

# THE THREE DIMENSIONS OF FINTECH: AN ANALYTIC FRAMEWORK

July 2022



RICHMAN  
CENTER

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# Here's the Question We'll Consider...

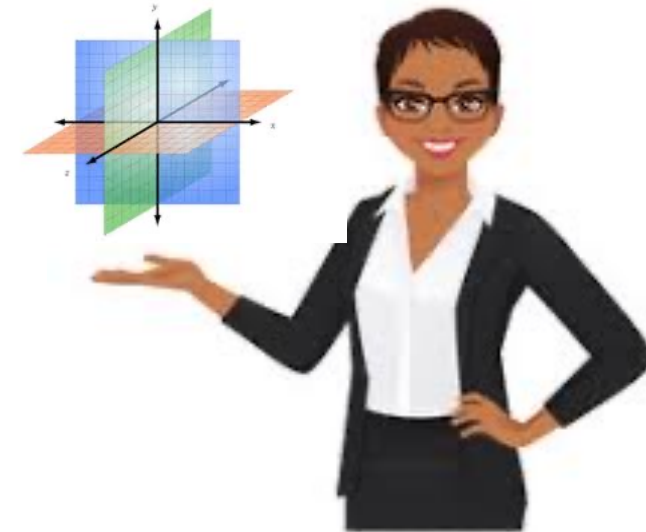
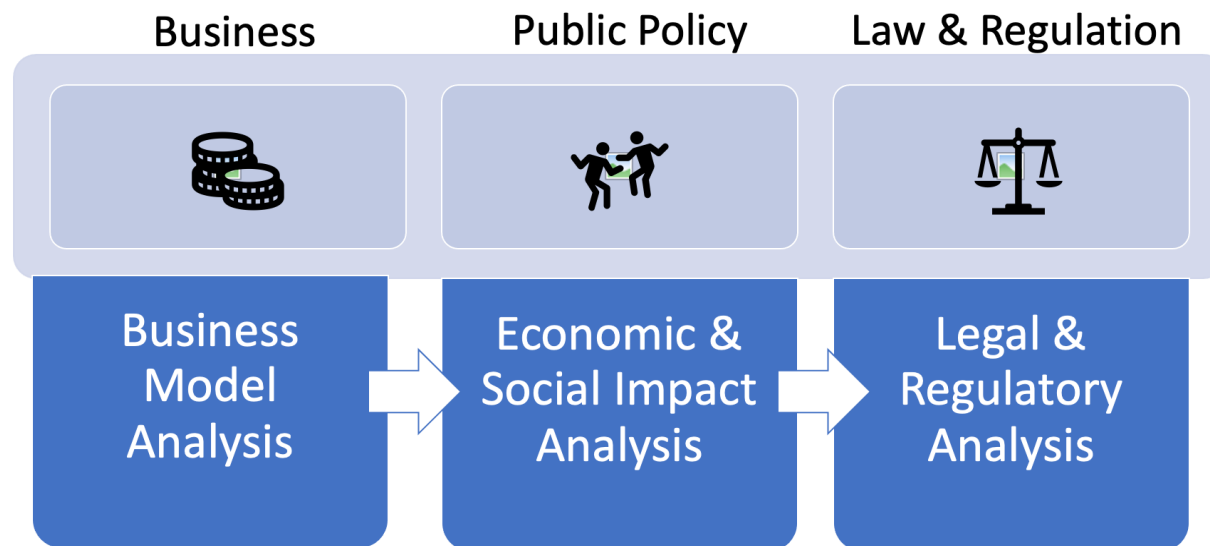
- An Entrepreneur Pitches a New Consumer Fintech Idea to You and Asks for Advice...
- How Do You Respond?





This Course Will Give You the Tools to Answer the  
Question---in **Three Dimensions**

