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AML DILIGENCE: IMPLICATIONS FOR BANK-FINTECH PARTNERSHIPS AT THE INTERSECTION OF CRYPTOCURRENCY

In this article, the authors discuss anti-money laundering due diligence for cryptocurrency platforms within the broader context of increasing regulatory scrutiny of bank-fintech relationships, with a particular focus on bank diligence of partners engaged in money transmission. They begin by providing background on the fintech regulatory environment, and then focus on the activities of cryptocurrency platforms, with an emphasis on those engaged in transactions as money services businesses (“MSBs”). Key issues include the application of federal and state AML-related requirements to MSB cryptocurrency platforms. The authors conclude with best practices for bank diligence over cryptocurrency platform compliance with federal and state laws applicable to MSBs.

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The rapid growth of financial technology (“fintech”) and bank-fintech partnerships over the last 20 years has led to unprecedented innovations and a corresponding acceleration in the development and delivery of financial services. “Fintech” refers to a broad industry of firms that use innovative technology to provide or aid in the delivery of digital financial services to consumer and commercial customers in multiple industries, including credit, payments, insurance, and others. These innovations have resulted in significant changes in the ways in which customers access traditional banking products, including payment services, fund transfers, and trading, and a corresponding exponential increase in

their overall use.¹ These bank-fintech partnerships offer numerous benefits to both traditional banking institutions and their often-nimbler fintech partners. By partnering with fintech firms, traditional banks gain speed to market, access to technological innovations often at lower costs, and a more engaging user experience. At the same time, fintech firms benefit from the trustworthy reputation of traditional banks with the ability to offer their users access to financial services that they could not otherwise offer on their own. Together, banks and fintechs have been able to reach underserved customer populations and raise the overall

¹ A BIS Papers No. 117 “Fintech and the digital transformation of financial services: implications for market structure and Policy, July 2021, at <https://www.bis.org/publ/bppdf/bispap117.htm>.

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