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## BANK/FINTECH PARTNERSHIPS — SOLVING FOR A NATIONWIDE PRODUCT AND SERVICE

*This article explores the regulatory landscape facing banks that partner with Fintechs to offer a wide range of credit products to consumers on a nationwide basis. In particular, this article discusses the provisions under federal law that enable banks to offer products and services on a nationwide basis, the impacts of federalism on these partnerships, including navigating disparate laws and regulations, and how they are enforced by government actors under their respective authorities.*

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### I. INTRODUCTION

As longtime industry actors and new entrants have moved to disrupt classic financial services through the development of financial technology solutions, questions around legal and regulatory obligations have also become more acute over the past decade. These solutions have had immense benefits to both the efficiency and effectiveness of the industry and to the consumers and businesses that have flocked to these products and services. One of the greatest challenges to this technological renaissance is the ability to navigate the ever-complex and, at times, inflexible financial regulatory environment that has been around for over a century. Today, Fintechs are experimenting with novel ways to offer their important products and services at scale, nationwide. However, today's regulatory landscape – dictated by disparate regimes across the

federal and state landscape – is not well poised for Fintechs seeking to extend credit on a nationwide basis. A common resolution to this conundrum has been for banks – who benefit from legal and regulatory privileges that allow them to compete on a national scale more easily – to partner with Fintechs, who at times have far superior technological capabilities.

State and federal regulators have taken varying approaches with respect to the supervision and regulation of these partnerships. Further, while there does not appear to be a consensus view, even a few states challenging the status quo could disrupt a national lending model and have a significant impact on the power dynamics in a dual banking system. If the federal charter becomes more cost-efficient and more certain from a regulatory perspective, it begs the question as to whether the state charter becomes less effective and competitive.

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