## FinTech Analysis in a Nutshell



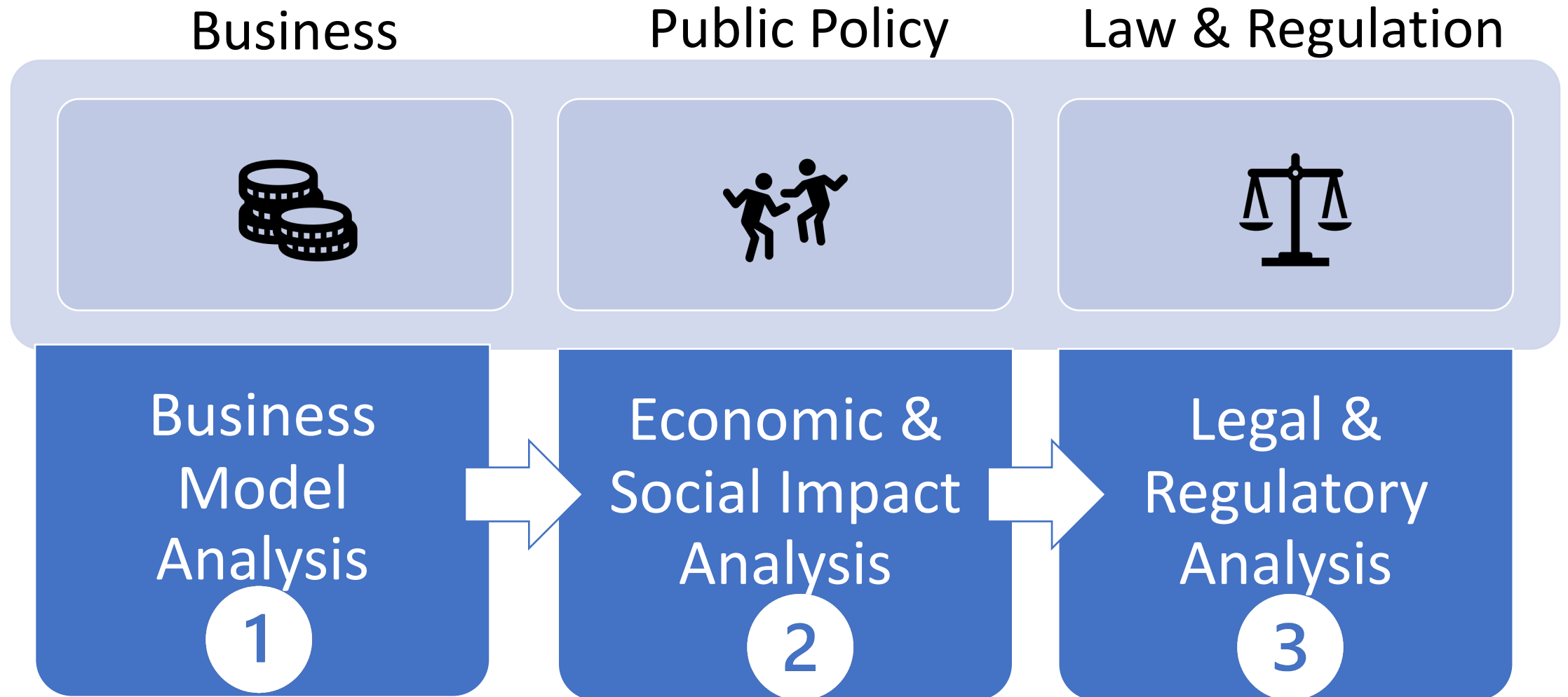


So, Let's Start



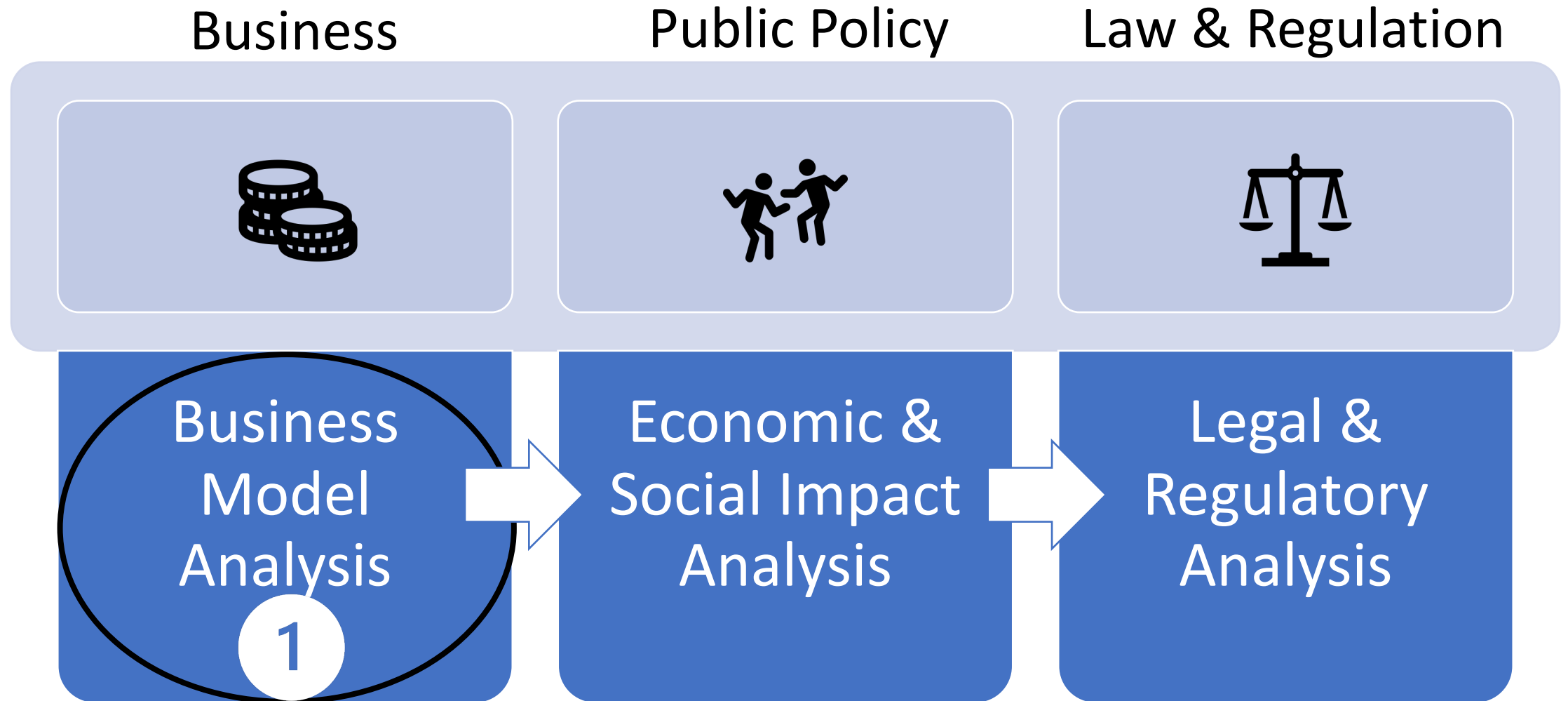


# The 3-Dimension FinTech Framework





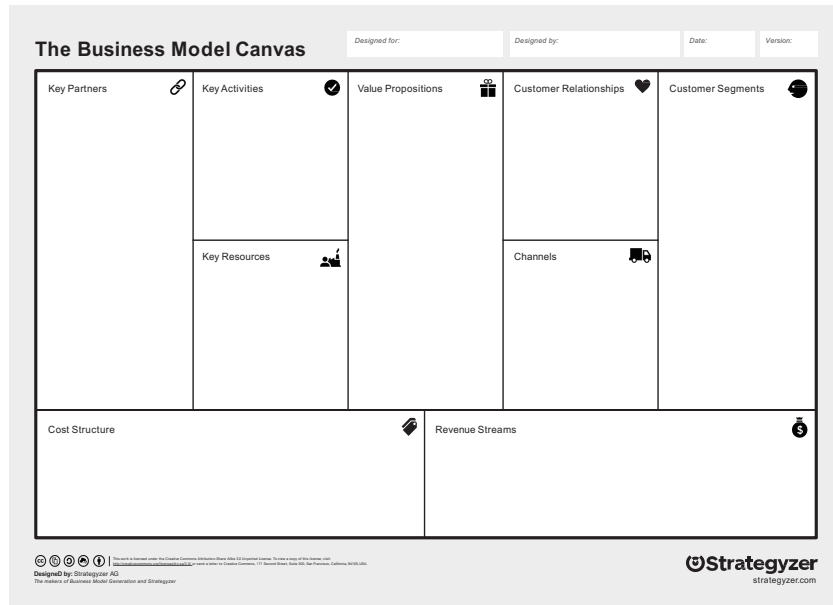
# 1<sup>st</sup> Dimension: Business Model Analysis





# 1 Tools for FinTech Business Model Analysis

## 1A: Canvas



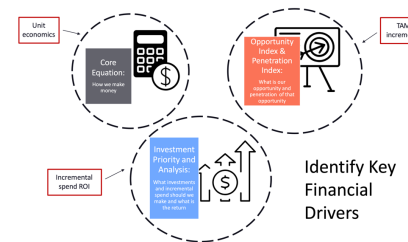
## 1B: Supplements



## 1C: Risks

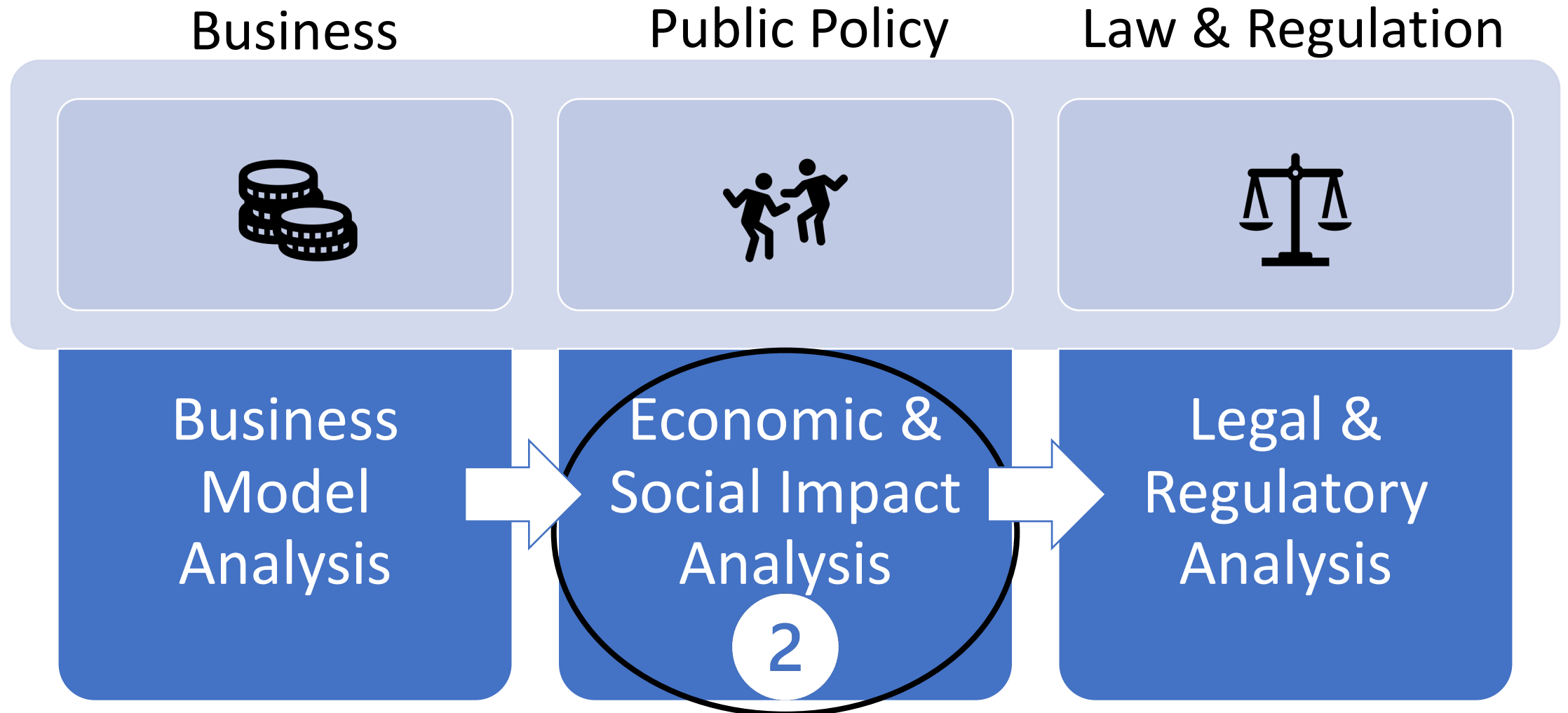
**Financial Services Risks:**

- Credit risk
- Market risk
- Operational risk
- Liquidity (Funding) risk
- Reputational risk
- Legal, regulatory & political risk
- Data/AI risk
- Systemic risk





## 2<sup>nd</sup> Dimension: Public Policy Analysis





# 2

## Policy Screens for Consumer FinTech

### Utility/Scalability

- Utility: Cost/Avoidance vs. Alternatives
- Delivery at Scale Possible?

### Inclusivity/Exclusivity

- Wealth/Income/Race/Ethnicity/Sex/Disability

### Alignment Analysis

- The incentives imbedded in a fintech business and/or product model and consumer interests

