

The OCC's ANPR on Digital Banking: Is This a Harbinger for Digital and Open Banking in the US?

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The office of the Comptroller of the Currency (**OCC**) [issued](#) an Advance Notice of Proposed Rulemaking (ANPR) on June 3, 2020, focusing on digital banking activities. Typically such ANPRs are a precursor to new federal regulation; following collection of data from the industry and other interested parties, the OCC may propose new regulations by issuing a Notice of Proposed Rulemaking within 6-12 months. Responses to the ANPR are due on August 3, 2020.

The timing of this ANPR appears to be fortuitous. As the world reels from the impact of a global pandemic, it has become increasingly clear that digital banking solutions are more important than ever. Not only has there been an increase in interest in contactless payments, but the ability of banks to work with technology companies through “open banking” mechanisms, and the movement of funds using cryptocurrencies and/or stablecoins has also gained momentum.

Although some have argued that the US lags behind its European counterparts when it comes to open and digital banking, the OCC’s issuance of the ANPR might indicate a significant change in perspective regarding the transforming digital landscape from US banking regulatory agencies. Although these are early days, it is notable that the data the OCC is seeking includes:

- Whether current legal standards are flexible enough in light of recent technological advances;
- Whether current legal standards create unnecessary hurdles or burdens to innovation by banks;
- How artificial intelligence and machine learning techniques can be used in banking activities;
- How distributed ledger technology can be used in banking related activities;

- What barriers exist with respect to banking activities related to cryptocurrencies or crypto assets; and
- What are the issues impacting smaller financial institutions regarding the implementation of innovative products and services.

Many believe that this is an important first step for US banking regulators as the US banking system looks to the future. It is similarly important that other bank regulators, such as the FDIC, the Federal Reserve Board of Governors, and State Banking Departments also consider these important issues, and better yet, coordinate their activities to create a sensible, but rigorous regulatory platform for the next century.

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