MERCURY TECHNOLOGIES, INC.

October 30, 2024

Chief Counsel's Office
Attn: Comment Processing
Office of the Comptroller of the Currency
400 7th Street SW
Suite 3E-218
Washington, DC 20219

Federal Reserve Board of Governors
Attn: Ann E. Misback
Secretary of the Board
Mailstop M-4775
2001 C Street NW
Washington, DC 20551

James P. Sheesley
Assistant Executive Secretary
Attn: Comments-RIN 3064-ZA43
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20429

VIA ELECTRONIC SUBMISSION

Re: Request for Information on Bank-Fintech Arrangements Involving Banking Products and Services Distributed to Consumers and Businesses (Docket ID OCC-2024-0014; Docket No. OP-1836; RIN 3064-ZA43)

To Whom It May Concern:

Mercury Technologies, Inc. ("Mercury") appreciates the opportunity to respond to the interagency Request for Information on Bank-Fintech Arrangements Involving Banking Products and Services Distributed to Consumers and Businesses (the "RFI") published by the Office of the Comptroller of the Currency ("OCC"), Board of Governors of the Federal Reserve System ("FRB"), and Federal Deposit Insurance Corporation ("FDIC") (collectively, the "banking agencies"). Mercury has significant experience with developing, implementing, and operating bank-fintech partnerships. Mercury respectfully submits this comment with some suggestions to protect and improve the bank-fintech model and increase dialogue and engagement among banks, fintechs, and regulators.

I. Introduction to Mercury and background.

Interagency collaboration on the topic of bank-fintech partnerships is critical. Mercury applauds the banking agencies for their coordination on this important topic and for their efforts to engage with the fintech industry and other stakeholders through the RFI process. We believe the path forward must include fintechs, bank partners, and regulators working together to ensure today's financial system is safe and stable, protects depositors, and maintains public confidence, while also fostering innovation.

Mercury was founded in 2017 to provide companies with a better banking experience. Our founders had previously started and led multiple companies. In those roles building businesses, they encountered outdated systems, clunky experiences, onerous fees, and complex processes that created significant friction with moving and managing money and running their businesses. For newly started companies specifically, their unique circumstances and needs are not served by traditional financial institutions. Mercury fills the gap by working with our bank partners to provide banking and financial tools that help entrepreneurs operate at their best, without unnecessary friction.

Since our first product was launched in 2019, Mercury has grown to support over 200,000 businesses. Our customers come in many types and sizes, from small consultancies and e-commerce businesses, to large venture-backed startups and growing technology companies. Most of our new customers are also new businesses—around 70% of our customers sign up within six months of incorporation and nearly all of the entrepreneurs are small and medium-sized businesses ("SMBs") using our technology as they grow. Early stage SMBs are a famously vulnerable business population with a significant failure rate, but their ability to start and succeed are a critical driver of employment, productivity, innovation, and the overall health of the U.S. economy.[1]

By partnering with banks, Mercury facilitates business deposit products (including checking and savings accounts) and payment services (including ACH transactions, free domestic wires, international wires, and debit and credit cards). We also build tools to pay bills, send invoices, sync to accounting software, and reimburse employees, providing our customers with a complete view of all funds in one place, in real time.

Our customers love us for our beautiful, well-designed, and user-friendly products, with customer satisfaction for Mercury rating drastically higher than the average traditional bank. Mercury's Net Promoter Score (NPS) is 79, compared with the banking industry average of 34.[2] We have earned this sentiment by providing an innovative platform that serves businesses in ways that traditional institutions have not been able to do alone.

Today, Mercury partners with four different FDIC-insured banks to deliver financial services to our customers. We work with one state-chartered Federal Reserve member bank, one state-chartered non-member bank, and two national banks.

Fintechs like Mercury offer a path for smaller, regional banks to stay competitive amid banking consolidation.[3] Through mutually beneficial partnerships, fintechs help partner banks grow their

---

[1] Chen Yeh, *Why Are Startups Important for the Economy?*, Fed. Rsrv. Bank of Richmond, Econ. Brief No. 23-06 (Feb. 2023), https://www.richmondfed.org/publications/research/economic_brief/2023/eb_23-06.

[2] *See* CustomerGauge, *Financial Services NPS Benchmarks*, https://customergauge.com/benchmarks/blog/financial-services-nps-benchmarks (last visited Oct. 28, 2024).

