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Comptroller General
of the United States

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April 5, 2019

The Honorable Jelena McWilliams
Chairman
Federal Deposit Insurance Corporation
550 17th St., NW
Washington, DC 20429

Priority Open Recommendations: Federal Deposit Insurance Corporation

Dear Ms. Chairman:

The purpose of this letter is to provide an update on the overall status of the Federal Deposit Insurance Corporation's (FDIC) implementation of GAO's recommendations and to call your personal attention to areas where open recommendations should be given high priority. In November 2018, we reported that on a government-wide basis, 77 percent of our recommendations made 4 years ago were implemented.[1] FDIC's implementation rate for these recommendations was 96 percent. As of January 24, 2019, FDIC had 10 open recommendations. Fully implementing these open recommendations could significantly improve FDIC's efforts to more effectively oversee risks to consumers and the safety and soundness of the U.S. banking system.

We have identified two priority recommendations that fall into the following two areas (see the enclosure for the list of these recommendations):

Consumer Protection for Financial Data Aggregation Services.

One recommendation relates to consumer protection for users of financial data aggregation services. Consumers are using financial technology—or "fintech"—firms to aggregate information from their various financial accounts, including their assets in bank accounts and brokerage accounts, as a way to better manage their finances. While financial institutions typically reimburse losses in credit card or bank accounts arising from unauthorized activity, in March 2018 we found that market participants disagreed over whether consumers using these financial account aggregators would be reimbursed if they experience such losses.

Industry efforts to address these issues are underway, and bank and credit union regulators and the Consumer Financial Protection Bureau have been holding collaborative discussions on the issues surrounding financial account aggregation. However, these collaborations have yet to result in any coordinated public outcomes. We recommended that FDIC engage in collaborative discussions with other relevant financial regulators and stakeholders to address these issues. We urge FDIC to continue to actively participate in ongoing efforts to help ensure that these efforts result in tangible outcomes that balance both financial institution and consumer interests.

[1]GAO, *Performance and Accountability Report: Fiscal Year 2018*, GAO-19-1SP (Washington, D.C.: Nov. 15, 2018).

Derisking:

One recommendation relates to derisking—the practice of banks limiting services or ending relationships with customers to, among other things, avoid perceived regulatory concerns about facilitating money laundering. In our February 2018 report, we determined that Bank Secrecy Act/anti-money laundering (BSA/AML) regulatory concerns have played a role in banks' decisions to terminate and limit customer accounts and close bank branches. However, the actions taken to address derisking by the federal banking regulators and the Financial Crimes Enforcement Network (FinCEN) and the retrospective reviews conducted on BSA/AML regulations have not fully considered or addressed these effects.

We recommended that FDIC jointly conduct a retrospective review of BSA/AML regulations and their implementation for banks with the Board of Governors of the Federal Reserve System (Federal Reserve), Office of the Comptroller of the Currency (OCC), and FinCEN and revise regulations or their implementation, as appropriate. This review should focus on how banks' regulatory concerns may be influencing their willingness to provide services. In January 2019, FDIC staff noted that FDIC convened a working group in 2018 with the Federal Reserve, OCC, FinCEN, the National Credit Union Administration, and the Office of Terrorism and Financial Intelligence to identify ways to improve the efficiency and effectiveness of BSA/AML regulations and supervision. While the establishment of the working group has produced outcomes consistent with encouraging greater efficiency and effectiveness of banks' BSA/AML compliance programs and reducing burden, we have not yet seen outcomes that address the full range of factors that may be influencing banks to derisk or close bank branches.

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In addition, on March 6, 2019, we issued our biennial update to our high-risk program, which identifies government operations with greater vulnerabilities to fraud, waste, abuse, and mismanagement or the need for transformation to address economy, efficiency, or effectiveness challenges.[2] Our high-risk program has served to identify and help resolve serious weaknesses in areas that involve substantial resources and provide critical service to the public.

Several government-wide high-risk areas, including (1) ensuring the cybersecurity of the nation, (2) improving management of information technology acquisitions and operations, (3) strategic human capital management, (4) managing federal real property, and (5) the government-wide security clearance process, have implications for FDIC and its operations. We urge your attention to government-wide high-risk issues as they relate to FDIC. Progress on high-risk issues has been possible through the concerted actions and efforts of Congress, the Office of Management and Budget, and the leadership and staff in agencies, including FDIC. Another one of our high-risk areas is modernizing the U.S. financial regulatory system, including encouraging regulators to strengthen systemic risk oversight and monitor progress on reforms.

