

CSBS Sues OCC Over Fintech Charter

Oct 25, 2018

Washington, D.C. – The Conference of State Bank Supervisors (CSBS) today filed a complaint in the U.S. District Court for the District of Columbia against the Office of the Comptroller of the Currency (OCC). The complaint seeks to prevent the agency from granting national bank charters to entities that operate as nonbanks, arguing that such charters exceed the authority granted by Congress.

John Ryan, CSBS president and CEO: “Common sense and the law tell us that a nonbank is not a bank. Thus, CSBS is calling on the courts to stop the unlawful, unwarranted expansion of powers by the OCC.”

CSBS previously filed suit against the OCC in 2017. After that suit was filed, the OCC announced that it had not yet determined whether it would move forward with the new charter, and the court decided that the issue was not ready for consideration. CSBS is now seeking court action based on the OCC’s announcement this past July that it is accepting applications for the new bank charter for fintechs as well as the OCC’s publication of a Licensing Manual Supplement.

Key points:

- The National Bank Act and other federal banking laws authorize the OCC to charter only institutions that engage in the “business of banking,” which requires an institution to receive deposits.
- The OCC has said the new charter is for fintechs that do not take deposits. Many such companies operate as nonbanks licensed at the state level.
- Congress has not granted the OCC authority to award bank charters to nonbanks.

Ryan added: “The OCC is playing the role of an industrial planner that picks winners and

losers, makes consumers vulnerable to predatory actors who do not have to follow state consumer protections, and creates a new risk to taxpayers: failed fintechs seeking bailouts.”

“Lest we forget, in the early 2000s the OCC enabled national banks to ignore state predatory lending laws, a move that contributed to the U.S. financial crisis and the largest number of home foreclosures since the Great Depression. History cannot be allowed to repeat itself.”

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The Conference of State Bank Supervisors (CSBS) is the national organization of bank regulators from all 50 states, American Samoa, District of Columbia, Guam, Puerto Rico and U.S. Virgin Islands. State regulators supervise roughly three-quarters of all U.S. banks and a variety of nonbank financial services. CSBS, on behalf of state regulators, also operates the Nationwide Multistate Licensing System to license and register nonbank financial service providers in the mortgage, money services businesses, consumer finance and debt industries.

