



441 G St. N.W.  
Washington, DC 20548

Comptroller General  
of the United States

Accessible Version

August 1, 2023

The Honorable Michael J. Hsu  
Acting Comptroller of the Currency  
Office of the Comptroller of the Currency  
400 7<sup>th</sup> St. SW  
Washington, D.C. 20219

**Priority Open Recommendations: Office of the Comptroller of the Currency**

Dear Mr. Hsu:

The purpose of this letter is to provide the overall status of the Office of the Comptroller of the Currency's (OCC) implementation of GAO's recommendations and to call your personal attention to open recommendations that should be given high priority.<sup>1</sup> In November 2022, we reported that on a government-wide basis, 77 percent of our recommendations made 4 years ago were implemented.<sup>2</sup> OCC's implementation rate for recommendations implemented during this same period was 100 percent. As of July 2023, OCC had 10 open recommendations. Fully implementing these open recommendations could significantly improve OCC's efforts to supervise and examine the operations of its chartered banks.

In our May 2022 letter to the Department of the Treasury, we included our one open priority recommendation directed to OCC. Since that time, OCC has not implemented that recommendation. We ask your attention to this priority recommendation, which is related to financial technology (fintech). We are also adding one new priority recommendation related to oversight of blockchain technology. This brings OCC's total number of priority recommendations to two. (See enclosure for the list of recommendations.)

The two priority recommendations fall into the following areas:

**Blockchain technology.** Recent volatility, bankruptcies, and instances of fraud in the crypto asset markets illustrate the harm consumers and investors may face without adequate protections. We recommended that OCC and other financial regulators jointly establish or adapt an existing formal coordination mechanism to identify and address blockchain-related risks. If implemented, OCC and the financial regulators would be able to collectively identify risks posed by blockchain-related products and services and develop and implement a regulatory response in a timely manner.

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<sup>1</sup>Priority recommendations are those that we believe warrant priority attention from heads of key departments or agencies. They are highlighted because, upon implementation, they may significantly improve government operation—for example, by realizing large dollar savings; eliminating mismanagement, fraud, and abuse; or making progress toward addressing a high-risk or duplication issue.

<sup>2</sup>GAO, *Performance and Accountability Report: Fiscal Year 2022*, [GAO-23-900398](#) (Washington, D.C.: Nov. 15, 2022).

**Financial technology.** Fintech lenders may analyze large amounts of alternative data on borrower characteristics, such as information from bank accounts, when determining borrowers' creditworthiness. We recommended that OCC, the other federal banking regulators, and the Consumer Financial Protection Bureau communicate the appropriate use of alternative data in the underwriting process with banks that engage in third-party relationships with fintech lenders. Implementing our priority recommendation in this area could better position federally regulated banks to manage the risks associated with partnering with fintech lenders that use these data.

In light of recent bank failures and federal banking regulators' emergency response, we also urge you to revisit OCC's prompt corrective action framework. In 2011, we recommended that OCC and other regulators consider adopting noncapital triggers that would require early and forceful regulatory actions tied to unsafe banking practices.<sup>3</sup> The regulators considered noncapital triggers, but have not added them to the framework. We maintain that incorporating noncapital triggers would encourage earlier action and give the regulators and banks more time to address deteriorating conditions.

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In April 2023, we issued our biennial update to our [High-Risk List](#). This list identifies government operations with greater vulnerabilities to fraud, waste, abuse, and mismanagement. It also identifies the need for transformation to address economy, efficiency, or effectiveness challenges.<sup>4</sup> One of our high-risk areas—[modernizing the U.S. financial regulatory system](#)—relates directly to OCC. Specifically, we urge your attention to the effective and efficient oversight of financial institutions and activities.

In addition, several other government-wide high-risk areas also have direct implications for OCC and its operations. These include (1) [improving the management of IT acquisitions and operations](#), (2) [improving strategic human capital management](#), (3) [managing federal real property](#), (4) [ensuring the cybersecurity of the nation](#),<sup>5</sup> and (5) [managing the government-wide personnel security process](#).

We urge your attention to the government-wide high-risk issues, as well as the high-risk area for which OCC has a leading role. Progress on high-risk issues has been possible through the concerted actions and efforts of Congress, Office of Management and Budget, and the leadership and staff in agencies, including within OCC. In March 2022, we issued a report on key practices to successfully address high-risk areas, which can be a helpful resource as your agency continues to make progress to address high-risk issues.<sup>6</sup>

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<sup>3</sup>GAO, *Bank Regulation: Modified Prompt Corrective Action Framework Would Improve Effectiveness*, [GAO-11-612](#) (Washington, D.C.: June 23, 2011).

<sup>4</sup>GAO, *High-Risk Series: Efforts Made to Achieve Progress Need to be Maintained and Expanded to Fully Address All Areas*, [GAO-23-106203](#) (Washington, D.C.: Apr. 20, 2023).

<sup>5</sup>With regard to cybersecurity, we also urge you to use foundational information and risk-management practices for the communications technology supply chain set forth in our December 2020 report: GAO, *Information Technology: Federal Agencies Need to Take Urgent Action to Manage Supply Chain Risks*, [GAO-21-171](#) (Washington, D.C.: Dec. 15, 2020).

<sup>6</sup>GAO, *High-Risk Series: Key Practices to Successfully Address High-Risk Areas and Remove Them from the List*, [GAO-22-105184](#) (Washington, D.C.: Mar. 3, 2022).

