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U.S. OCC Charts Federal Payment License, Clarifies Crypto Custody Services

- **OCC plans to introduce a single federal money transmission license**
- **License will face similar legal opposition to fintech charter - lawyer**
- **Agency clarifies cryptocurrency custody services rules**

The U.S. Office of the Comptroller of the Currency (OCC) wants to introduce a national version of a state money transmission license, but legal opposition to the plan from state regulators is likely.

The OCC is looking to introduce special-purpose national bank charters for payment firms as early as this fall, according to Brian Brooks, the OCC's acting comptroller of the currency.

"Payment charter 1.0," as it is referred to by Brooks, seeks to anticipate consumer preference changes as fintechs begin to unbundle financial services traditionally run by banks, such as payments systems.

"Payment companies are generally regulated on a state-by-state basis, which is one thing for a small start-up, but it's really difficult to explain why a global payments firm needs all these local licenses. The purpose of OCC is to provide a single national platform to knit together a national economy through financial services — this is why the charter must evolve," Brooks told the American Bankers Association's (ABA) podcast.

It is still "premature" for the OCC to provide additional details regarding its initiative to grant national bank charters to companies focused on processing payments and providing payment services, the agency told VIXIO PaymentsCompliance.

But the OCC did say "paying checks is one of the three core activities included in the business of banking, and national banks and federal savings associations have been authorized to engage in providing those services since the foundation of the federal banking system."

Additionally, the OCC views the National Bank Act as "sufficiently adaptable to permit national banks to engage in traditional activities like paying checks in new ways, such as facilitating payments electronically."

Despite there being "no regulatory roadblocks" for the introduction of a federal transmission license, it is "very likely to be challenged in court," Felix Shipkevich, principal at Shipkevich, told VIXIO.

Concerns over a likely legal challenge stem from the strong [opposition](#) the OCC has faced since it first proposed the so-called "fintech charter" in 2015, primarily from state regulators such as the New York State Department of Financial Services (NYDFS).

The groups that have opposed the fintech charter will likely be the same ones that oppose a payments charter, according to Shipkevich, who predicts foreign payments firms, as well as U.S.-based small and medium-sized companies, will have their interests pitted against state regulators and banks.

Most banks and larger U.S. payments firms will already have multiple state licenses and will be better suited to dealing with the compliance burden of navigating individual states' transmission license requirements.

Shipkevich said the OCC can expect to see the legal challenges being filed as soon as the charter advances from simply being "soundbites" to an actual proposition.

Brooks argued a payment charter is not actually an existential threat to the incumbent banks.

"Some companies have very specialised businesses. The more technology-enabled you become, the less relevant cheap deposits are for your business model. What you are really looking for is a national licensing platform to do your business," Brooks said.

Separately, the OCC published a [letter](#) clarifying national banks' and federal savings associations' authority to provide cryptocurrency custody services for customers.

"Providing cryptocurrency custody services, including holding unique cryptographic keys associated with cryptocurrency, is a modern form of traditional bank activities related to custody services. Crypto custody services may extend beyond passively holding keys," the OCC concluded.

The letter was published in anticipation of an increasing need for banks and other service providers to utilize new technologies to provide traditional services for customers.

The current head of OCC, Brian Brooks, was a chief legal officer at Coinbase, a digital exchange, until March this year.

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