

[Banking and Finance Law Daily Wrap Up, TOP STORY—D.D.C.: State regulators' group sues again to block OCC's planned fintech charter, \(Oct. 25, 2018\)](#)

Banking and Finance Law Daily Wrap Up

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By [J. Preston Carter, J.D., LL.M.](#)

The Conference of State Bank Supervisors is once again suing the Office of the Comptroller of the Currency in an effort to block the agency from creating a new special-purpose fintech charter. The CSBS previously filed suit against the OCC in 2017. After that suit was filed, the OCC announced that it had not yet determined whether it would move forward with the new charter, and the court decided that the issue was not ready for consideration (see [Banking and Finance Law Daily](#), May 2, 2018). According to its [press release](#), the CSBS is now seeking court action based on the OCC's announcement this past July that it is accepting applications for the new bank charter for fintechs as well as the OCC's publication of a Licensing Manual Supplement. The complaint argues that "[t]hings have changed substantially since the Court's decision," and that "issuance of a Nonbank Charter is now clearly imminent." ([Conference of State Bank Supervisors v. OCC](#)).

CSBS President and CEO John Ryan said, "Common sense and the law tell us that a nonbank is not a bank. Thus, CSBS is calling on the courts to stop the unlawful, unwarranted expansion of powers by the OCC."

The CSBS says the key points in its complaint are:

- The National Bank Act and other federal banking laws authorize the OCC to charter only institutions that engage in the "business of banking," which requires an institution to receive deposits.
- The OCC has said the new charter is for fintechs that do not take deposits. Many such companies operate as nonbanks licensed at the state level.
- To the extent that the OCC's regulation 12 CFR 5.20(e) defines the business of banking in a manner that does not require deposit-taking, its adoption exceeded the OCC's authority.

The case is [No. 1:18-cv-02449](#).

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Companies: Conference of State Bank Supervisors

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