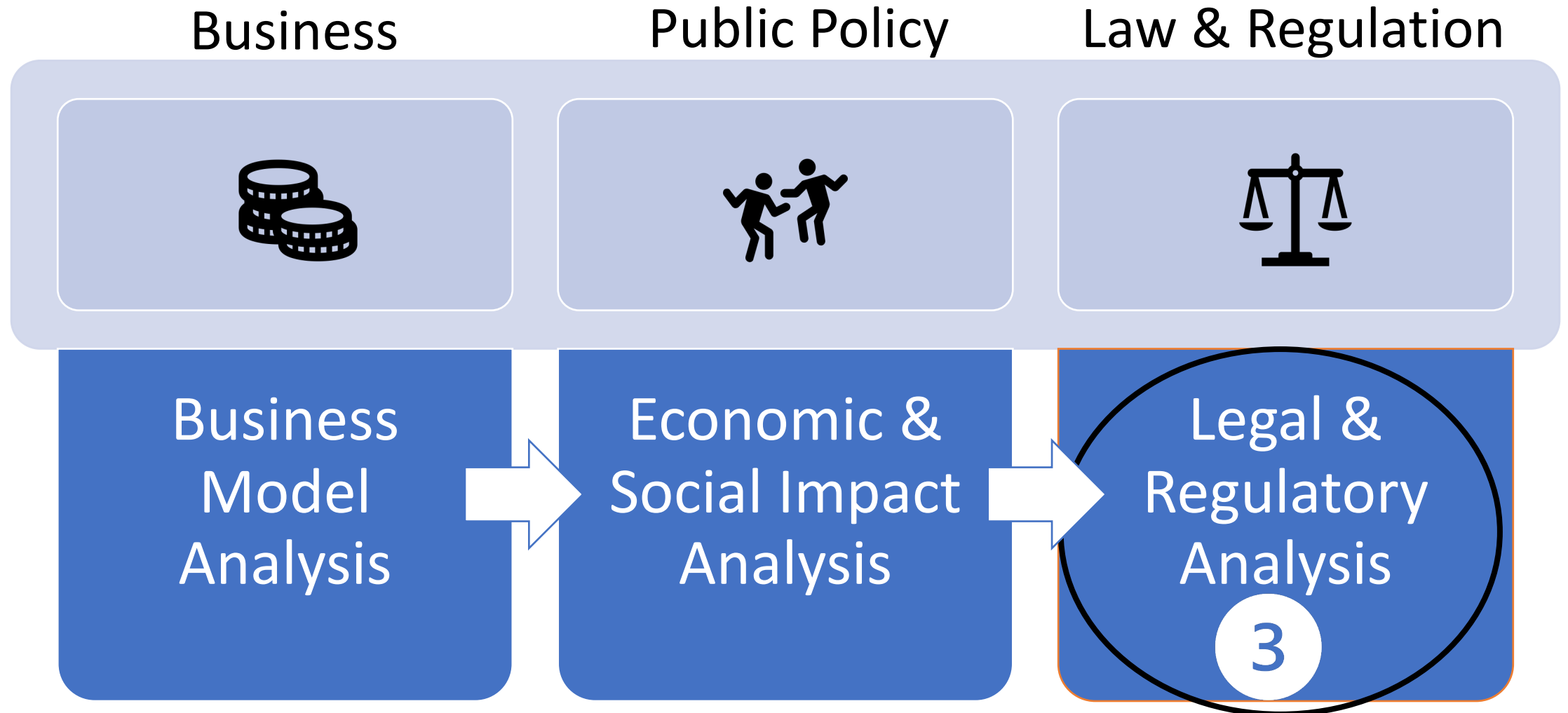
### Data Utilization

- Source/Privacy/Control

### Systemic Impact



# 3<sup>rd</sup> Dimension: Legal/Regulatory Analysis

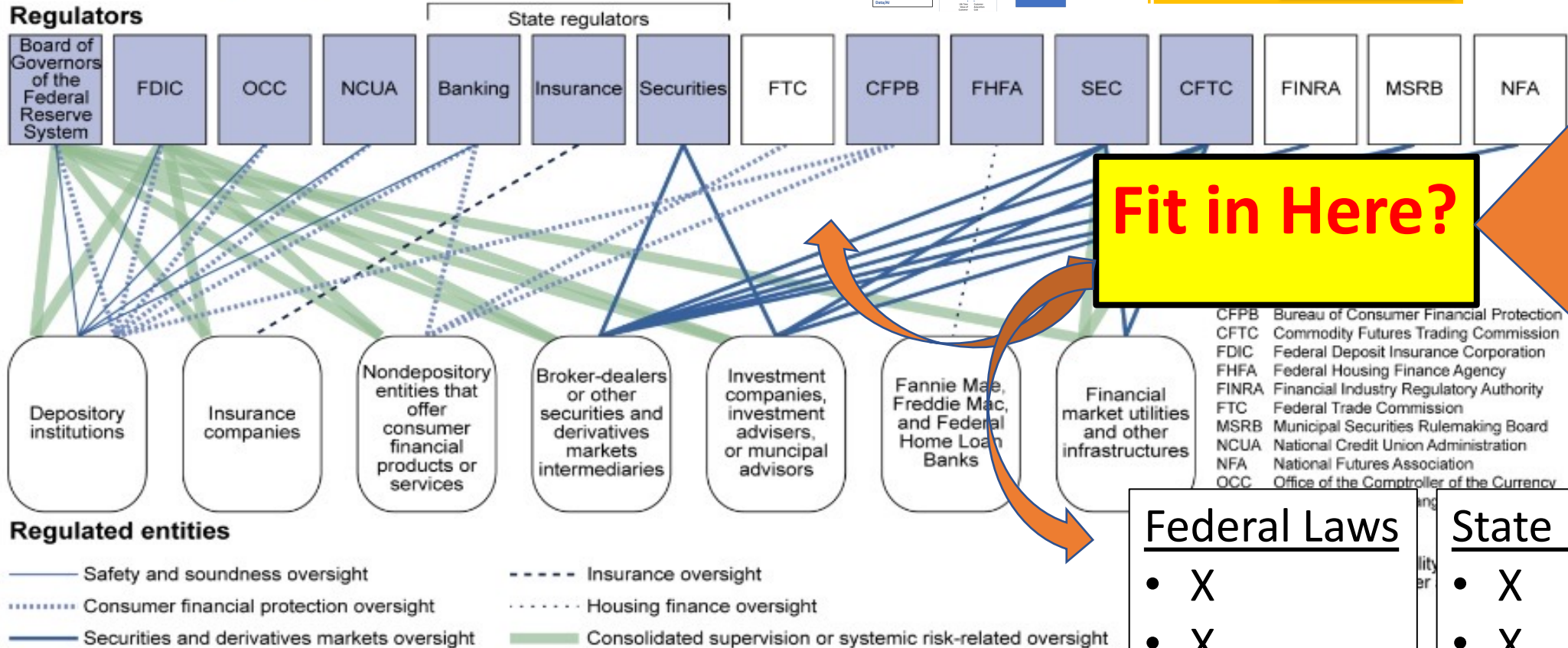




# 3 Tools for Legal/Regulatory Analysis

How Do These...

U.S. Financial Regulatory Structure, 2016



Source: GAO. | GAO-16-175

Note: This figure depicts the primary regulators in the U.S. financial regulatory structure, as well as their primary oversight. The term "primary" generally refers to entities that have rulemaking, supervisory, and enforcement authorities over financial institutions. This figure does not include all agencies involved in regulating the financial markets and there may be other possible regulatory connections to

Fit in Here?

## Federal Laws

- X
- X
- X
- X

## State Laws

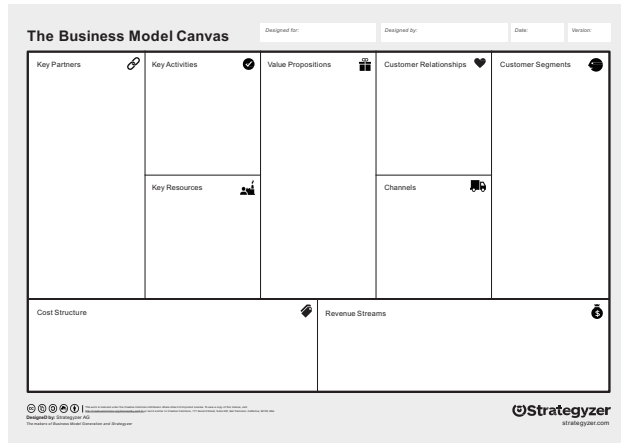
- X
- X
- X
- X





# Business Model Analysis





# Business Model Analysis 1A: The Business Model Canvas

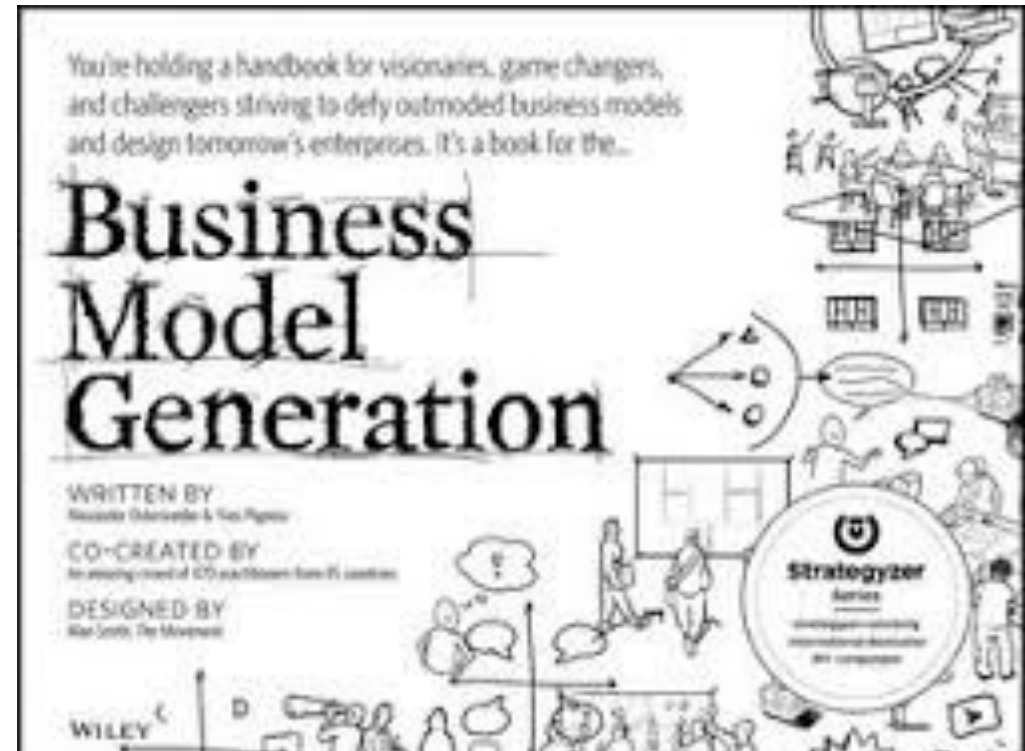


# INTRODUCING THE BUSINESS MODEL CANVAS

A strategic management tool for developing new or documenting existing **business models**.

A visual chart with elements describing a firm's or product's value proposition, infrastructure, customers, and finances

Created by Alexander Osterwalder & Yves Pigneur





# 9 building blocks

9 blocks cover the 4 main areas of a business

- Customers
- Offer
- Infrastructure
- Financial Viability



# The Business Model Canvas

Designed for:

Designed by:

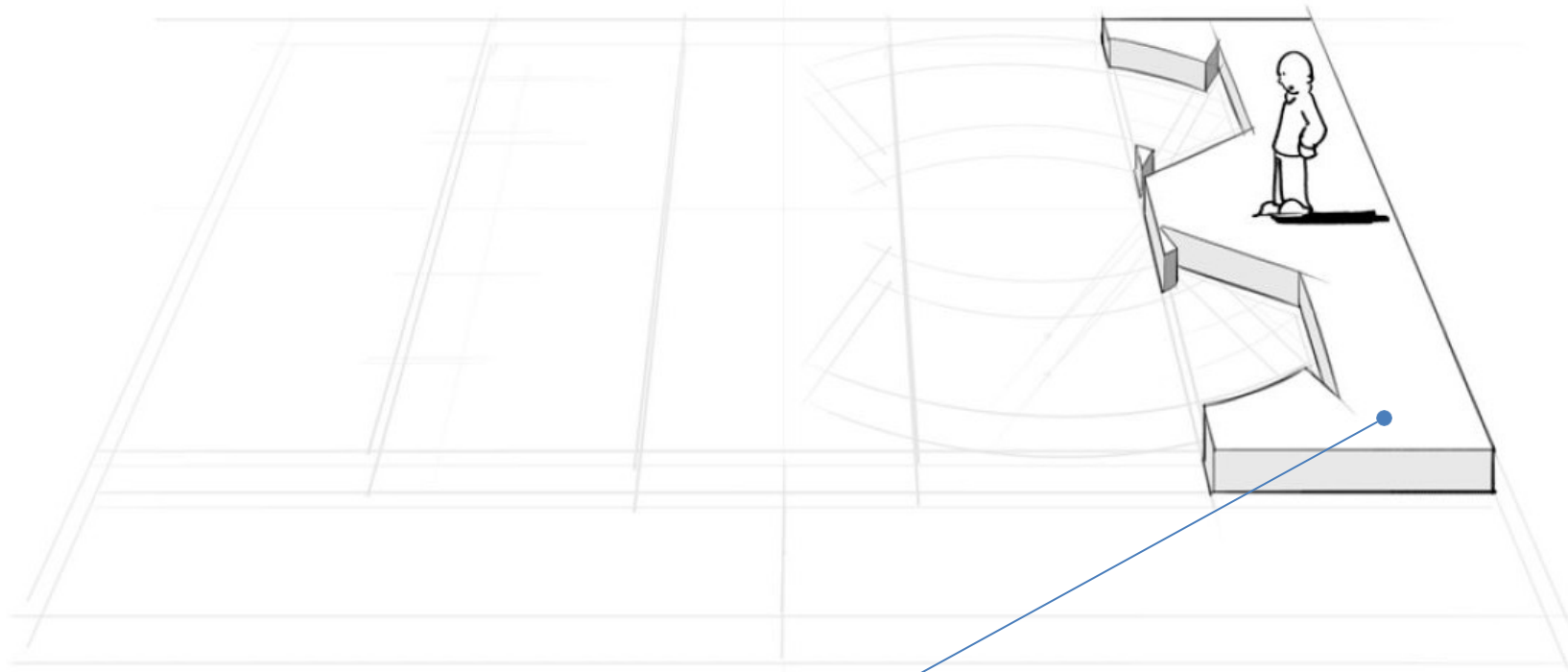
Date:

