U.S. GOVERNMENT ACCOUNTABILITY OFFICE
441 G St. N.W.
Washington, DC 20548

Comptroller General
of the United States

April 30, 2024

The Honorable Martin J. Gruenberg
Chairman
Federal Deposit Insurance Corporation
550 17th St., N.W.
Washington, D.C. 20429

Priority Open Recommendations: Federal Deposit Insurance Corporation

Dear Chairman Gruenberg:

The purpose of this letter is to provide an update on the overall status of the Federal Deposit Insurance Corporation's (FDIC) implementation of our recommendations and to call your continued personal attention to areas where open recommendations should be given high priority.[1] In November 2023, we reported that, government-wide, 75 percent of our recommendations made 4 years ago were implemented.[2] FDIC's recommendation implementation rate was 67 percent. As of April 2024, FDIC had 12 open recommendations. Fully implementing these open recommendations could significantly improve FDIC's efforts to oversee more effectively the safety and soundness of the U.S. banking system and risks to consumers.

In our August 2023 letter, we noted that two of our open recommendations were priority recommendations. Since that time, FDIC has not implemented these recommendations. We ask that you continue to direct your attention to these open priority recommendations, which are related to blockchain technology and financial technology (fintech). We are not adding any new priority recommendations this year. (See the enclosure for the list of recommendations.)

The two priority recommendations fall into the following two areas:

Blockchain technology. Volatility, bankruptcies, and instances of fraud in the crypto asset markets illustrate the harm consumers and investors may suffer without adequate protections. We recommended that FDIC and other financial regulators jointly establish or adapt an existing formal coordination mechanism to identify and address blockchain-related risks. FDIC neither agreed nor disagreed with the recommendation but noted it coordinated through the Financial Stability Oversight Council, the President's Working Group, and other venues. In February 2024, FDIC reiterated that it has continued to participate in coordination mechanisms, domestically and internationally, to address risks of banks engaging in blockchain-based crypto-asset related activities and to provide regulatory responses as needed. However, the regulators'

[1]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 operations—for example, by realizing large dollar savings; eliminating mismanagement, fraud, and abuse; or making progress toward addressing a high-risk or duplication issue.

[2]GAO, *Performance and Accountability Report: Fiscal Year 2023*, GAO-24-900483 (Washington, D.C.: Nov. 15, 2023).

coordination efforts have not always addressed risks posed by crypto assets in a timely manner. By implementing our recommendation, FDIC and other 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.

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 the FDIC, 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.

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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.[3] One of our high-risk areas—modernizing the U.S. financial regulatory system—relates directly to FDIC. 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 FDIC and its operations. These areas include (1) improving the management of IT acquisitions and operations, (2) strategic human capital management, (3) managing federal real property, (4) ensuring the cybersecurity of the nation, and (5) government-wide personnel security clearance process.

We urge your attention to these government-wide, high-risk issues related to FDIC. Progress on high-risk issues has been possible through the concerted actions and efforts of Congress, the Office of Management and Budget, and the leadership and staff in agencies, including within FDIC. 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.[4]

In addition to your continued 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 includes 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.[5]

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[3]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).

[4]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).

[5]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)).

Congress can use various strategies to address our recommendations, such as incorporating them into legislation. Congress can also use its oversight processes to incentivize FDIC to act on our recommendations and monitor its progress. For example, Congress can hold hearings focused on FDIC's progress in implementing GAO's priority recommendations or take other actions to provide incentives for FDIC to act. As relevant here, Congress held hearings in 2023 during which federal banking regulators testified about crypto asset and fintech issues, which are topic areas related to GAO's priority recommendations. 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 the FDIC explicit authority to implement a recommendation or requiring FDIC 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 Priority Open Recommendation Letters | U.S. GAO.

I appreciate FDIC's continued 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 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 12 open recommendations, as well as those recommendations in the high-risk areas for which FDIC has a leading role. Thank you for your attention to these matters.

Sincerely,

Gene L. Dodaro
Comptroller General
of the United States

Enclosure

cc: The Honorable Shalanda Young, Director, Office of Management and Budget

Enclosure

Priority Open Recommendations to the Federal Deposit Insurance Corporation

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 Chairman of the FDIC should jointly establish or adapt an existing formal coordination mechanism with the Consumer Financial Protection Bureau, Commodity Futures Trade Commission, Board of Governors of the Federal Reserve System, National Credit Union Administration, Office of the Comptroller of the Currency, 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: FDIC neither agreed nor disagreed with the recommendation but noted it coordinated through venues including the Financial Stability Oversight Council, the President's Working Group, and some international organizations. In February 2024, FDIC reiterated that it has continued to participate in coordination mechanisms, domestically and internationally, to address risks of banks engaging in blockchain-based crypto-asset related activities and to provide regulatory responses as needed. 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.

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

Contact information: 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: 2018

Recommendation: The Chairman of the FDIC 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 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: FDIC agreed with the recommendation. In June 2023, FDIC, along with the Board of Governors of the Federal Reserve System and the Office of the Comptroller of the Currency, issued interagency guidance on third-party risk management. According to the regulators, they believe the guidance fulfills the recommendation. But the guidance does not include specific direction to banks that engage in third-party relationships with fintech lenders on the appropriate use of alternative data in the underwriting process. Rather, the guidance broadly applies to all topics and third-party relationships. Accordingly, it does not address specific topics, such as use of alternative data, or specific types of third-party relationships, such as relationships with fintech companies.

Although the regulators helped to clarify third-party risk management in their June 2023 guidance, to fully implement our recommendation, FDIC needs to provide—in coordination with other federal banking regulators and the Consumer Financial Protection Bureau—finalized written communication that gives banks specific direction on the appropriate use of alternative data in the underwriting process when partnering with fintech lenders. Such communication 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.

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

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