[3] National Community Reinvestment Coalition, *The Great Consolidation of Banks and Acceleration of Branch Closures Across America*, Feb. 2022,

deposit base, introduce more revenue streams, expand access to financial services, and modernize their overall business through responsible innovation.

As Mercury grows, we're building deep, direct relationships with each of our bank partners to deliver products and services. These arrangements allow us to deliver the highest quality experience to our customers with close coordination of our respective compliance and risk programs. Mercury has heavily invested in our risk and compliance functions, which make up nearly one quarter of our total employee count. Mercury teams across customer service, partnerships, operations, engineering, product, compliance, and legal, as well as our senior leadership, are in constant communication with our bank partner counterparts.

With this context, we'd like to share our recommendations for your consideration as the banking agencies work through next steps to continue promoting responsible innovation, which include encouraging the banking agencies to:

- Leverage existing regulatory frameworks for the sharing of confidential supervisory information ("CSI") to improve communication and facilitate timely, risk-based solutions to compliance challenges;
- Develop additional supervisory resources on bank-fintech partnerships, including materials that appropriately differentiate among the risks in arrangements involving intermediate platform providers[4] versus direct-to-bank relationships;
- Provide specialized training to examiners tasked with supervising banks with fintech partnerships and ensure those examiners are properly supported by specialized divisions within each banking agency;
- Engage with the fintech industry through a new era of "innovation labs," fintech industry advisory groups, and paths for more direct regulation; and
- Collaborate with the fintech industry in efforts to develop common standards for bank-fintech arrangements.

These suggestions are drawn from Mercury's experience as well as the collective experience of senior members of our compliance, legal, policy, and partnerships teams, among others. Aside from Mercury, our staff has spent time working at a range of top fintechs, banks, and other financial institutions, and in regulatory and legal roles that provide us with a broad perspective on the issues laid out in the RFI.

II. The banking agencies should allow banks and fintechs to leverage existing regulatory frameworks for CSI sharing to facilitate collaboration and more timely, tailored resolution of supervisory feedback.

Given the rise of bank-fintech partnerships and their importance to the innovation economy, it

https://ncrc.org/wp-content/uploads/dlm_uploads/2022/02/The-Great-Consolidation-of-Banks-and-Acceleration-of-Branch-Closures-Across-America-FINALc.pdf

[4] As such term is defined in the RFI. *See* 89 FR 65177, 61580–61581.

is critical that the banking agencies develop a workable approach for the sharing of supervisory feedback—one that directly includes the fintechs, which are often responsible for implementing the feedback. While banks remain ultimately responsible for the supervisory relationship and compliance with applicable law, banks' fintech partners are critical allies in executing on those responsibilities. Contracts between banks and fintechs typically provide the foundation for this coordination. And, when drafted in line with banking agency guidance, these contracts also set forth robust confidentiality provisions to ensure that information related to these compliance obligations is handled appropriately.[5]

As part of the banking agencies' supervisory oversight of bank-fintech arrangements, banks regularly receive feedback from the banking agencies about their partnerships and whether they meet regulatory expectations. However, banks are typically unable to share this feedback directly with their fintech counterparts because it's considered CSI. This means that fintechs like Mercury often do not find out about banking agency feedback impacting their programs or customers until those supervisory findings or recommendations are public knowledge, or they may only receive high-level information from their bank partners that lacks the context necessary to develop robust, scalable, and lasting solutions. At times, Mercury's bank partners have requested changes to products or processes which seemingly stem from regulatory feedback, but the partner has been unable to communicate specifics due to CSI sharing restrictions and the perceived difficulty of getting approval for sharing. In some cases this has led to abrupt requests to change a product or process, which ultimately has a negative impact on customers.

Providing fintechs with earlier access to examination-related information impacting bank-fintech programs would help banks to address issues sooner and more comprehensively, reducing the need for consent orders and fostering customer confidence in fintech product offerings and in the banking industry as a whole. Appropriately tailored access to CSI would also position fintechs to speak directly with the banking agencies, reducing the burden on banks to engage in what at times feels like a game of regulatory telephone, passing messages and critical information back and forth between their fintech partners and the regulators, while trying to comply with CSI restrictions. This access would also help Mercury and other fintechs make more informed decisions as part of our own internal third-party risk management programs, contributing to safety and soundness improvements throughout the financial services ecosystem. The end result of providing tailored access to CSI would be a clearer and more continuous feedback loop among the banking agencies, banks, and partnered fintechs, allowing for more robust products, closer coordination on compliance, and fewer disruptions affecting customers.

