

MEMORANDUM

To: Members of the Committee on Financial Services

From: Digital Assets, Financial Technology, and Inclusion Subcommittee Staff

Date: November 30, 2023

Re: Subcommittee on Digital Assets, Financial Technology, and Inclusion Hearing:
“Fostering a Culture of Financial Innovation: How Agencies and their Offices of
Innovation Can Shape the Future of Finance Services”

On Tuesday, December 5, 2023, at 10:00am (ET), the Subcommittee on Digital Assets, Financial Technology, and Inclusion will hold a hearing titled, “Fostering a Culture of Financial Innovation: How Agencies and their Offices of Innovation Can Shape the Future of Finance Services” The following witnesses will testify:

- **Valerie A. Szczepanik**, *Director of the Strategic Hub for Innovation and Financial Technology (FinHub)*, Securities and Exchange Commission
- **Donna Murphy**, *Acting Deputy Comptroller for the Office of Financial Technology and Deputy Comptroller for Compliance Risk Policy*, Office of the Comptroller of the Currency
- **Mark Mulholland**, *Deputy Chief Information Officer for Management*, FDIC
- **Ann Epstein**, *Assistant Director of the Office of Competition and Innovation*, Consumer Financial Protection Bureau
- **Charles Vice**, *Director of Financial Technology and Access*, National Credit Union Administration
- **Michael S. Gibson**, *Director of Division of Supervision and Regulation*, Federal Reserve

Offices of Innovation within the Financial Regulatory Agencies

While the private sector typically leads financial innovation, regulatory agencies play an important role in establishing a regulatory environment that supports and nurtures innovation. These agencies should utilize the latest technology and innovative supervisory tools to ensure they are carrying out their mandates in an efficient and effective manner.

To better foster an innovative environment for regulated institutions and firms and help modernize their internal operations, many regulatory agencies have established offices of innovations (or an equivalent office under a similar name) to accomplish both goals. These

offices and their mandates differ from agency to agency, with some offices more externally focused and others e focused exclusively on internal agency operations. Under the Biden Administration, many of these offices have been restructured or repurposed from their original mandates.

Consumer Financial Protection Bureau (CFPB)

On May 24, 2022, Director Rohit Chopra established the new Office of Competition and Innovation. This replaced the previous Office of Innovation, with all prior programs and initiatives being absorbed into the new Office of Competition and Innovation. Under this new banner, the office would pursue a “broader initiative [...] to analyze obstacles to open markets, better understand how big players are squeezing out smaller players, host incubation events, and, in general, make it easier for consumers to switch financial providers.”¹ Subsequently, the CFPB discontinued both the No-Action Letter (NAL) and Compliance Assistance Sandbox (CAS) policies by letting both policies expire on September 30, 2022.²

The Office of Competition and Innovation appears more focused on issuing reports, called “Issue Spotlights,” which focus on specific novel products and services. Since the NAL and CAS policies expired, the Office has not replaced or implemented any similar policies that reflect those prior initiatives. In November 2023, Director Chopra commented on the agency’s shift, stating: “while the CFPB continues to look for ways to promote competition and innovation, we have shifted our emphasis to identifying roadblocks to market entry and competition. We are also increasing our efforts to provide guidance on emerging business models.”³

Office of the Comptroller of the Currency (OCC)

In 2016, the OCC established the Office of Innovation.⁴ Upon its creation, then-Comptroller Thomas Curry emphasized that the Office would ensure “that institutions with federal charters have a regulatory framework that is receptive to responsible innovation and the supervision that supports it.”⁵ Specifically, the Office of Innovation would focus on: establishing an outreach and technical assistance program for banks and nonbanks; conducting awareness and training

¹ CFPB, Press Release, “CFPB Launches New Effort to Promote Competition and Innovation in Consumer Finance,” (May 24, 2022) <https://www.consumerfinance.gov/about-us/newsroom/cfpb-launches-new-effort-to-promote-competition-and-innovation-in-consumer-finance/>

² See ICBA, CFPB Ending No-Action-Letter, Sandbox Policies, ICBA NEWSROOM (Sept. 27, 2022), <https://www.icba.org/newsroom/news-and-articles/2022/09/27/cfpb-ending-no-action-letter-sandbox-policies>.