Version:

<div>Key Partners</div> <div>8</div>	<div>Key Activities</div> <div>7</div>	<div>Value Propositions</div> <div>2</div>	<div>Customer Relationships</div> <div>4</div>	<div>Customer Segments</div> <div>1</div>
	<div>Key Resources</div> <div>6</div>		<div>Channels</div> <div>3</div>	
<div>Cost Structure</div> <div>9</div>			<div>Revenue Streams</div> <div>5</div>	



# Customer Segments



which customers and users are  
you serving? which jobs do they  
really want to get done?

drawings by JAM



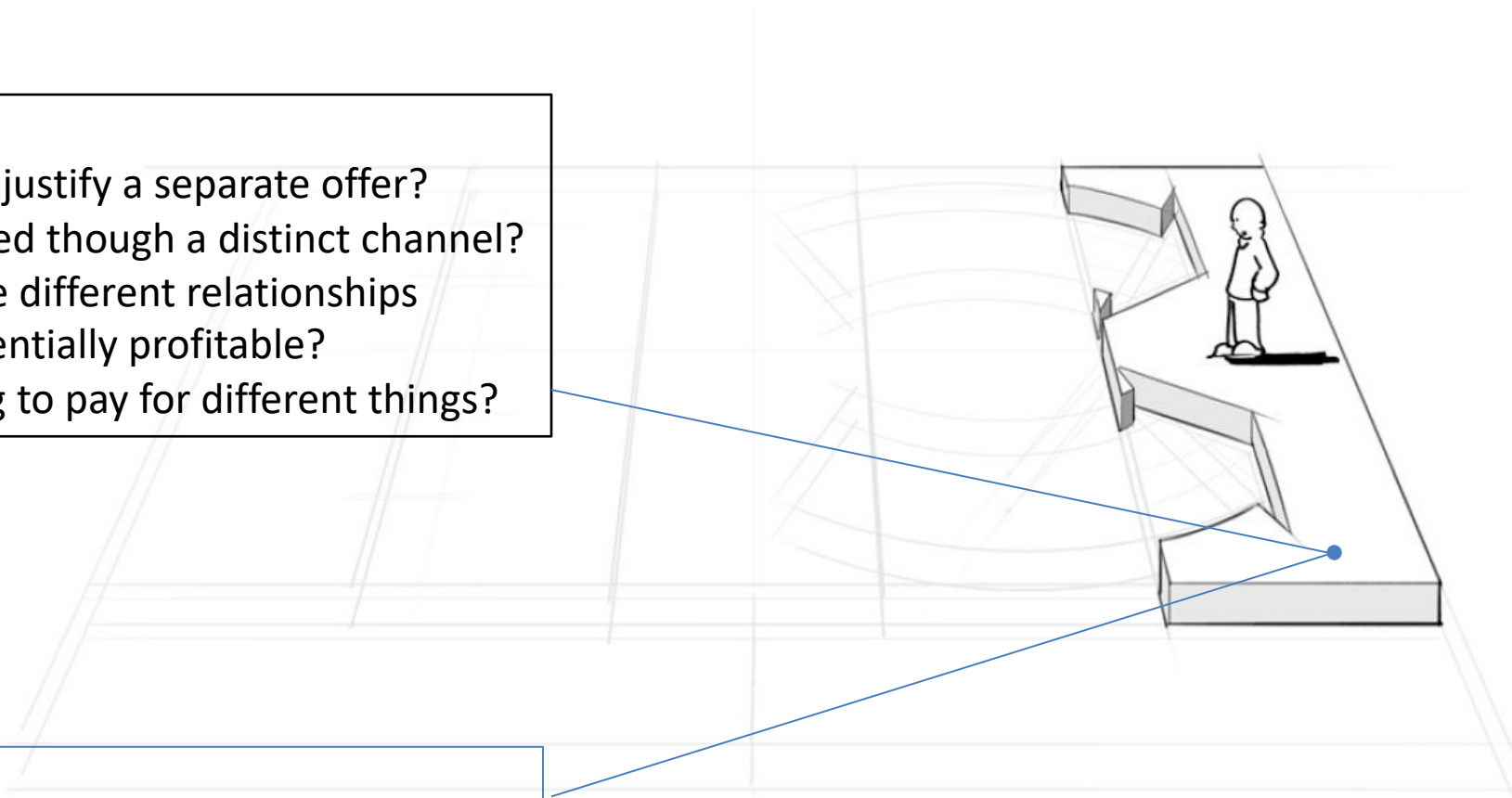
# Drilling Down: Customer Segments

## Segments

- Do their needs justify a separate offer?
- Are they reached through a distinct channel?
- Do they require different relationships
- Are they differentially profitable?
- Are they willing to pay for different things?

## Examples

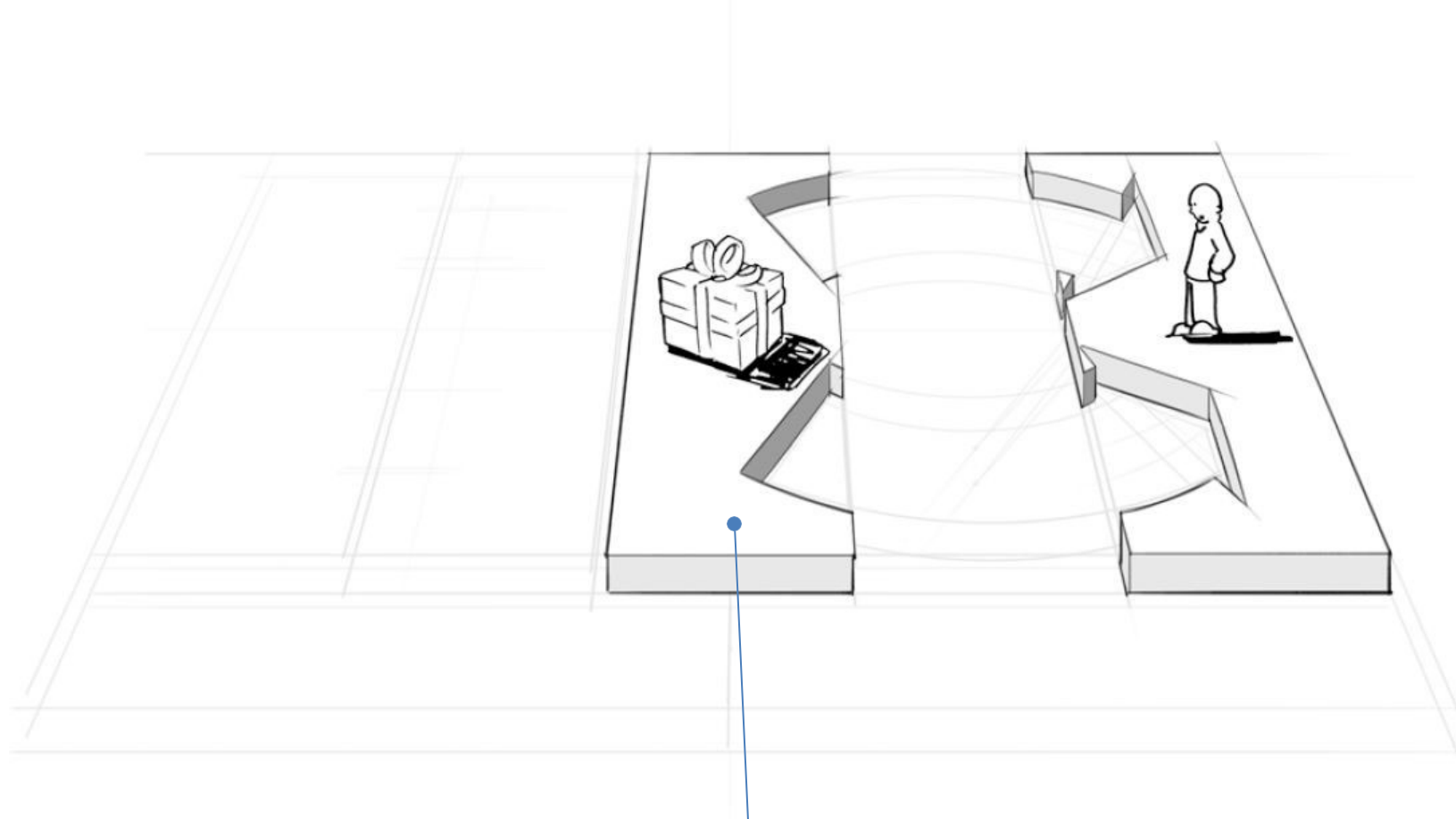
- Mass Market
- Niche Market
- Segmented
- Diversified
- Multi-Sided Platforms



drawings by JAM



# Value Proposition



what are you offering them?  
what is that getting done for  
them? do they care?