The regulatory frameworks to facilitate earlier access and closer collaboration already exist: the

[5] Interagency Guidance on Third-Party Relationships: Risk Management, Section 3(h) (Contract Negotiation – Confidentiality and Integrity), 88 FR 37920, 37933 (June 9, 2023), https://www.govinfo.gov/content/pkg/FR-2023-06-09/pdf/2023-12340.pdf.

Freedom of Information Act ("FOIA")[6] and corresponding banking agency implementing regulations specifically exempt from public disclosure requirements information contained in or related to the supervisory process. However, in recognition of the value of limited sharing of this information with parties with a demonstrated need to know, the banking agencies have issued regulations that make this possible. Specifically, the CSI disclosure frameworks found in 12 CFR Part 4, Subpart C (OCC); 12 CFR Part 271 (FRB); and 12 CFR Part 309 (FDIC) (collectively, the "CSI Sharing Rules")[7] set forth the processes by which non-bank third parties are able to request and access CSI on an as-needed basis. The fact that these CSI Sharing Rules are on the books in the first place reflects the banking agencies' awareness of the importance of facilitating access to CSI when it's critical to help banks meet their compliance obligations.

The CSI Sharing Rules provide a path fintechs and banks can pursue to get banking agency permission to share and, in turn, collaborate more effectively on remediating issues identified during an exam. Historically, the CSI Sharing Rules have been used to provide auditors, consultants, law enforcement, non-U.S. regulatory authorities, and others with access to bank-specific information necessary to execute on their own obligations without compromising the integrity of the supervisory process or violating FOIA and corresponding banking agency regulations.

For example, when the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (the "Dodd-Frank Act") introduced resolution plan submission requirements for global systemically important banks ("G-SIBs"), G-SIBs were faced with the challenging task of writing their own "living wills" describing how their complex business lines, personnel, and more would be handled in the event of bankruptcy and receivership.[8] This is an ongoing requirement that typically includes engaging law firms and consultants to dig into highly sensitive information. Feedback on this from the FDIC and FRB is, for good reason, tightly protected and not subject to FOIA's public disclosure requirements. The CSI Sharing Rules have been leveraged over the years to ensure external parties supporting banks' compliance with the requirements get access to necessary information. The rules have also been leveraged to facilitate tailored access to CSI by non-U.S. regulators with shared goals around global financial stability. While the CSI Sharing Rules predate the Dodd-Frank Act, in this case they nonetheless continue to be used to provide appropriately tailored access to information of the utmost sensitivity.

The banking agencies should make it easier for fintechs to support their bank partners in complying with legal requirements and regulatory expectations applicable to the products and services we offer our customers. To ensure CSI doesn't become broadly available, the banking

---

[6] 5 U.S.C. § 552(b)(8).

[7] Though they're not part of the RFI, the Consumer Financial Protection Bureau ("CFPB") and National Credit Union Administration ("NCUA") play important roles in the financial services regulatory universe. Like the banking agencies, the CFPB and NCUA also have regulatory frameworks governing CSI and the sharing of such information on an as-needed basis. *See* 12 CFR Part 1070, Subpart D (CFPB); 12 CFR Part 792 (NCUA).

[8] *See* Section 165(d) of the Dodd-Frank Act.

agencies can impose stringent confidentiality requirements on fintechs when granting a CSI sharing request under the existing rules. The agencies should also take some degree of comfort in knowing that existing contractual confidentiality provisions agreed to by the fintech and bank—if adhering to relevant supervisory guidance—further help to ensure sensitive examination-related information remains closely guarded.

Allowing fintechs like Mercury to have tailored, limited access to relevant exam reports or related banking agency feedback would enable more efficient remediation of supervisory issues, tailored to the specific risk profiles of each bank-fintech partnership. This would help avoid operational challenges and unpleasant customer disruptions that often result from a one-size-fits-all approach to remediation that does not reflect the unique characteristics of each fintech's business model and customer base. For example, if a bank's roadmap for remediation of a finding related to a fintech program could be presented to and agreed on by a banking agency after in-depth collaboration with the fintech, regulators could have greater confidence in the execution of the remediation plan, knowing that both parties have assessed and scoped action items with symmetric information.