In addition to your attention on these issues, Congress plays a key role in providing oversight and maintaining focus on our recommendations to ensure they are implemented and produce their desired results. Legislation enacted in December 2022 included a provision for GAO to identify any additional congressional oversight actions that can help agencies implement priority recommendations and address any underlying issues relating to such implementation.<sup>7</sup>

Congress can use various strategies in addressing our recommendations, such as incorporating them into legislation. Congress can also use its oversight processes to incentivize OCC to act on our recommendations and monitor its progress. For example, Congress can hold hearings focused on OCC's progress in implementing GAO's priority recommendations or take other actions to provide incentives for the OCC to act. Congress also plays a key role in addressing any underlying issues related to the implementation of these recommendations. For example, Congress can pass legislation providing an agency explicit authority to implement a recommendation or requiring an agency to take certain actions to implement a recommendation.

Copies of this report are being sent to the Director of the Office of Management and Budget and the appropriate congressional committees. In addition, the report will be available on the GAO website at <http://www.gao.gov>.

I appreciate OCC'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 Daniel Garcia-Diaz, Managing Director, Financial Markets and Community Investment, at [garciadiazd@gao.gov](mailto:garciadiazd@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 10 open recommendations, as well as those recommendations in the high-risk areas for which OCC has a leading role. Thank you for your attention to these matters.

Sincerely yours,

A handwritten signature in black ink that reads "Gene L. Dodaro". The signature is fluid and cursive, with a long horizontal stroke extending from the end of the name.

Gene L. Dodaro  
Comptroller General  
of the United States

Enclosure

cc: The Honorable Shalanda Young, Director, Office of Management and Budget  
The Honorable Janet Yellen, Secretary, Department of the Treasury

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<sup>7</sup>James M. Inhofe National Defense Authorization Act for Fiscal Year 2023, Pub. L. No. 117-263, § 7211(a)(2), 136 Stat. 2395, 3668 (2022); H.R. Rep. No. 117-389 (2022) (accompanying Legislative Branch Appropriations Act, H.R. 8237, 117th Cong. (2022)).

## Enclosure

### Priority Open Recommendations to the Office of the Comptroller of the Currency

#### Blockchain Technology

Blockchain in Finance: Legislative and Regulatory Actions Are Needed to Ensure Comprehensive Oversight of Crypto Assets. [GAO-23-105346](#). Washington, D.C.: June 22, 2023.

**Year Recommendation Made:** 2023

**Recommendation:** The Comptroller of the Currency should jointly establish or adapt an existing formal coordination mechanism with the Consumer Financial Protection Bureau, Commodity Futures Trading Commission, Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, National Credit Union Administration, and Securities and Exchange Commission for collectively identifying risks posed by blockchain-related products and services and formulating a timely regulatory response. To facilitate these objectives, this mechanism could include formal planning documents that establish the frequency of meetings and processes for identifying risks and responding to them within agreed-upon time frames.

**Action Needed:** The Office of the Comptroller of the Currency (OCC) neither agreed nor disagreed with the recommendation. In its agency comment letter, OCC said it continues to monitor—separately and in collaboration with the other federal financial regulators—emerging risks posed by blockchain-related products and services. However, the regulators’ coordination efforts have not always addressed risks posed by crypto assets in a timely manner. We maintain that a formal coordination mechanism focused on collectively identifying risks posed by blockchain-related products and services and formulating timely regulatory responses could improve protections for consumers and investors, mitigate illicit finance and threats to financial stability, and promote responsible innovation and U.S. competitiveness.

**High-risk area:** [Modernizing the U.S. Financial Regulatory System](#)

**Director:** Michael E. Clements, Financial Markets and Community Investment

**Contact information:** [clementsm@gao.gov](mailto:clementsm@gao.gov) or (202) 512-8678

#### Financial Technology

*Financial Technology: Agencies Should Provide Clarification on Lenders’ Use of Alternative Data.* [GAO-19-111](#). Washington, D.C.: December 19, 2018 (reissued with revisions on March 12, 2019).

**Year Recommendation Made:** 2019

**Recommendation:** The Comptroller of the Currency should, in coordination with the other federal banking regulators and the Consumer Financial Protection Bureau and with input from relevant stakeholders, communicate in writing to banks that engage in third-party relationships with financial technology (fintech) lenders on the appropriate use of alternative data in the underwriting process, including issues to consider when selecting types of alternative data to use.

**Action needed:** The Office of the Comptroller of the Currency (OCC) agreed with the recommendation. In July 2021, OCC, along with the Federal Deposit Insurance Corporation and the Federal Reserve, proposed interagency guidance on third-party risk management. In June 2023, the federal banking regulators issued final interagency guidance, but this guidance did not include specific direction to banks engaging with fintech lenders on the use of alternative data in the underwriting process. Rather the guidance indicates that it is broadly applicable to all topics and third-party relationships and, accordingly, did not address specific topics, such as the use of alternative data, or specific types of third-party relationships, such as relationships with fintech companies. The guidance states regulators may issue additional guidance on specific topics in the future.

In March 2021, OCC, in coordination with other federal banking regulators and the Consumer Financial Protection Bureau issued a request for information on financial institutions' use of artificial intelligence, including machine learning. The comment period for the request for information ended on July 1, 2021, and the regulators were working on next steps for the request for information.

To fully implement this recommendation, OCC needs to provide—in coordination with other federal banking regulators and the Consumer Financial Protection Bureau—finalized guidance on the appropriate use of alternative data in the underwriting process. Without such direction, banks partnering with financial technology lenders may not effectively manage associated risks, including compliance with fair lending and other consumer protection laws. Clear communication on appropriate use of alternative data would give fintech lenders greater certainty about their compliance with consumer protection laws and help banks manage the risks associated with partnering with fintech lenders.

**High-risk area:** [Modernizing the U.S. Financial Regulatory System](#)

**Director:** Michael E. Clements, Financial Markets and Community Investment

**Contact information:** [clementsm@gao.gov](mailto:clementsm@gao.gov) or (202) 512-8678