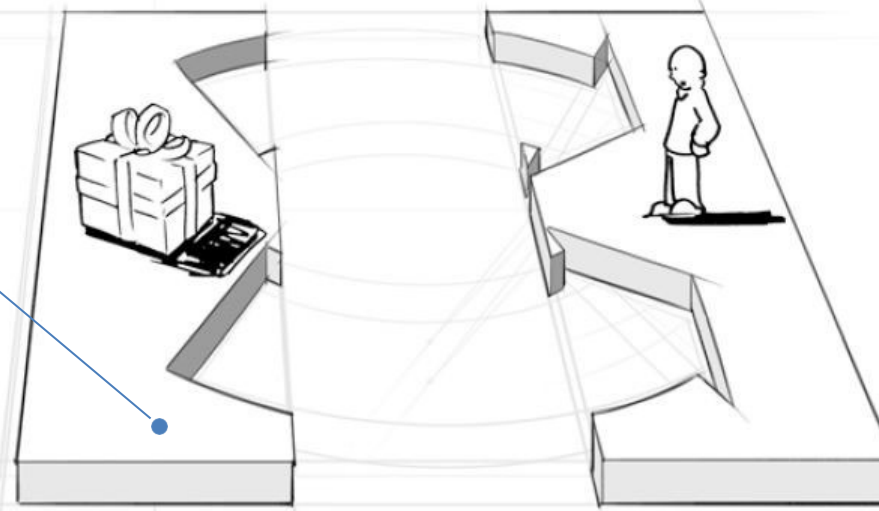
drawings by JAM



# Drilling Down: Value Proposition

## What creates value for a Segment?

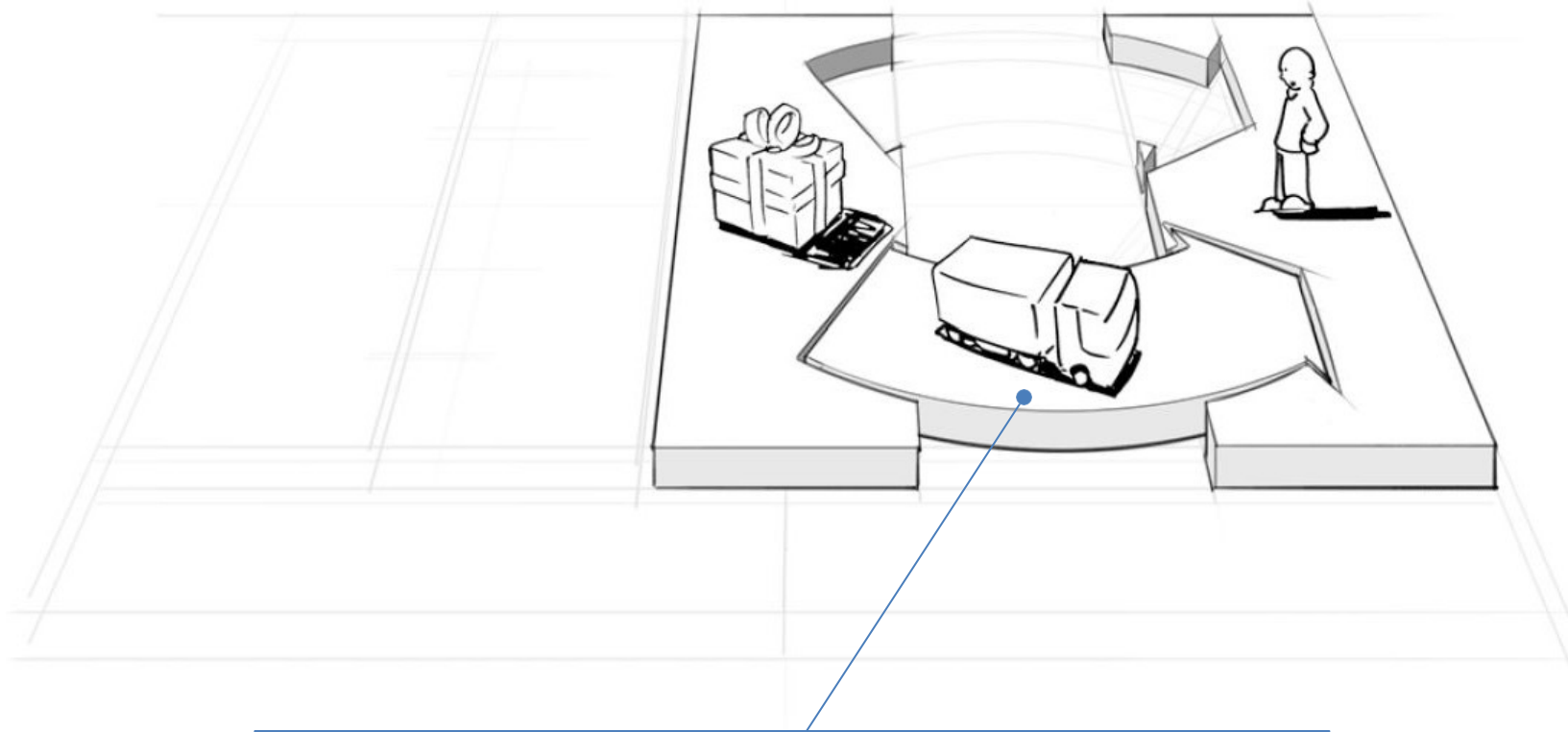
- Newness
- Performance
- Customization
- Design
- Brand/Status
- Price
- Cost Reduction
- Risk Reduction
- Accessibility
- Convenience/Usability
- “Getting the Job Done”



drawings by JAM



# Channels



how does each customer segment want to be reached? through which interaction points?

drawings by JAM



# Drilling Down: Channels

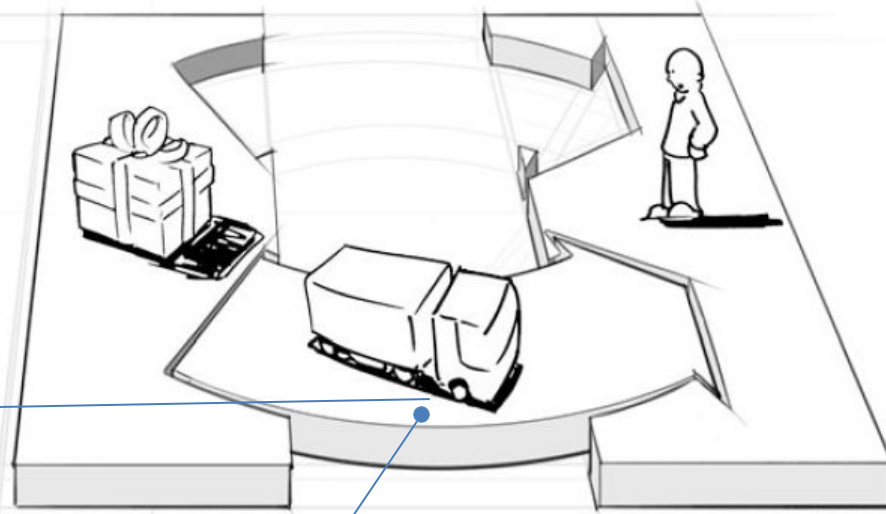
## Channel Types

- Sales Force
- Web Sales
- Phone Sales
- Own Stores
- Partner Stores
- Wholesaler

Direct/Indirect  
Partner/Owned

## Channel Phases

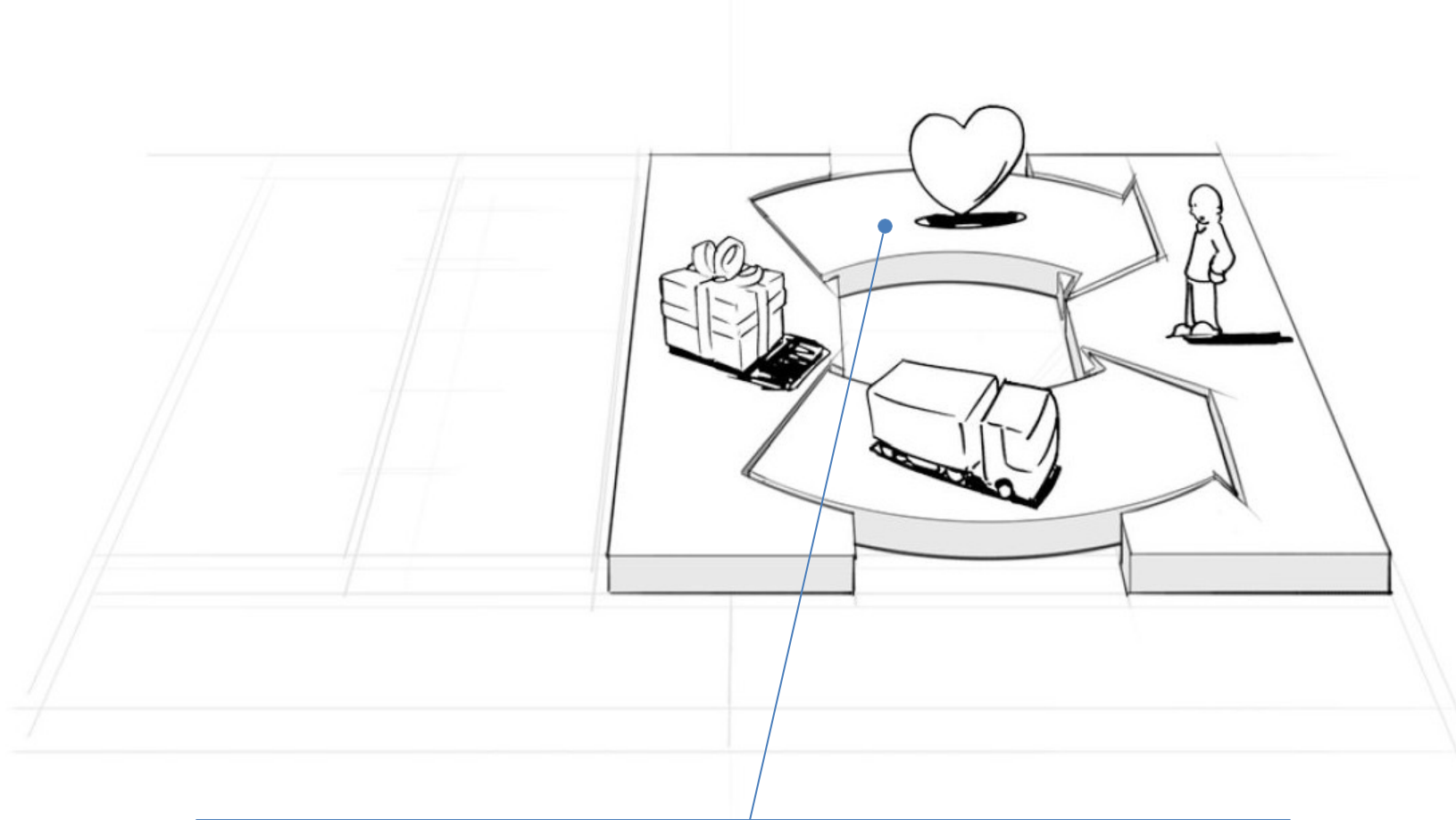
- Awareness
- Evaluation
- Purchase
- Delivery
- Customer Support



drawings by JAM



# Customer Relationships



what relationships are you establishing with each segment? personal? automated? acquisitive? retentive?