Mercury also recommends the banking agencies work together and strive to harmonize their approach to CSI sharing for bank-fintech relationships wherever practicable. Interagency coordination on this topic would not only promote consistency and predictability across the banking industry but could also provide greater clarity to fintechs like Mercury that work with multiple bank partners with regulatory oversight from each of the three banking agencies.

III. <u>Additional supervisory resources on bank-fintech partnerships should be developed, but must differentiate among the risks associated with arrangements involving intermediate platform providers versus direct-to-bank relationships.</u>

One of the many important questions raised in the RFI is whether the banking agencies have adequately described the types of bank-fintech arrangements in the industry and the companies involved.[9] It's apparent the banking agencies are paying close attention to "intermediate platform providers"—there are no fewer than 25 references to these types of fintechs within the RFI. While there are a broad range of arrangements and product offerings, we recommend the banking agencies make a concerted effort in their development of bank-fintech guidance to differentiate between arrangements that involve intermediate platform providers and those that do not.

In a direct-to-bank relationship, a fintech contracts with its bank partner allowing for a stronger, more tightly coordinated relationship. Through direct arrangements, a bank can better understand the products and services of the fintech they have partnered with, tailoring their compliance requirements, offering a superior product for customers, and ultimately fostering a more durable relationship that benefits the stability of offerings and provides greater safety

[9] 89 FR 61577, 61583.

and soundness for both parties. Such tighter coupling allows for increased clarity on division of responsibility for legal and regulatory matters, compliance, customer support, and operational processes, among other things, as well as greater assurances of confidentiality regarding sensitive matters impacting the relationship. Direct relationships also allow for improved, direct two-way data sharing between a fintech and bank, offering fuller visibility into customer activity and deeper assurance that regulatory requirements are met.

When a fintech contracts with an intermediate platform provider who then contracts with the bank, coordination and collaboration can be more difficult, particularly as a fintech scales. Similarly, information sharing, including the sometimes challenging game of regulatory telephone, becomes more complex, with multiple parties playing a role in passing information along the chain.[10] There is also the potential for misaligned incentives—the fintech may rely on the intermediary to handle essential operational and compliance processes, while the intermediary may not have the same vested interest in building a strong, nuanced compliance function as a fintech would in a direct relationship.

Mercury has some direct experience with the intermediate platform provider model. We initially launched our product in 2019 with such a partner, which allowed us to get to market quickly. And we are aware of many small, innovative fintechs—many of which did not have the resources to build an integration directly to a bank—that have relied on the intermediate provider model to initially get to market. But the model proved unworkable for Mercury as we scaled. With the benefit of scale, in 2021 we began work to launch a direct connection with a separate bank partner, and that model proved beneficial for many of the reasons outlined here. Having multiple independent bank partners, with strong direct relationships with each of them, has become an important part of Mercury's strategy. As we developed our multi-bank, direct engagement model, it also became increasingly clear that our intermediate platform provider was not operating excellently in certain key areas, including compliance, cementing our preference for and belief in direct bank relationships.

These important differences between the direct and intermediated models of bank-fintech partnerships should be recognized and accounted for by the banking agencies in their development of additional supervisory resources.

IV. <u>Examiners tasked with supervising banks with fintech partnerships should receive specialized training, and the banking agencies should each have specialized exam divisions to support these efforts.</u>

To foster responsible innovation and ensure oversight is appropriately tailored to the risk profile of individual FDIC-insured institutions and their respective fintech relationships, the banking agencies must adapt their supervisory approaches to reflect the specific risks and operational structures of bank-fintech arrangements. There is long-standing precedent for

[10] For this reason, we also respectfully recommend that the banking agencies avoid a one-size-fits-all approach to how the CSI Sharing Rules (as discussed in Section II) are applied across bank-fintech arrangements.

specialized exam teams at all three banking agencies. Historically, agencies have tailored examiner portfolios based on bank size and core business lines, recognizing that different institutions pose different risks and require unique supervisory approaches. Building on this, specialized fintech divisions would align with existing practices while addressing the specific complexities introduced by bank-fintech partnerships. A bank's asset size, for example, is not necessarily the strongest indicator of that bank's sophistication, the complexity of its partnerships, or its level of risk. The banking agencies must take those things into account when assigning examiners and developing the supervisory resources used by those examiners.