³ Prepared Remarks of CFPB Director Rohit Chopra at the Global Financial Innovation Network’s Annual General Meeting, (Nov. 8, 2023) <https://www.consumerfinance.gov/about-us/newsroom/prepared-remarks-of-cfpb-director-rohit-chopra-at-the-global-financial-innovation-networks-annual-general-meeting/>

⁴ Office of the Comptroller of the Currency, Press Release: OCC Issues Responsible Innovation Framework (Oct. 26, 2016) <https://occ.gov/news-issuances/news-releases/2016/nr-occ-2016-135.html>

⁵ *Id.*

activities for OCC staff; encouraging coordination and facilitation; establishing an innovation research function; and promoting interagency collaboration.⁶

In March 2023, the OCC established the Office of Financial Technology which the previous Office of Innovation was merged into, to bolster the agency’s expertise and ability to adapt to the rapid pace of technological changes in the banking industry. In its announcement, the agency stated that the new Office “broadens the OCC’s focus in this area and ensures the agency’s leadership and agility in providing high-quality supervision of bank-fintech partnerships.”⁷

National Credit Union Administration (NCUA)

In January 2023, the NCUA established the Office of Financial Technology and Access and named Charles Vice as its Director. The Office’s “[i]nitiatives include exploring methods to enhance the virtual examination and supervision process and promoting the development and deployment of technologies and innovations that can expand financial inclusion and equitable and affordable consumer access within the credit union system.”⁸

While the Office of Financial Technology and Access has not issued any regulatory publications since its inception, the Office has reportedly engaged with stakeholders⁹ and hosted public presentations on how financial technology can promote financial inclusion.¹⁰ Additionally, the NCUA plans to hold “office hours” in 2024.¹¹

Securities and Exchange Commission (SEC)

The SEC’s Strategic Hub for Innovation and Financial Technology (FinHub) was established in 2018, initially as part of the Division of Corporation Finance. Valerie Szczepanik has been the Director of FinHub since its inception. According to the SEC, FinHub was initially established to carry out the following functions:

⁶ *Id.*

⁷ OCC, Press Release: OCC Establishes Office of Financial Technology (Mar. 30, 2023) <https://www.occ.gov/news-issuances/news-releases/2023/nr-occ-2023-31.html>.

⁸ NCUA, Press Release, Charles Vice Named Director, Financial Technology and Access, (Jan. 3, 2023)

<https://ncua.gov/newsroom/press-release/2023/charles-vice-named-director-financial-technology-and-access>

⁹ Press Release, Nat’l Assoc. of Federally-Insured Credit Unions, NAFCU meets with NCUA Financial Technology and Access Director Vice (Feb. 9, 2023), <https://www.nafcu.org/newsroom/nafcu-meets-ncua-financial-technology-and-access-director-vice>

¹⁰ *See, e.g.*, NCUA, Webinar on Using Technology to Promote Financial Inclusion, (Sep. 28, 2023), <https://ncua.gov/news/events/2023/webinar-using-technology-promote-financial-inclusion>.

¹¹ U.S. Gov’t Accountability Off., GAO-23-106168, Financial Technology: Agencies Can Better Support Workforce Expertise and Measure the Performance of Innovation Offices, (2023), <https://www.gao.gov/products/gao-23-106168>, [hereinafter “GAO September 2023 Report”] at 29.

- Provide a portal for industry and the public to engage directly with SEC staff on innovative ideas and technological developments;
- Publicize information regarding the SEC's activities and initiatives involving FinTech;
- Engage with the public through publications and events, including a FinTech Forum focusing on distributed ledger technology and digital assets planned for 2019;
- Act as a platform for SEC staff to acquire and disseminate information and FinTech-related knowledge within the agency; and
- Serve as a liaison to other domestic and international regulators regarding emerging technologies in financial, regulatory, and supervisory systems.¹²

In 2020, former SEC Chairman Clayton restructured FinHub to be a standalone office, outside of the Division of Corporate Finance. FinHub's mandate was also modified during the restructuring to:

- Serve as a public resource for information about the SEC's views and actions related to FinTech innovation.
- Serve as an internal resource within the SEC, engaging with staff and coordinating work on issues related to financial innovation.
- Work with a wide range of market participants and serves as the SEC's FinTech liaison to policymakers and regulators, both foreign and domestic.¹³

Currently, FinHub is staffed by eight full time employees and utilizes "delegates" from Divisions and Offices across the agency to serve as internal and external subject matter experts for financial technology (FinTech) matters. According to the SEC's FY2024 congressional budget justification, "FinHub is the central point of contact for internal and external engagement with market participants, thereby helping to shape the agency's approach to, and understanding of, technological changes in the financial industry."¹⁴

Federal Reserve (Board)

Although the Board does not have an established "Office of Innovation" or equivalent, in 2021, it created a FinTech Supervision Program. The program was established to support a supervisory approach to address the rapid growth in institutions' financial technology activities.¹⁵ However,

¹² SEC, Press Release 2020-303, SEC Announces Office Focused on Innovation and Financial Technology, (Dec. 3, 2020) <https://www.sec.gov/news/press-release/2020-303#:~:text=Established%20within%20the%20Division%20of,advice%2C%20digital%20marketplace%20financing%2C%20and>

¹³ SEC, Strategic Hub for Innovation and Financial Technology, <https://www.sec.gov/finhub>.