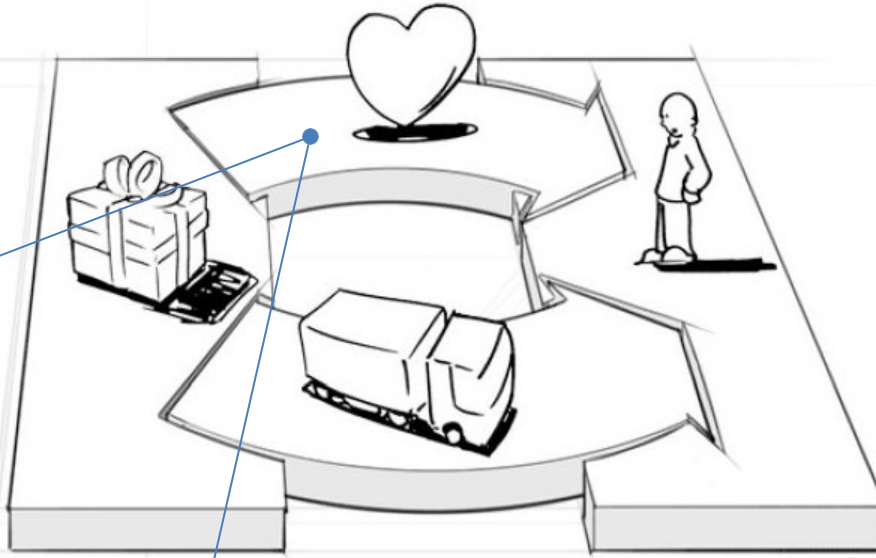
drawings by JAM



# Drilling Down: Customer Relationships

## Some Types:

- Personal Assistance
- Dedicated Personal Assistance
- Self-Service
- Automated and AI Services
- Communities
- Co-Creation



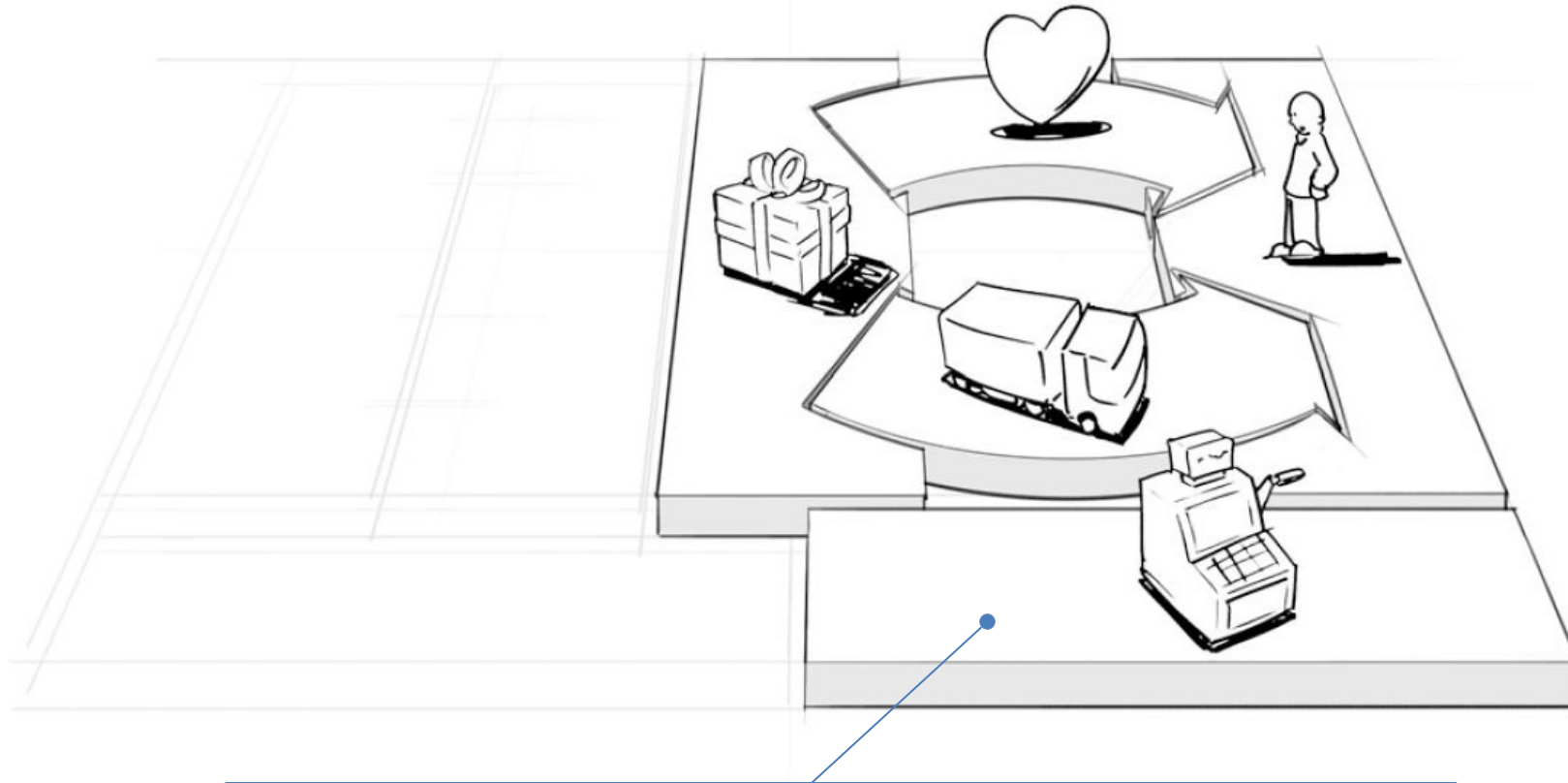
## Purpose Matters

- Customer Acquisition
- Customer Retention
- Upselling

drawings by JAM



# Revenue Streams



what are customers really willing to pay for?  
how?  
are you generating transactional or recurring  
revenues?

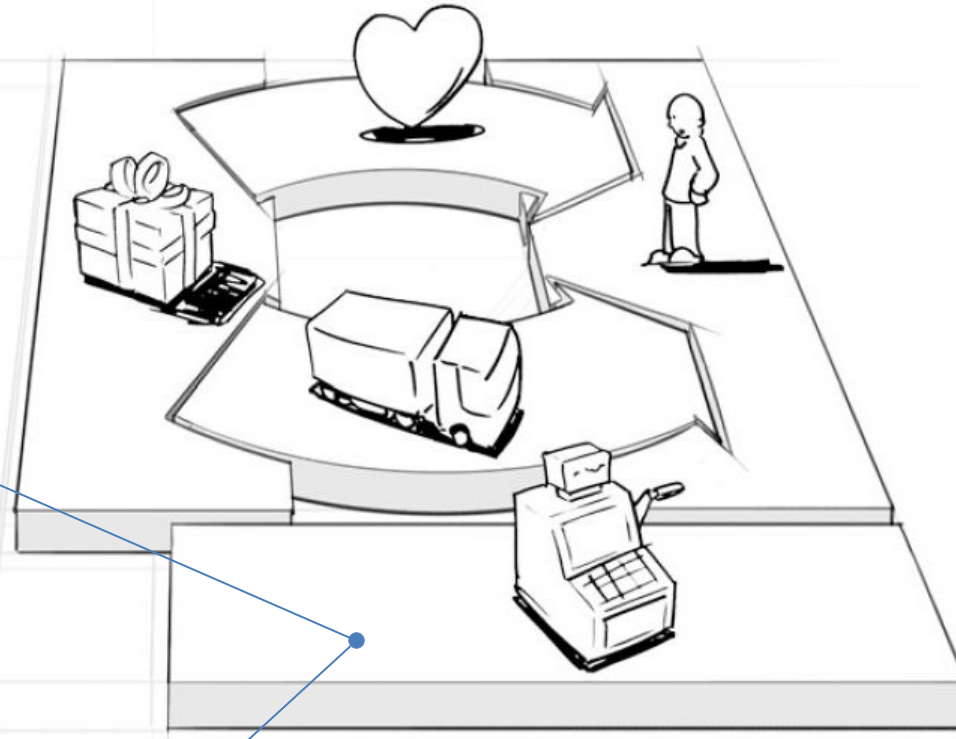
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# Revenue Streams

## Ways of Generation

- Asset Sale
- Usage Fee
- Subscription Fee
- Lending/Renting/Leasing
- Licensing
- Brokerage
- Advertising