In addition, clear and informed supervision can be facilitated by ensuring examiners receive specialized training on emerging technology (e.g., distributed ledger technology, new developments in artificial intelligence or machine learning) and on innovations in banking products and payment rails (e.g., real-time payments, "Tap to Pay" on mobile devices). Similarly, agency staff must also have the necessary skills to develop fintech-related policy that guides and directs the examination process; this is best achieved through not only training but also targeted hiring of qualified individuals with fintech industry backgrounds in critical banking agency roles tasked with developing such policies. The importance of specialization was highlighted in a 2023 report from the U.S. Government Accountability Office ("GAO") in which the GAO published the results of its review of (1) the technological skills and expertise of banking agency staff, (2) the banking agencies' workforce planning practices, (3) how the banking agencies address innovation in fintech, and (4) how the banking agencies use technology to improve their supervisory capabilities.[11]

We understand from the GAO report that the banking agencies are actively working to address identified gaps in these areas, and we appreciate those efforts and look forward to seeing the longer-term impacts of upleveling staff skills and expertise. In parallel, we also recommend that the OCC and FDIC consider following the FRB's lead in its August 2023 establishment of the agency's Novel Activities Supervision Program.[12] Among other areas of focus, the FRB's Novel Activities Supervision Program is specifically designed to enhance the supervision of banks engaged in "[p]artnerships where a non-bank serves as a provider of banking products and services to end customers, usually involving technologies like application programming interfaces (APIs) that provide automated access to the bank's infrastructure." The OCC and FDIC should not, however, blindly dive into building identical or generally similar programs. Instead, these two agencies should coordinate with the FRB to take a look at learnings from the first year of the Novel Activities Supervision Program's operations and develop similar programs for the national banks and state-chartered non-member banks they oversee.

[11] *See* Financial Technology: Agencies Can Better Support Workforce Expertise and Measure the Performance of Innovation Offices, GAO-23-106168 (published Sept. 6, 2023; publicly released Oct. 6, 2023), https://www.gao.gov/products/gao-23-106168. This 2023 GAO report also included recommendations for training and staffing at the CFPB and NCUA; while these two agencies weren't part of the RFI, they nonetheless play an important role in the bank-fintech supervisory ecosystem and we encourage the banking agencies to coordinate with the CFPB and NCUA on future endeavors, where appropriate.

[12] *See* SR 23-7: Creation of Novel Activities Supervision Program, FRB Division of Supervision and Regulation (Aug. 8, 2023), https://www.federalreserve.gov/supervisionreg/srletters/SR2307.htm.

Alternatively, the banking agencies could pursue an interagency approach—whether via the Federal Financial Institutions Examination Council ("FFIEC") or otherwise—that would ensure consistency across similarly situated institutions.

This specialization in exam teams and staff skills will enable a more nuanced and effective oversight process and support responsible innovation by banks and fintechs alike, especially when combined with limited and controlled CSI sharing, appropriately tailored guidance, and, as discussed in greater detail below, additional and ongoing industry engagement.

V. <u>Responsible innovation should be cultivated through a new era of "innovation labs," industry advisory groups, and clearer paths to direct regulation.</u>

Today, fintech industry engagement with the banking agencies appears to be fragmented, with much of it happening in isolated interactions rather than through structured, ongoing collaboration. While there are occasional reports of a fintech company engaging with a banking agency directly, these instances often lack the transparency and consistency needed to foster broader collaboration and shared learning.

As Governor Michelle W. Bowman pointed out, regulators and innovators have a shared responsibility in the arena of innovation. In a speech earlier this year, Governor Bowman made clear that "Regulators must be willing to thoughtfully consider the possibilities of innovation within the regulated banking system."[13] But the responsibility does not fall solely on regulators, she continued, "innovators must be committed to sharing their understanding and knowledge of innovation . . . [and] may be best positioned to propose how regulators can best develop a regulatory framework."[14] Acting Comptroller Michael Hsu has echoed this sentiment, noting the critical need for "greater engagement between the banking agencies and nonbank fintechs."[15] This sentiment shines through in the RFI, and Mercury would welcome the opportunity to participate in a new wave of industry engagement on this topic. For innovation to thrive responsibly, a collaborative approach is essential.

