OCC Charters Must Adhere to National Bank Act

PRESS RELEASES

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Washington, D.C. – The Office of the Comptroller of the Currency's (OCC's) seemingly benign proposal to clarify national trust charter regulations would instead create uncertainty and could result in serious implications by overstepping National Bank Act authority, the Conference of State Bank Supervisors (CSBS) said in a comment letter today.

The OCC has proposed replacing the term "fiduciary activities" with "operations of trust companies and activities related thereto" in its chartering regulations, which could dilute or remove restrictions for national trust charters mandated by Congress through the National Bank Act. To address ambiguities in the proposal and cure existing flaws in the OCC chartering regulation, CSBS recommended specific changes to ensure OCC rules conform to the limits of the National Bank Act.

"The OCC does not have blanket chartering authority, as proven time and again by Congress and the courts. The National Bank Act authorizes deposit-taking banks, predominately fiduciary trust charters, and bankers' banks. The OCC cannot create Franken-charters by cobbling together bits and pieces of all three," said CSBS President and CEO Brandon Milhorn.

Under the National Bank Act, national trust charters can engage in predominately fiduciary activities, as well as incidental or related services, such as custody. Any special purpose national bank engaged in the business of banking must accept deposits and be FDIC insured. Allowing national trust charters to primarily engage in nonfiduciary activities would exceed the OCC's authority.

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