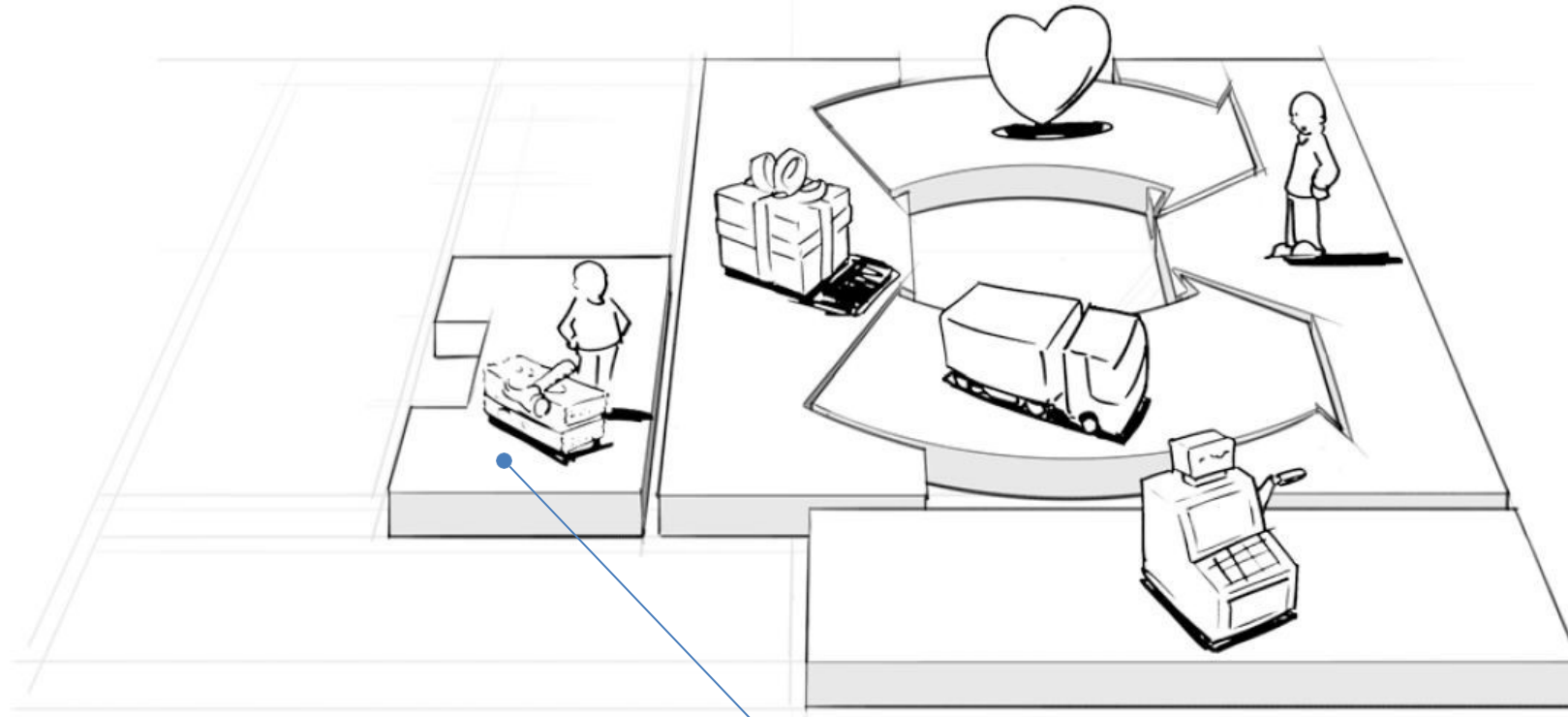
## Types of Revenue

- Transaction Revenues
- Recurring Revenues
- Fixed vs. Dynamic Pricing

drawings by JAM



# Key Resources



which resources underpin your business model? which assets are essential?