To that end, Mercury recommends that the banking agencies focus on three areas to deepen industry engagement and foster continuous dialogue for the benefit of the banking agencies, banks, fintechs, and customers alike:

1. Reignite efforts toward agency or interagency departments focused on fintech and innovation. The banking agencies should establish or strengthen existing dedicated departments or interagency bodies that focus on fintech and innovation issues. These

---

[13] Michelle W. Bowman, Governor, FRB., Innovation in the Financial System, Speech at the Salzburg Global Seminar on Financial Technology Innovation, Social Impact, and Regulation: *Do We Need New Paradigms?* (June 17, 2024), https://www.federalreserve.gov/newsevents/speech/bowman20240617a.htm

[14] *Id.*

[15] Michael Hsu, Acting Comptroller of the Currency, OCC, Remarks before the Exchequer Club: *Size, Complexity, and Polarization in Banking* (July 17, 2024), https://occ.gov/news-issuances/speeches/2024/pub-speech-2024-79.pdf.

teams would not only be responsible for liaising with fintech companies and banks but also for identifying emerging trends, potential risks, and regulatory opportunities. These bodies should be tasked with creating frameworks that adapt to the rapidly changing financial landscape, ensuring regulations are both forward-looking and flexible. The next iteration of banking agency innovation teams must follow a model that doesn't just encourage, but rather requires, any such team to include representation and engagement from other divisions across each agency that own supervision, enforcement, and policymaking functions. If the new generation of any "innovation lab" is built in a silo, separated from key intra-agency partners who should inform recommendations and who would be impacted by any proposed changes, the likelihood of success is sure to decrease.

One successful model of an agency department is the Office of Financial Technology Innovation ("OFTI") established by the California Department of Financial Protection and Innovation ("DFPI"). OFTI has allowed the DFPI to foster closer relationships with innovators, coordinating direct meetings with diverse external stakeholders and regular office hours to allow companies to share their stories. These efforts are enhanced by regular webinars and also converted to regular educational events for DFPI staff and other state staff to learn about critical emerging issues and trends in fintech.

2. Establish industry advisory groups. Each banking agency should create fintech industry advisory groups to act as consultative bodies, providing real-time feedback and guidance on regulatory frameworks, emerging risks, and best practices. These groups should include representatives from banks, fintech companies of various sizes, academia, consumer and small business advocacy groups, and other relevant stakeholders. Such a diverse composition would ensure a holistic view of the issues and opportunities facing the fintech industry today. These industry advisory groups could play a role similar to the already valuable work done today by groups like the FDIC's Advisory Committee on Community Banking, Advisory Committee on Economic Inclusion, and Advisory Committee of State Regulators.

   Newly established fintech industry advisory groups should not merely be consultative but should also be empowered to propose pilot projects and sandbox initiatives, where new fintech solutions can be tested in a controlled environment. Such initiatives have been successfully implemented in other jurisdictions; for instance, the United Kingdom's Financial Conduct Authority ("FCA") Regulatory Sandbox enables fintech firms to test innovative products, services, and business models in a real-market environment with regulatory oversight. This approach has led to a greater understanding of the benefits and risks associated with new technologies, ultimately informing better policy decisions.

3. Remove barriers that inhibit fintechs' voluntary pursuit of direct regulation through charters or otherwise. To foster a truly competitive and innovative financial services

sector, it is essential for fintech companies to have a clear and reasonable path to obtain bank charters and deposit insurance or, alternatively, a fintech-specific charter that recognizes the unique nature of their business models. This would create a more direct regulatory pathway, allowing fintech firms to operate with greater clarity while maintaining high standards for customer protection and risk management.

Current regulatory structures often limit fintech companies' ability to access the same benefits and opportunities as traditional financial institutions. Fintech firms that seek to offer banking services must either partner with existing banks or obtain full banking charters, both of which present significant barriers to entry in terms of time, cost, and complexity. Building off the OCC's prior thinking in this space or establishing new fintech charter opportunities could address these barriers by providing a streamlined process that still ensures adherence to crucial regulatory standards.

