

Pennsylvania Banking Regulator Reiterates Licensing Guidance for Fintech Companies

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Earlier this month, the Pennsylvania Department of Banking and Securities [issued a letter](#) to “all persons engaged in activity regulated or licensed by the [Department] regardless of the means of delivery of such regulated financial service” which it described as intended to “reiterate[] and remind[]” such persons of its existing licensing guidance. A number of states, [including California](#), have previously undertaken initiatives to enforce licensing requirements applicable to fintech and other companies. The Pennsylvania letter is a reminder of the need for such companies to make sure that they have all required licenses for the states in which they operate.

In the letter, the Department comments that “recent public and industry discourse regarding the delivery of financial services via ‘Fintech’ companies has clouded the regulatory environment concerning the regulation and oversight of the financial services and companies via existing consumer protection and licensing statutes. The notion that a company labels itself as ‘Fintech’ because of the means by which it offers or delivers a financial service does not alter the underlying nature of the transaction or service it is offering.”

The Department states that it is “reiterating its previous guidance that a regulated financial service activity offered to consumers of the Commonwealth will be regulated in accordance with the statute governing the offering of that service regardless of the person offering such service or the means by which such service is offered.” The Department states further that “a person that offers a financial service to the residents of Pennsylvania...regardless of whether they designate themselves as a ‘Fintech’ company or any other type of nomenclature, must be licensed in accordance with the appropriate statute and comply with all the provisions of the law under which they are regulated. Compliance is required based upon the activity conducted and not the means in which that activity is conducted.”

In the letter, the Department cites to its previous guidance supporting this position. Such guidance includes a 2008 notice regarding the need for nondepository entities charging more than 6% simple interest per annum on nonmortgage loans made to Pennsylvania residents to be licensed under the Pennsylvania Consumer Discount Company Act regardless of the method used to make the loans. The Department’s position was upheld by the Pennsylvania Supreme Court.

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