Date: July 17, 2024

To: Board of Governors

From: Staff[1]

Subject: Request for Information on Bank-Fintech Arrangements Involving Banking Products and Services Distributed to Consumers and Businesses

ACTIONS REQUESTED: Approval of the attached draft Interagency Request for Information (RFI) on complex bank-fintech arrangements, which has been developed jointly with staff of the Federal Deposit Insurance Corporation (FDIC) and the Office of the Comptroller of the Currency (OCC) (collectively, the agencies). Staff also requests authority to make technical, non-substantive changes to the RFI prior to publication in the Federal Register.

EXECUTIVE SUMMARY:

- Banks are increasingly entering into complex arrangements with financial technology (fintech) companies, where the fintech company, rather than the bank, markets, distributes, or otherwise facilitates end users' access to the bank's product or service (bank-fintech arrangements).
- Supervisory experience has highlighted a range of risks associated with bank-fintech arrangements, including third-party, liquidity, compliance, and operational risk. The federal banking agencies have issued a large number of enforcement actions in connection with these arrangements in recent years.
- While the agencies have existing guidance relevant to bank-fintech arrangements, banks and fintechs alike have suggested that the agencies further clarify their supervisory expectations with respect to such arrangements.

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- Staff recommends issuing the RFI on complex bank-fintech arrangements to further build upon the agencies' understanding of these arrangements. The RFI would help the agencies determine whether enhancements to existing supervisory guidance may be helpful in addressing risks associated with these arrangements.
- Staff notes that, separate from the RFI, an interagency statement regarding bank-fintech arrangements whereby third parties deliver bank deposit products and services would be issued. The statement would provide supervisory observations on potential risks, examples of effective practices for managing such risks, and a list of various resources, including existing guidance, that may be helpful for banks managing such arrangements. The statement would not establish new supervisory expectations.

DISCUSSION:

A. Background

Banks are increasingly entering into complex arrangements with fintech companies, where the fintech company, rather than the bank, markets, distributes, or otherwise facilitates access to the bank's product or service to the end user. Such arrangements may provide banks with benefits, such as access to new or expanded markets, revenue sources, and customers.

However, supervisory experience has highlighted several risks associated with such arrangements, including third-party, liquidity, compliance, and operational risks. The agencies have observed heightened risk in a number of areas, including:

- *Accountability*—Contractual division of labor may complicate the bank's ability to establish clear lines of accountability, implement effective risk and compliance management strategies, and address and remediate issues as they arise, especially where novel arrangements place certain traditional banking activities outside of the bank.
- *End User Confusion*—End users may not be well-informed regarding the type of account relationship that the end user is establishing through the fintech and may not understand that Federal deposit insurance does not protect them from a nonbank fintech company's failure.

- *Rapid Growth*—Rapid growth in the number or size of bank-fintech arrangements can lead to quick and material changes in the bank's risk profile and threaten its safety and soundness or ability to comply with applicable laws and regulations.
- *Concentration and Liquidity Management*—Bank-fintech arrangements may also result in the bank's business becoming highly concentrated in the arrangement. This concentration risk may amplify other risks to the bank, including from any market stresses or if deposits are used to fund longer-term assets.
- *Use and Ownership of Data and Customer Information*—The bank may lack information on end users, which may interfere with its ability to meet its compliance obligations, including, but not limited to, those related to consumer protection, recordkeeping, anti-money laundering/countering the financing of terrorism, sanctions, or state escheatment laws.

B. Request for Information

Staff recommends issuing an RFI on bank-fintech arrangements involving (1) deposit-taking activities; (2) payment activities, including card issuance; and (3) consumer and small business lending. The RFI would seek input to further build upon the agencies' current knowledge of these arrangements and would solicit input on a number of areas, including:

- the evolving range of practices, including risk management practices, for such arrangements,
- the potential benefits of such arrangements,
- the risks agencies have observed with such arrangements, and
- operational details, such as what data fintechs provide banks; how banks and fintechs contractually allocate functions; how banks plan for the termination of a fintech arrangement; how the arrangement's size or significance affects the bank's oversight of outsourced functions; and how bank-fintech arrangements could amplify or contain financial shocks.

Public input would assist the agencies in determining whether enhancements to existing supervisory guidance may be helpful in addressing risks associated with these arrangements.

Staff notes that, separate from the RFI, an interagency statement regarding bank-fintech arrangements whereby third parties deliver bank deposit products and services would be issued. The statement would provide supervisory observations on potential risks, examples of effective practices for managing such risks, and a list of various resources, including existing guidance, that may be helpful for banks managing such arrangements. The statement would not establish new supervisory expectations. Staff have separately provided a draft version of the statement to Board members.

RECOMMENDATIONS:

Staff recommends that the Board approve the attached draft RFI. Staff also recommends that the Board authorize staff to make technical, non-substantive changes to the RFI prior to publication in the Federal Register.