Understanding this is a two-way street, Mercury is also committed to creating a new and sustained dialogue with the banking agencies, where appropriate. In addition to formal avenues, there are also externally-led efforts that stakeholders within the banking agencies have shown interest in supporting, including the TechSprint model led by the Alliance for Innovative Regulation ("AIR").[16] Mercury supports and will participate in these types of efforts to bring together stakeholders from industry and government, alongside academia and other experts, to develop shared approaches toward responsible innovation.

VI. <u>Industry must step up to create common regulatory compliance and risk management standards for bank-fintech arrangements and hold themselves accountable for good practice.</u>

In addition to providing recommendations for the banking agencies on action they should take to improve the environment around bank-fintech arrangements, industry also has a responsibility to itself work to strengthen trust and transparency in these partnerships and further align the incentives of banks and fintechs towards responsible innovation. While banks have helpful interagency guidance on third-party risk management, the universe of non-bank financial services providers lacks shared standards. Currently, banks and fintechs operate without clearly agreed-upon industry standards around risk management and compliance, creating uncertainty and potentially increasing risk. Mercury believes industry must hold itself accountable to address these gaps.

Earlier this year, Mercury helped launch the Coalition for Financial Ecosystem Standards ("CFES") as one of its first six founding fintech companies.[17] CFES is working to bring together

---

[16] *See* Alliance for Innovative Regulation, *TechSprints*, https://regulationinnovation.org/techsprints/ (last visited Oct. 28, 2024).

[17] Jeff Kauflin, *After Synapse Disaster, Stripe, Block, and Other Fintech Heavyweights Join New Compliance Coalition*, Forbes (Sept. 30, 2024, 9:00 AM), https://www.forbes.com/sites/jeffkauflin/2024/09/30/after-synapse-disaster-stripe-block-and-other-fintech-heavyweights-join-new-compliance-coalition/.

a diverse set of stakeholders to define industry standards for risk and compliance around bank-fintech partnerships as well as assessment processes to support adherence to those standards. CFES can also help to bridge the gap between fintechs and regulators, encouraging dialogue and greater collaboration. For greater explanation of this effort, we encourage the banking agencies to reference CFES' response to the RFI.[18]

Mercury also acknowledges the critical importance of proactive risk management and compliance as part of our collaborative efforts with banks, and we continue to make significant investments in these areas. We have implemented rigorous compliance measures, and our dedicated internal teams supporting anti-money laundering ("AML"), sanctions, and broader risk management functions complement the banks' oversight roles. Our approach is grounded in thorough, risk-based due diligence practices and a commitment to customer understanding. We recognize the necessity of aligning risk tolerances with those of our partner banks based on varying risk appetites, and we're constantly communicating with our bank partners to stay in sync about growth goals. Mercury also views financial crimes compliance as a shared responsibility between the fintech and bank, with oversight structures in place to support this, including mechanisms like data-sharing environments that aim to enhance transparency. Taken together, these measures illustrate our commitment to responsible risk management and align with the banking agencies' goals to reinforce accountability in bank-fintech partnerships and promote a safe and stable U.S. financial system. Similarly, these efforts will inform and benefit from the finalization of industry standards on risk and compliance, and a process of certification to these standards can add an additional layer of accountability.

We believe having alignment and a shared understanding across industry about what a strong risk and compliance program should look like will push everyone to be better. In a best case, it can encourage fintechs to go beyond minimum requirements and develop innovative solutions to meet and, ultimately, exceed the baseline standards. A common framework will ensure that everyone operates with the same level of rigor and attention to risk management. This will make it easier to identify and mitigate risks and help to create an environment where companies can act more confidently, customers can transact more safely, and regulators can more clearly understand how fintechs are operating.

---

[18] *See* FS Vector, *Coalition for Financial Ecosystem Standards*, https://fsvector.com/cfes/ (last visited Oct. 28, 2024).

VII. <u>Conclusion.</u>

We look forward to seeing the banking agencies' next steps following the RFI, and we are open to discussing our comments with the banking agencies as plans for greater engagement, collaboration, and guidance begin to take shape. Thank you for the opportunity to comment and for the interagency efforts to improve the regulatory environment surrounding bank-fintech arrangements.

Sincerely,

[redacted]

Immad Akhund
Co-Founder and CEO, Mercury