Broadridge®

ARTICLE

Author Ken Tays, Governance Risk and Control and Internal Audit Practice Leader, Broadridge Consulting

December 2018

Are Fintechs Regulator Ready? Part III: Compliance

Broadridge's Ken Tays explores the OCC's new operational charter and how it will impact fintech companies. This is the third article in the series.

In July 2018, the Office of the Comptroller of the Currency (OCC) updated within the Licensing Charter Supplement a new charter specifically applicable to fintech companies. The updated charter allows fintech companies to operate on a national basis and take in non-FDIC-insured deposits, which will put them on the same competitive playing field as other state and national banks. The July 31, 2018, OCC policy states that these companies will face the same regulatory scrutiny as banks of similar size and complexity. In particular, the OCC highlighted "capital, liquidity and risk management." This is the third article in this series.

As fintech companies begin to explore an application for an OCC charter, they will need review their compliance department to ensure it meets the requirements in 12 CFR 30 Appendix A, which state that an institution should have internal controls and information systems that are commensurate to the size of the institution and the nature, scope and risk of its activities, and that provide for:

• An organizational structure that establishes clear lines of authority and responsibility for monitoring adherence to established policies;
• Effective risk assessment;
• Timely and accurate financial, operational and regulatory reports;
• Adequate procedures to safeguard and manage assets; and
• Compliance with applicable laws and regulations

Ken has over 30 years of work experience comprised of military and financial services. Ken began his career in the US Army serving in Europe, Korea, and the Unites States. Ken is a two-time combat veteran serving in the first Gulf War and in Bosnia. Ken began his financial services career with the Office of Thrift Supervision where he spent 12 years and was a Senior Bank Regulator. Ken left OTS to join PricewaterhouseCoopers to work on Dodd-Frank implementation and regulatory issues around third-party oversight. Ken then accepted a position at Citi Bank in Operational Risk in which he led the audit management, records management, supplier due diligence, data governance, and process and quality teams. Ken currently leads the Governance, Risk and Control and Internal Audit Practices at Broadridge Consulting, a division of Broadridge Financial Solutions, offering internal audit and GRC solutions to financial institutions.

Ready for Next

Presently fintech companies are regulated by the states and even by the Consumer Financial Protection Bureau (CFPB) from a compliance standpoint. Fintechs will generally have requisite controls in place to ensure they are abiding by the laws pertaining to consumer lending and Section 5 of the FTC Act for unfair, deceptive or abusive practices (UDAAP). When it comes to migrating to a federal banking charter, fintech companies should experience little change in regulatory oversight.

However, the OCC handbook for Compliance/Anti-Money Laundering (AML) indicates that the regulator expects the company to have a Compliance Management System (CMS), which the handbook indicates would include "policy, procedure, processes, monitoring and testing programs and a compliance audit function." Fintech companies may need to enhance their CMS in order to meet these regulatory requirements.

The OCC handbook outlines the minimal requirements for an adequate CMS. Please note that the CMS must be tailored to the size and complexity of the organization.

Board and Management Oversight

• Oversight and commitment, including oversight of third parties
• Change management
• Comprehension, identification and management of risks
• Self-identification and corrective action

Fintech companies may need to focus change management, self-identification and corrective actions. Management will need a demonstrated process in place that identifies when regulations are changing, how they assess the business impact, and action-plan formulation and execution. Fintech companies may have less formal processes in place that will need to be supported with a sound structure.

Management will need to ensure they have an effective check and challenge process that includes an annual Compliance Monitoring Plan. These plans need to include effective testing as well as remediation and verification. As with audit, regulators will expect this testing to be fully documented and all conclusions fully supported.

Consumer Compliance Program

• Policies and procedures
• Consumer compliance training
• Monitoring and audit
• Consumer complaint response

Many fintech companies will already have implemented each of these areas to some extent. However, they may need to expand them to fully cover the organization. While policies and procedures may be fully developed, compliance training may not be as complete as required. Regulators will not only review completion and attendance logs, they also will review the material to ensure it contains the most up-to-date information.

When it comes to meeting the requirements of 12 CFR 30 Appendix A, compliance is most likely an area in which fintechs may need the least work. Nonetheless, companies applying for a charter will need to review their compliance programs to ensure they can meet the CMS requirements in the OCC handbook. Given the type of lending in which many fintech companies engage, a well-established and fully supported CMS will be required to ensure the company complies with all laws and regulations.

Broadridge, a global fintech leader with over $4 billion in annual revenue listed on the S&P 500 index, provides communications, technology, data and analytics. We help drive business transformation for our clients with solutions for enriching client engagement, navigating risk, optimizing efficiency and generating revenue growth.

broadridge.com

Ready for Next

Communications
Technology
Data and Analytics

CM_00037_AR_18

Broadridge®