



June 14, 2019

Beth Knickerbocker  
Chief Innovation Officer  
The Office of the Comptroller of the Currency  
400 7<sup>th</sup> St. SW  
Washington, DC 20219  
[pilotprogram@occ.treas.gov](mailto:pilotprogram@occ.treas.gov)

**Re: Comment on the OCC’s Proposed Innovation Pilot Program**

Dear Ms. Knickerbocker:

ODX, LLC (“ODX”) appreciates the opportunity to comment on the Office of the Comptroller of the Currency’s (the “OCC”) April 30, 2019 solicitation for public comments relating to the OCC’s proposed Innovation Pilot Program. We applaud the OCC’s efforts to promote the testing of innovative activities that could benefit financial institutions, their innovative partners and, most importantly, the customers and their communities.

ODX is a wholly owned subsidiary of the nation’s largest online small business lender, On Deck Capital, Inc. (“OnDeck”). The ODX business was created to help financial institutions of all sizes digitize their business banking processes and ODX currently serves as a technology service provider (“TSP”) to some of the nation’s largest, OCC-regulated banks.

As a technology service provider, ODX has gained a firsthand understanding of some of the challenges of engaging in innovative activities with financial institutions under the OCC’s existing regulatory and oversight structure. We hope that the comments below provide the OCC with a unique perspective on the ways in which its current regulatory structure supports and, in some cases, may impede innovation. We strongly believe the proposed pilot program will assist the OCC in promoting responsible technological innovation within the financial system.

**Background on ODX and OnDeck**

Founded in 2006, OnDeck is a publicly-traded company (NYSE: ONDK) that offers transparent and responsible online loans to small businesses through advanced lending technology and a dedication to customer service. OnDeck’s mission is to increase access to capital for small businesses, so they can invest in their growth and fuel their local economies.

OnDeck pioneered the use of data analytics and digital technology to make real-time lending decisions to deliver capital rapidly to small businesses online. OnDeck offers responsible, transparent financing to the underserved small business segment based on their business performance, and not just the personal credit of the business owners. To achieve this mission,



OnDeck uses its proprietary technology to innovate the way the financial services industry evaluates and underwrites small business risk. OnDeck developed proprietary underwriting and origination processes, which incorporate a scoring algorithm, known as the *OnDeck Score*®, to seamlessly and effectively deliver working capital to small businesses in a fast, reliable and transparent manner.

Over the past decade, OnDeck has used its technology and industry leading customer service to become the nation's largest online small business lender, providing over \$12 billion in capital to small businesses across the United States, Canada and Australia. Its customers span over 700 different industries and often represent communities that are frequently overlooked, excluded, or underserved by traditional credit markets.

OnDeck's success in pioneering digital innovation in small business lending did not escape the notice of traditional financial institutions, many of which were eager to reinvent their small business lending process to provide their customers a simplified and fully end-to-end digital lending experience. OnDeck began its groundbreaking partnerships with traditional financial institutions in 2015 and has subsequently proven that banks and financial technology ("FinTech") companies can work collaboratively to more efficiently and effectively serve small businesses.

ODX was launched as a separate business to address the increasing demand from banks that want to bring their small business lending process online and digitize other traditional banking products. ODX offers a modular, scalable and reliable software as a service ("SaaS") platform. A combination of software, analytic insights and professional services enables banks to create an efficient, customer-driven digital experience for small business products offered to the bank's customers.

For many financial institutions, small business lending remains a labor intensive, manual, paper-based process that requires on average 26 hours to complete. ODX-powered financial institutions allow small businesses to apply for capital digitally – when it is convenient for them and outside of normal banking hours. With ODX's support, financial institutions are able to provide small business customers with near instant decisions and funding in as fast as 24 hours. This technology not only provides financial institutions with faster and potentially more accurate underwriting and origination processes, but also expands access to capital for underserved small business customers while delivering an improved customer experience.

