

# Client Alert

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## OCC Releases Semiannual Risk Perspective: Fintech is Risky?

By Rick Fischer, Obrea O. Poindexter, Sean Ruff, and Crystal N. Kaldjob

On July 7, 2017, the Office of the Comptroller of the Currency (“OCC”) released its Semiannual Risk Perspective report (the “Report”) identifying the risks faced by national banks and federal savings associations in the 12-month period ending December 31, 2016. The Report, which is intended to highlight key risk issues facing the federal banking system, noted that strategic, credit, operational and compliance risks of banks remained a “top concern” for the agency during this period.

The Report comes at a time of heightened interest in, and increased regulatory scrutiny of, Fintech companies offering traditional bank products such as loans. The OCC signaled earlier this year that the agency would begin considering possible special purpose national bank charters to Fintech companies. The strong tone of the Report is noteworthy because of the highly publicized criticisms of the OCC’s efforts in this regard. In his remarks, Acting Comptroller Noreika highlighted that banks are “easing underwriting practices” for certain products “as they strive for growth amid heavy competition”, including from Fintech companies.

### STIFF COMPETITION?

Particularly noteworthy is the Report’s focus on the strategic and credit risks of banks. The Report notes that strategic risks for banks are “elevated”, particularly with respect to midsized and community banks. Business model changes and the need to adapt in an “uncertain regulatory climate” have kept strategic risks for banks at an elevated level. The Report notes the importance of strategic planning by banks “as they adopt and implement innovative products, services and processes in response to the evolving demands for financial services and the entrance of new competitors, such as out-of-market banks and non-banks.” The Report cautions banks’ management and board of directors to “comprehensively understand the benefits and risks” of adopting and implementing innovative products and services, and it reminds banks of their obligation for responsible innovation (i.e., innovation that is consistent with sound risk management and business strategies). With respect to credit risks, Acting Comptroller Noreika noted that while “credit risk is relatively stable”, there has been an incremental easing by banks of underwriting practices and increased credit risks due to “competitive pressures” and “strong risk appetites”. Based on the data collected by the OCC, the agency noted that credit risk is increasing due to a variety of factors, such as weaker loan controls or covenant protections, as well as rising loan policy exceptions.

### OCC OUTLOOK

The Report identifies several key strategic, operational, credit and compliance risks facing large banks, as well as midsize and community banks, for the next 12-month period, including cybersecurity and cyber resiliency, BSA/AML compliance, consumer compliance risk management and, with respect to midsize and community banks, strategic planning and governance risks, as banks adapt business models to respond to changing loan demand, low interest rates and “intense” competition. The OCC plans to “pay close attention to these key risk

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areas over the next six months” in its supervision of national banks and federal savings associations. It remains to be seen what, if any, impact these risks will have on the OCC’s consideration of special purpose national bank charters to Fintech companies.

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