¹⁴ SEC, Fiscal Year 2024 Congressional Budget Justification and Annual Performance Plan, Fiscal Year 2022 Annual Performance Report, https://www.sec.gov/files/fy-2024-congressional-budget-justification_final-3-10.pdf, at 56.

¹⁵ Federal Reserve, Actions of the Board, Its Staff, and the Federal Reserve Banks; Applications and Reports Received for the week ending Oct. 9, 2021, <https://www.federalreserve.gov/releases/h2/20211009/>.

this program was replaced in August 2023 when the Fed issued Supervision and Regulation Letter 23-7, which announced the establishment of the Novel Activities Supervision Program.¹⁶

As part of the Novel Activities Supervision Program, there will be enhanced supervision of novel activities conducted by supervised banking organizations. The program will focus on the following activities:

- **Complex, technology-driven partnerships with non-banks to provide banking services** – Partnerships where a non-bank serves as a provider of banking products and services to end customers, usually involving technologies like application programming interfaces that provide automated access to the bank's infrastructure.
- **Crypto-asset related activities** – Activities such as crypto-asset custody, crypto-collateralized lending, facilitating crypto-asset trading, and engaging in stablecoin/dollar token issuance or distribution.
- **Projects that use DLT with the potential for significant impact on the financial system** – The exploration or use of DLT for various use cases such as issuance of dollar tokens and tokenization of securities or other assets.
- **Concentrated provision of banking services to crypto-asset-related entities and fintechs** – Banking organizations concentrated in providing traditional banking activities such as deposits, payments, and lending to crypto-asset-related entities and fintechs.¹⁷

The Federal Reserve Board stated that the Program would be risk-based, with the level of supervision dependent on the specific activity conducted at a member bank. The Federal Reserve Board also stated that it plans to engage with external experts from academia and the banking, finance, and technology industries as part of the Program. Lastly, the Program will leverage existing supervisory programs within the Federal Reserve and will therefore not create a separate or new layer of supervision overseeing state member banks.¹⁸

Federal Deposit Insurance Corporation (FDIC)

Like the Federal Reserve, the FDIC does not currently have a formal Office of Innovation (or equivalent office). Previously, FDiTECH, established in 2019, was an executive support office with the goal to “promote the adoption of innovative and transformative technologies in the financial services sector, help the FDIC better understand how innovation can contribute to the expansion of banking services to the unbanked, underbanked, and individuals in underserved

¹⁶ Federal Reserve Board, SR 23-7: Creation of Novel Activities Supervision Program (Aug. 8, 2023), <https://www.federalreserve.gov/supervisionreg/srletters/SR2307.htm>.

¹⁷ *Id.*

¹⁸ *Id.*

communities as well as promote the adoption of technology that can help community banks compete in the modern financial marketplace.”¹⁹

In 2020, FDiTECH published a guide outlining how financial technology companies partner with banks.²⁰ In 2021, FDiTECH hosted office hours to facilitate an open dialogue with fintechs, public, banks, and other stakeholders to discuss how technology can be used to improve the efficiency, effectiveness, and stability of U.S. banking operations, services, and products.²¹ Two years later, FDiTECH was merged into the Division of Information Technology.²²

¹⁹ *Overseeing the Fintech Revolution: Domestic and International Perspectives on Fintech*: Hearing before the Task Force on Financial Technology of the Committee on Financial Services, 116th Cong. (2019) (statement of the FDIC).

²⁰ FDIC, Press Release: FDiTech Releases New Guide to Help 'FinTechs' Connect with Banks, (Feb. 24, 2020), <https://www.fdic.gov/news/press-releases/2020/pr20017.html>

²¹ FDIC, FIL-30-2021, FDiTech Launches “Office Hours” to Connect with Stakeholders on Banking-Related Technological Innovation, (Apr. 29, 2021), <https://www.fdic.gov/news/financial-institution-letters/2021/fil21030.html>

²² FDIC, 2022 Annual Report, Fiscal Year 2022 Annual Performance Report (Apr. 10, 2023) <https://www.fdic.gov/about/financial-reports/reports/2022annualreport/2022-arfinal.pdf>