**1. As a supplement to existing agency processes, will the program provide additional value?**

As described in the April 30, 2019 solicitation, the OCC's pilot program lays out a framework that will modernize the agency's supervision and oversight processes for the 21<sup>st</sup> century. Technological advancements in the last decade have dramatically improved Americans' ability to access information, goods and services. Unfortunately, the laws and regulations governing these industries may in some cases be outdated and not appropriately address innovation in the marketplace. A lack of certainty as to regulatory agency expectations has led to a reluctance on



the part of financial institutions to partner with entities offering novel technological solutions. This uncertainty can lead to stagnation in the adoption of technological solutions that could benefit the American economy and provide greater access to the financial system.

The OCC's willingness to address technological modernization and innovation head on must be commended. Moving forward with this pilot program will provide the OCC with invaluable insight into the ways in which current agency processes impact the ability of financial institutions to partner with technology companies to modernize their products for the benefit of their customers. We believe the OCC's pilot program will assist the agency in finding an appropriate way to balance safety and soundness considerations with technological advancement. A consolidated and streamlined process that encourages financial institutions to innovate is in the best interest of consumers, small businesses, financial institutions and the OCC.

Through its partnerships, ODX's platform is used by two of the nation's largest financial institutions, both of which are regulated by the OCC. Throughout the onboarding process with both institutions, we've gained significant insight into the current regulatory environment for financial institutions interacting with third party service providers. Often these type of innovative FinTech partnerships do not conform to the traditional norms of standard vendor relationships.

Building on over a decade of insights gathered from OnDeck's online lending platform, ODX developed a SaaS platform to offer financial institutions a modular and scalable tool that not only increases their ability to serve small business customers, but also dramatically reduces the cost and friction of lending to small businesses in a transparent and compliant manner.

Current federal law provides robust protections for small businesses borrowers. Banks and non-banks alike are subject to key federal lending laws and regulations, including those governing fair lending, transparency and a number of others. OnDeck has policies and programs to ensure compliance for its own lending business, and ODX recognizes the critical importance for its services to help ensure its bank partners fully comply with such laws and regulations. We believe the OCC's pilot program will greatly assist banks and their partners achieve such compliance in a way that is effective and tailored for this new era of financial services innovation.

It is our belief that banks looking to partner with TSPs would welcome guidance and clarity from the OCC about how to oversee innovative partners like ODX. This is not only to meet regulator expectations, but also to possibly streamline a complex service agreement process and due-diligence review out of an overabundance of caution on the part of our partners. This is not the fault of the financial institution, the OCC, or the third-party provider – it is a symptom of a regulatory environment not originally intended to incorporate new and innovative technology at the pace the industry has developed in the last decade. The OCC, through this pilot program, would hopefully determine whether current supervisory and examination approaches should be modified or at least clarified so that financial institutions could streamline or prioritize their diligence and partnership arrangements with TSPs.



As the most recent Semiannual Risk Perspective notes, financial institutions must fully and completely understand the risk associated with the partnerships in which they enter. While it is not the responsibility of the OCC to manage their agreements, the OCC could create structural guidance or standardized best practices associated with onboarding a new innovative partnership with regard to regulatory expectations. Such guidelines would both streamline and increase the efficiency of the onboarding and possibly the examination processes, and help to ensure the safety and soundness of the American financial institution, the economy, and the millions of customers who will benefit from the technological innovation that these partnerships afford.

ODX is again highly encouraged by the OCC's desire to tackle this important task with the implementation of this pilot program. We are hopeful that under the leadership of the Office of Innovation, the OCC's supervisory and examination approaches for partnerships between its regulated banks and TSPs will be clearly defined to ensure innovation and advancement in the financial industry may continue forward in a sound and focused manner.

## **2. Are the eligibility criteria and evaluation process appropriate for an effective program?**

The eligibility criteria established by the OCC is well tailored to provide the comprehensive data needed to achieve the underlying objectives of this pilot program.

