complies with regulations, effectively serve the

⁵⁸ *Id.*

⁵⁹ *Id.* (“[T]he agency drew attention for Noreika’s remarks that the longstanding separations of commerce and banking might be growing obsolete. Though that debate raised the possibility of such retail giants as Amazon.com Inc. taking over swaths of the financial system, Tuesday’s OCC policy announcement clarified that it ‘does not alter existing barriers separating banking and commerce.’”).

⁶⁰ Pearson, *supra* note 23.

⁶¹ *Id.*

⁶² Bornemann, *supra* note 24.

⁶³ OFFICE OF THE COMPTROLLER OF THE CURRENCY, CONSIDERING CHARTERING APPLICATIONS FROM FINANCIAL TECHNOLOGY COMPANIES (2018), <https://www.occ.gov/publications/publications-by-type/licensing-manuals/file-pub-lm-considering-charter-applications-fintech.pdf>.

⁶⁴ *Id.* at 3.

⁶⁵ *Id.* at 3, 5.

community's needs, and promote healthy competition.⁶⁶ In the decision phase, the OCC imposes requirements and restrictions on those applicants who receive preliminary approval as a first step of ultimately approving the charter.⁶⁷ This process may be too cumbersome for some fintech companies and ultimately deter them from pursuing this charter.⁶⁸

2. *Heightened Scrutiny*

The OCC has made it abundantly clear that fintech companies that choose to pursue an SPNB charter will be subject to the same level of scrutiny currently imposed on traditional banks.⁶⁹ As such, the OCC will impose stringent capital and liquidity requirements on any fintech company that chooses to pursue an SPNB charter.⁷⁰ Because these companies would not be federally insured, the OCC may in fact impose more difficult standards of compliance on fintech companies, taking into account their specific business models.⁷¹ Opponents of the policy, however, believe state regulators may actually provide more oversight than the OCC and fear SPNB charters could fail to prevent certain dishonest behavior.⁷² As previously indicated, current legal challenges raise questions about the OCC's ability to preempt state laws and some worry fintech companies who pursue SPNB charters may still be subjected to state oversight while those suits are pending.⁷³

⁶⁶ *Id.* at 3–4.

⁶⁷ *Id.* at 4.

⁶⁸ Bornemann, *supra* note 24.

⁶⁹ *Id.*

⁷⁰ CONSIDERING CHARTERING APPLICATIONS FROM FINANCIAL TECHNOLOGY COMPANIES, *supra* note 63, at 9–10 (describing the OCC's process for ensuring banks can survive adverse market conditions).

⁷¹ *Id.* (“The OCC will consider the proposed bank’s specific business model when evaluating the bank’s liquidity profile and processes for monitoring and mitigating liquidity risk.”).

⁷² Stepel, *supra* note 45 (observing critics concerns that granting charters to fintech companies “including those that do not hold deposits, could shield unscrupulous companies from state oversight”).

⁷³ Spiezio, *supra* note 50.

3. *Other Opportunities for Fintech*

Prior to this policy change, fintech companies frequently had collaborative relationships with more established banks.⁷⁴ The OCC has made it clear that fintech companies will not be compelled to pursue SPNB charters and that this is merely an additional option for those institutions to consider as they develop their businesses.⁷⁵ Fintech companies will therefore still be allowed to partner with banks or other financial institutions rather than operate independently under their own charters.⁷⁶ In fact, these strategic partnerships may remain attractive to fintech companies who are unable or unwilling to comply with the heightened scrutiny and regulatory requirements imposed by the OCC under an SPNB charter.⁷⁷

4. *Current Applications*

Since this policy was implemented on July 31, 2018, there have been no new applications for bank charters by fintech companies.⁷⁸ One fintech company, Varo Bank, was granted a full service bank charter on August 31, 2018.⁷⁹ This charter, however, is distinct from the type of SPNB considered in this article and Varo Bank's application process began in 2017, long before the OCC officially began accepting SPNB charter applications from fintech companies.⁸⁰ Thus, there have not been any new applications submitted as a result of

⁷⁴ Van Loo, *supra* note 7, at 241–42.

⁷⁵ Pearson, *supra* note 23 (quoting Keith Noreika, who suggested that fintech charters “will never be compulsory and should be just one choice for companies interested in banking”).

⁷⁶ *Id.*

⁷⁷ Bornemann, *supra* note 24 (“For instance, a fintech company may ultimately decide that the OCC’s fintech charter application imposes unreasonable and unrealistic capital and liquidity requirements making it near-impossible to turn a profit. In that case, the fintech company may seek a partnership with a chartered bank or credit union.”).

⁷⁸ *OCC Corporate Applications Search*, *supra* note 11.

⁷⁹ OFFICE OF THE COMPTROLLER OF THE CURRENCY, *Corporate Applications Search Result Details*,

https://apps.occ.gov/caas_cats/CAAS_Details.aspx?FilingTypeID=2&FilingID=298856&FilingSubTypeID=1101 [https://perma.cc/9XZJ-WGST] (last visited Sept. 22, 2018).

⁸⁰ *Id.*

this policy change.⁸¹ It therefore holds that there have not yet been any substantive changes in the banking landscape as a result of this OCC decision. It is unclear, however, if there are fintech companies currently in the aforementioned pre-filing phase or working with the OCC to begin the application process. Pending legal challenges to this new charting policy may explain the reluctance of fintech companies to pursue these SPNB charters because the future status of these charters remains in question until those suits are resolved.⁸²

E. Conclusion

In extending SPNB charters to fintech companies, the OCC has attempted to modernize the banking system and improve financial access.⁸³ The OCC initially proposed SPNB charters for fintech companies because it believed the charters would serve the needs of customers and communities, promote a uniform application of laws and regulations across the United States, and strengthen the U.S. financial system.⁸⁴ This policy seeks to promote a more uniform application of laws for fintech companies and allow them to have a national presence, which the OCC believes will improve financial access and consumer protections.⁸⁵ Despite these policy changes, the cost of pursuing one of these charters is high.⁸⁶ The application process is long and arduous, which may deter fintech companies from pursuing this regulatory framework.⁸⁷ Further, any fintech company that does secure a SPNB charter from the OCC will be subjected to increased levels of scrutiny and oversight, which may cause fintech companies to consider other regulatory processes.⁸⁸ No fintech firms had applied for SPNB charters as of the fall of 2018, and it is unclear if that trend will continue or if this policy will drastically change the banking services industry.⁸⁹ Similarly, legal challenges question the OCC's authority to

⁸¹ *OCC Corporate Applications Search*, *supra* note 11.

⁸² Spiezio, *supra* note 50.

⁸³ EXPLORING SPECIAL PURPOSE NATIONAL BANK CHARTERS FOR FINTECH COMPANIES, *supra* note 1 at 2.

⁸⁴ *Id.*

⁸⁵ *Id.*

⁸⁶ Bornemann, *supra* note 24.

⁸⁷ *Id.*

⁸⁸ *Id.*

⁸⁹ *OCC Corporate Applications Search*, *supra* note 11.

actually implement this policy, however some feel those challenges lack merit.⁹⁰

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⁹⁰ Hill, *supra* note 43.

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