Copies of this report are being sent to the Director of the Office of Management and Budget and appropriate congressional committees, including the Committees on Appropriations, Budget, and Homeland Security and Governmental Affairs, United States Senate; and the Committees on Appropriations, Budget, and Oversight and Reform, House of Representatives. In addition, the report will be available at no charge on the GAO website at https://www.gao.gov.

I appreciate FDIC's commitment to these important issues. If you have any questions or would like to discuss any of the issues outlined in this letter, please do not hesitate to contact me or

[2]GAO, *High-Risk Series: Substantial Efforts Needed to Achieve Greater Progress on High-Risk Areas,* GAO-19-157SP (Washington, D.C.: Mar, 6, 2019).

Lawrance Evans, Managing Director, Financial Markets and Community Investment at evansl@gao.gov or 202-512-8678. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. Our teams will continue to coordinate with your staff on all of the 10 open recommendations. Thank you for your attention to these matters.

Sincerely yours,

Gene L. Dodaro

Comptroller General

of the United States

Enclosure

cc: The Honorable Mick Mulvaney, Director, Office of Management and Budget

Enclosure -- Priority Open Recommendations to the Federal Deposit Insurance Corporation (FDIC)

Consumer Protection for Financial Data Aggregation Services

Financial Technology: Additional Steps by Regulators Could Better Protect Consumers and Aid Regulatory Oversight. GAO-18-254. Washington, D.C.: March 22, 2018.

Recommendation: The Chairman of the Federal Deposit Insurance Corporation should engage in collaborative discussions with other relevant financial regulators in a group that includes all relevant stakeholders and has defined agency roles and outcomes to address issues related to consumers' use of account aggregation services.

Action Needed: FDIC agreed with the recommendation. FDIC stated that it recognizes the benefits of engaging in collaborative discussions with other relevant regulators and would continue to do so. In November 2018, FDIC staff told us they had met and discussed these issues with other regulators. Aligning ongoing collaborative efforts with leading practices could help regulators and market participants resolve disagreements over financial account aggregation and related consumer compliance issues more quickly and in a manner that balances the competing interests involved. Specifically, the collaborating agencies should define the short-term and long-term outcomes that the collaboration is seeking to achieve and clarify the roles and responsibilities of the participating agencies.

Managing Director: Lawrance Evans, Jr., Financial Markets and Community Investment

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Derisking

Bank Secrecy Act: Derisking along the Southwest Border Highlights Need for Regulators to Enhance Retrospective Reviews. GAO-18-263. Washington. D.C.: February 26, 2018.

Recommendation: The Chairman of the Federal Deposit Insurance Corporation should jointly conduct a retrospective review of Bank Secrecy Act/anti-money laundering (BSA/AML) regulations and their implementation for banks with the Board of Governors of the Federal Reserve System (Federal Reserve), the Office of the Comptroller of the Currency (OCC), and the Financial Crimes Enforcement Network (FinCEN). This review should focus on how banks' regulatory concerns may be influencing their willingness to provide services. In conducting the review, FDIC, the Federal Reserve, OCC, and FinCEN should take steps, as appropriate, to revise the BSA regulations or the way they are being implemented to help ensure that BSA/AML regulatory objectives are being met in the most effective and least burdensome way.

Action Needed: In its agency comment letter dated February 2018, FDIC said it would work jointly with FinCEN and the other federal banking agencies to review BSA/AML regulations and their implementation for banks and how banks' regulatory concerns may be influencing their willingness to provide services. In January 2019, FDIC staff said that FDIC convened a working group in 2018 with the Federal Reserve, OCC, FinCEN, the National Credit Union Administration, and the Office of Terrorism and Financial Intelligence to identify ways to improve the efficiency and effectiveness of BSA/AML regulations, supervision, and examinations while continuing to meet the requirements of the statute and regulations, supporting law enforcement, and reducing BSA/AML compliance burden. FDIC staff believe that the ongoing review conducted by this working group addresses our recommendation and noted two recent interagency joint statements that resulted from the activities of the working group as examples.

The first, issued in October 2018, clarified the permissibility of sharing BSA resources among institutions with lower risk profiles to increase efficiency and reduce burden. The second, issued in December 2018, encouraged innovative industry approaches by banks to enhance the efficiency and effectiveness of their BSA/AML compliance programs. While the establishment of the working group has produced outcomes consistent with encouraging greater efficiency and effectiveness of banks' BSA/AML compliance programs and reducing burden, we have not yet seen outcomes that address the full range of factors that may be influencing banks to derisk or close bank branches. We will continue to monitor the activities and related outcomes of the working group for actions that are fully responsive to our recommendation.

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