We were encouraged to see the OCC address uncertainty as a barrier to innovation in the eligibility criteria. We consider that to be potentially the single most important component of this program. Risk is, and should be, defined and weighted differently at every financial institution. However, more clarity in the examination practices to assess risks and expectations in such partnerships will help to advance sound innovation.

ODX has experienced this firsthand. In engaging and agreeing to partnerships with two of the nation's largest banks, as well as engaging in the due diligence process and advanced discussions with a host of other potential bank partners regulated by the OCC, ODX has experienced diverse due diligence requirements and risk weighting based on differing expectations for nearly identical digital lending products. These include: uncertainties about what components and services associated with the origination of these lending products could be provided by the TSP on behalf of the bank under regulatory expectations, the processes and procedures that would best meet such expectations, and the degree of oversight and business monitoring required of a service provider.

It is, undoubtedly, the responsibility of each financial institution to assess individualized risk management needs. However, there is a level of uncertainty regarding how federal examiners will review and weigh the risks associated with such innovative partnerships. Clarifying and, where applicable, modernizing existing guidance will open the door to partnership opportunities that meet the defined activities listed within the eligibility criteria in a more certain, safe and expeditious manner for the benefit of all parties involved.



Ultimately, these criteria recognize and acknowledge that innovation is vastly outpacing federal regulators' attempts to modernize legal and regulatory requirements and expectations. The speed of innovation needs not be viewed as a threat; it can and should be viewed as an opportunity for expanding customer access to the financial system and providing an overall better and safe customer experience. We strongly hope that one of the key outcomes of the pilot program will be to understand and determine where clarity and greater flexibility can be introduced into the supervisory and examination process so it is structured to grow *and keep pace with* innovation in the marketplace.

ODX is hopeful that the OCC can do more to assist banks in reviewing and assessing the risk associated with partnerships using data gathered from this program. The establishment of best practices or standards for financial institutions looking to partner with FinTech companies would substantially improve the partnership relationship between TSP and financial institution. Ideally, standards should not be a mandated certification process for TSPs, nor should it be so cumbersome that it restricts financial institutions' ability to partner with innovative partners. It could instead provide a roadmap affording financial institutions more certainty, and attendant expediency, in progressing these technology relationships while meeting regulatory expectations. This, in turn, will foster financial innovation for this nation's financial institutions, improving the efficiency and reliability of – as well as the access of customers to – financial products and services.

Again, the OCC's eligibility criteria fit well within the stated objectives of the pilot program. The data that will be gathered through the pilots will enable the OCC to provide additional information about how partnerships may be examined and reviewed, which will help financial institutions incorporate the necessary innovation of their products with more certainty for the benefit of its customers and the economy at large.

## **5. What type of innovative activities would be best served through this program?**

Based on the objectives set forth, the OCC would be best served by examining a wide array of activities with this program. The goal should be to establish baseline metrics across as many innovative technology platforms as possible to examine how the OCC's current structure is impacting responsible growth and innovation. However, priority should be given to those activities that have the greatest current impact in the financial services industry. The OCC should examine programs that promote increased financial inclusion and improve bank processes affording customers an easier and more straightforward process for accessing needed financial products and services.

The OCC should review current practices for opportunities to modernize and standardize the ways in which regulated entities are examined on the use of demonstrably beneficial technology. Ultimately, technology and machine learning are improvements that assist with speed and reliability of critical functions performed by financial institutions. Review and guidance on the use of such technology would significantly benefit innovation and improve access to, the affordability of, and the customer experience with respect to, financial products.



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ODX greatly appreciates the OCC's willingness to engage and innovate. We believe your leadership in supporting financial inclusion and innovation will vastly improve the availability of financial services and products for millions of Americans.

We look forward to continuing to work with the OCC on implementing this important pilot program. If you have any questions, please do not hesitate to contact me at [alesman@ondeck.com](mailto:alesman@ondeck.com).

Sincerely,

A handwritten signature in black ink, appearing to read 'Adam Lesman'.

Adam Lesman  
General Counsel  
ODX, LLC