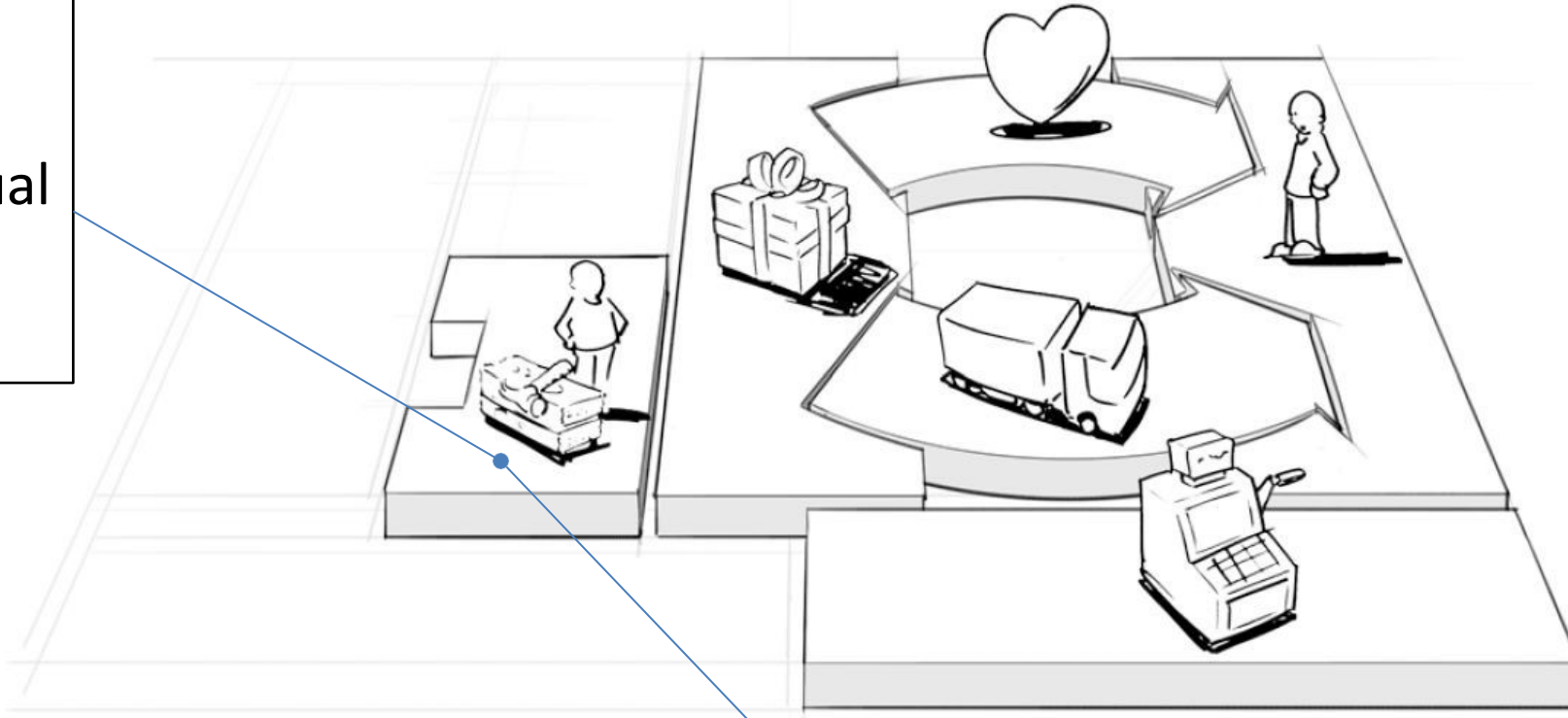
drawings by JAM



# Drilling Down: Key Resources

## Types

- Physical
- Intellectual
- Human
- Financial



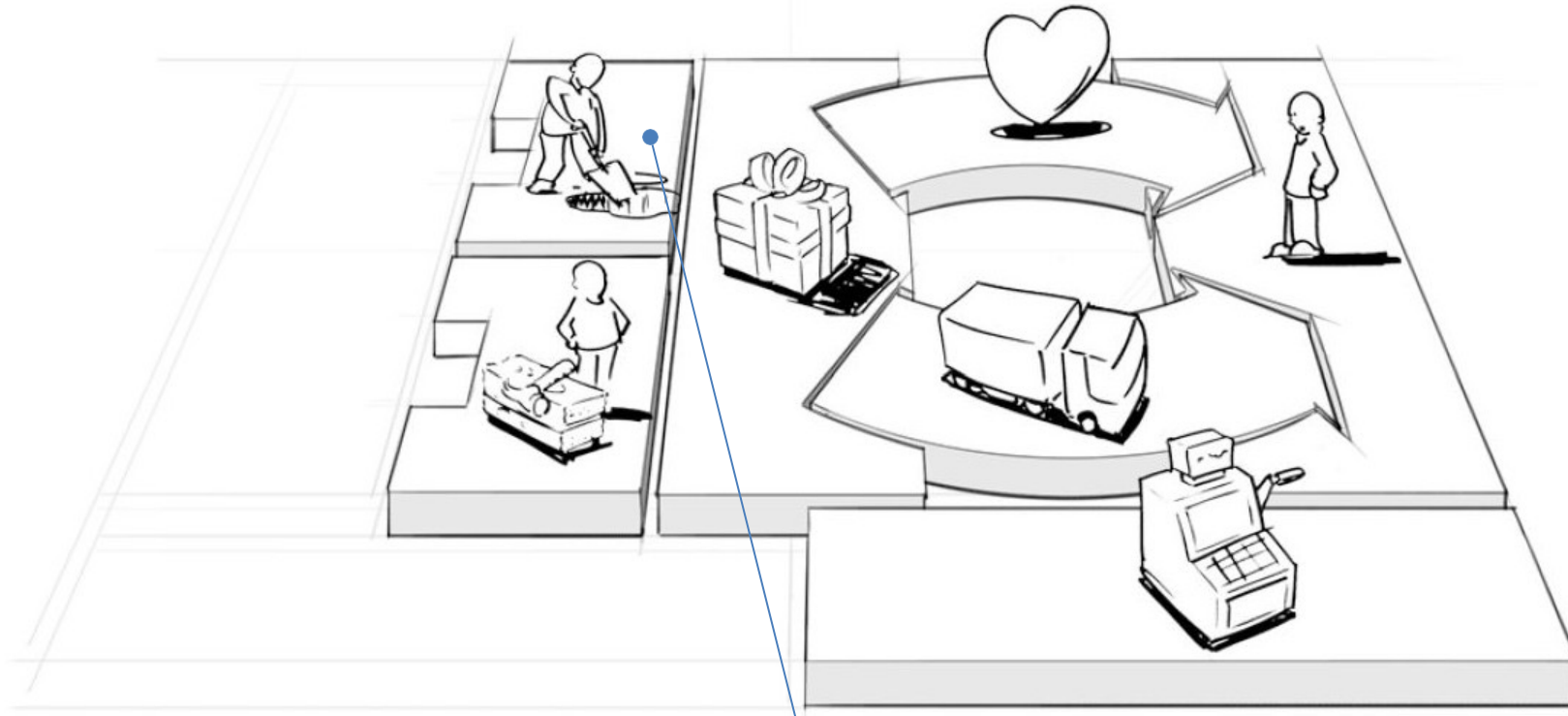
## Legal Relationship

- Owned/leased by company
- Acquired from Partners

drawings by JAM



# Key Activities

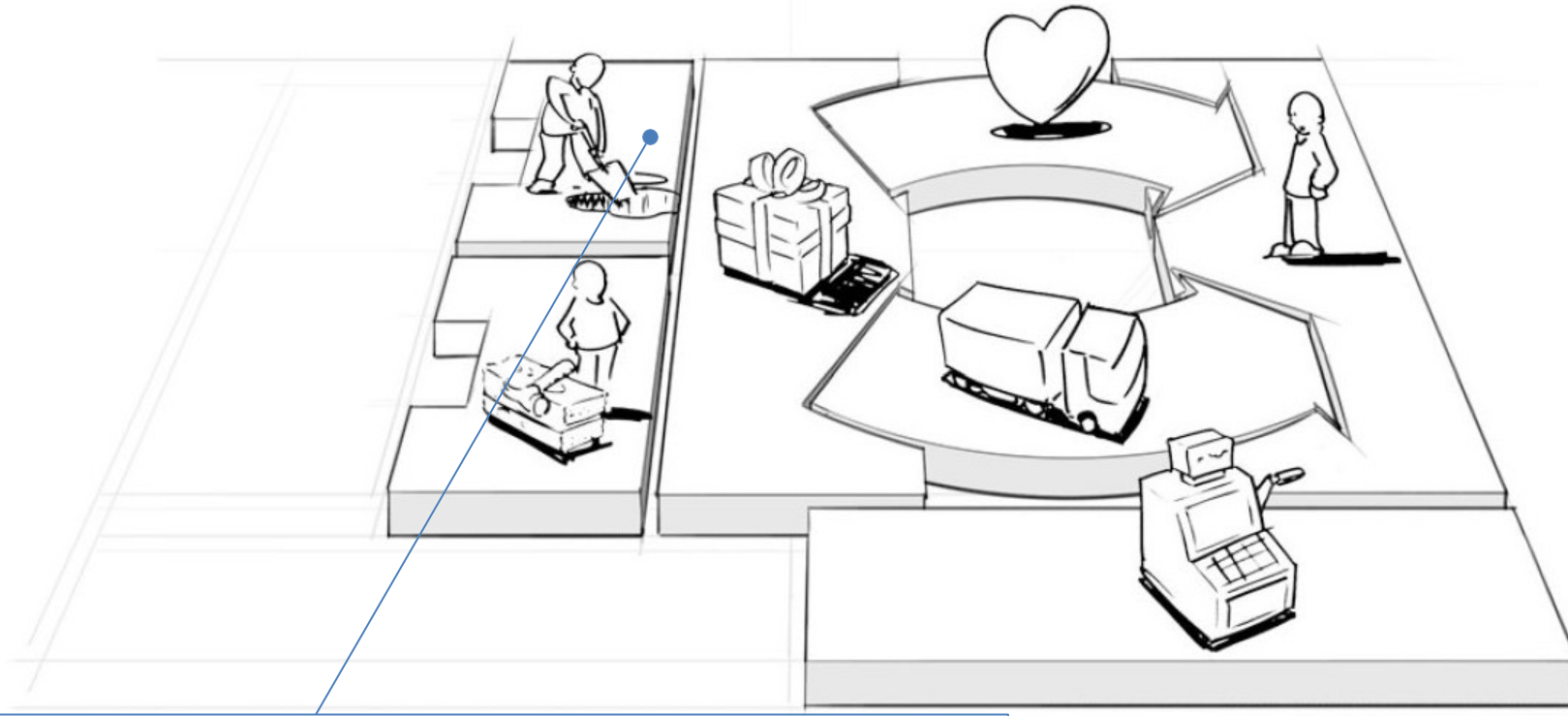


which activities do you need to perform well in your business model? what is crucial?

drawings by JAM



# Drilling Down: Key Activities



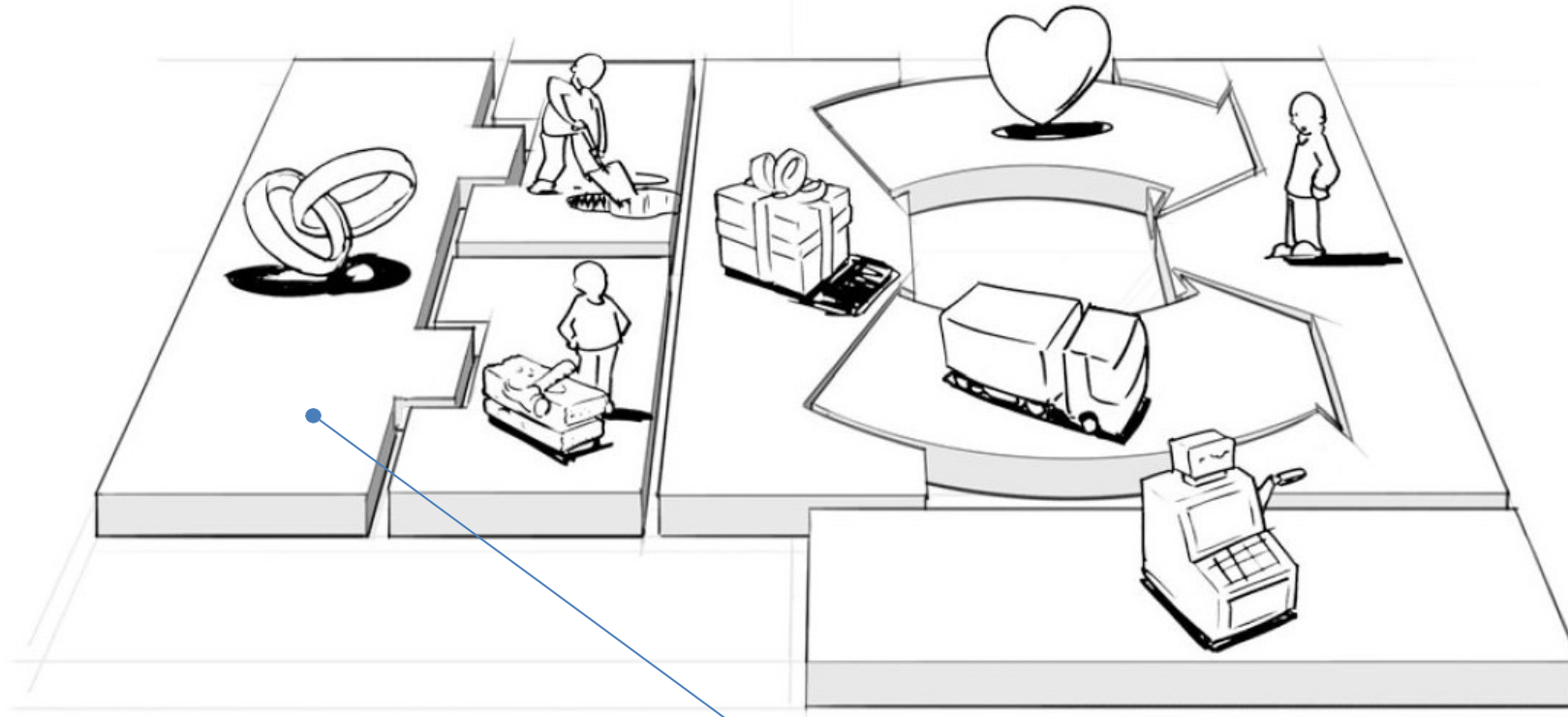
## Types

- Production
- Problem Solving
- Platform/Network Development & Management

drawings by JAM



# Key Partners

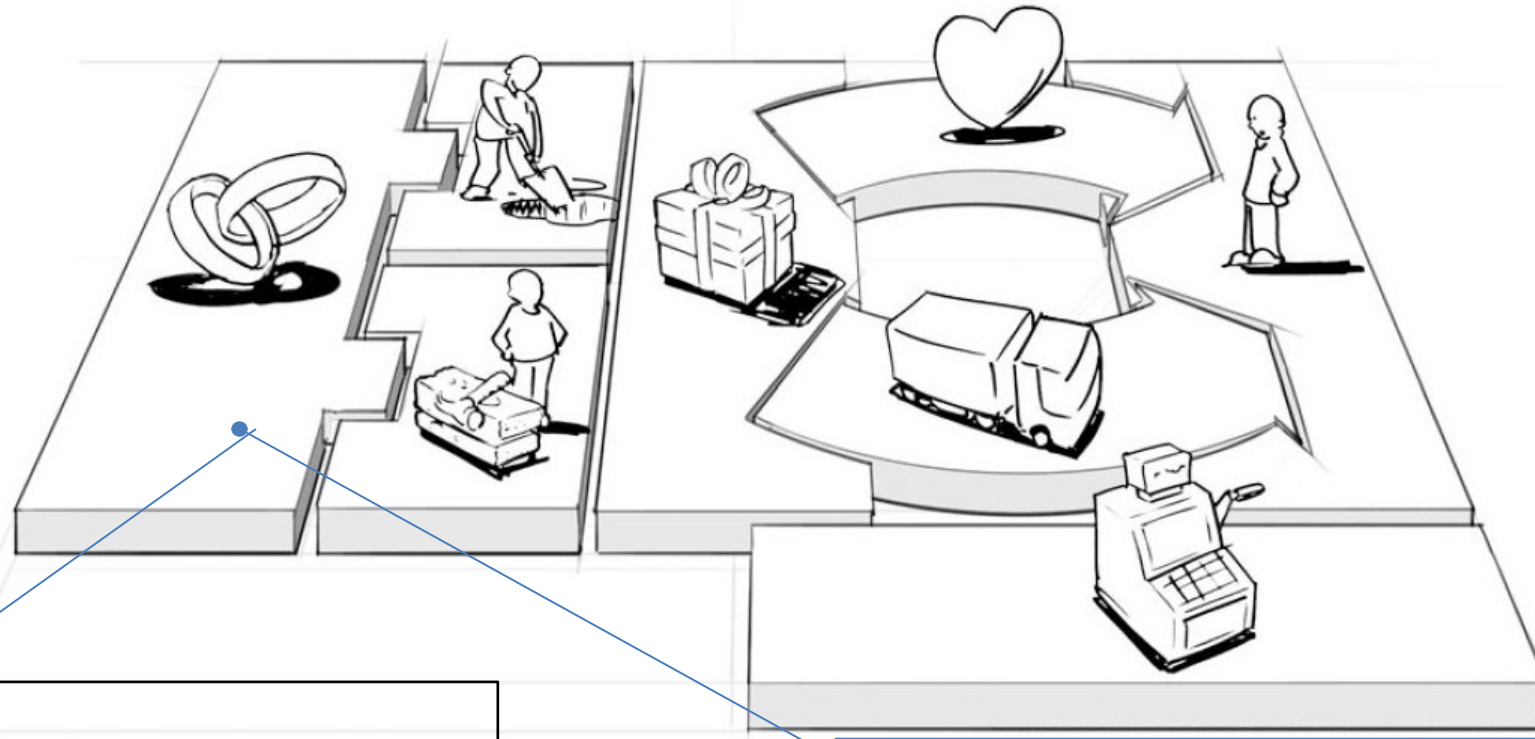


which partners and suppliers leverage your model? who do you need to rely on?

drawings by JAM



# Drilling Down: Key Partners



## Types

- Alliances with Non-Competitors
- “Coopetition” with Competitors
- JVs to Develop New Business
- Buyer/Supplier Relationships
- Regulators

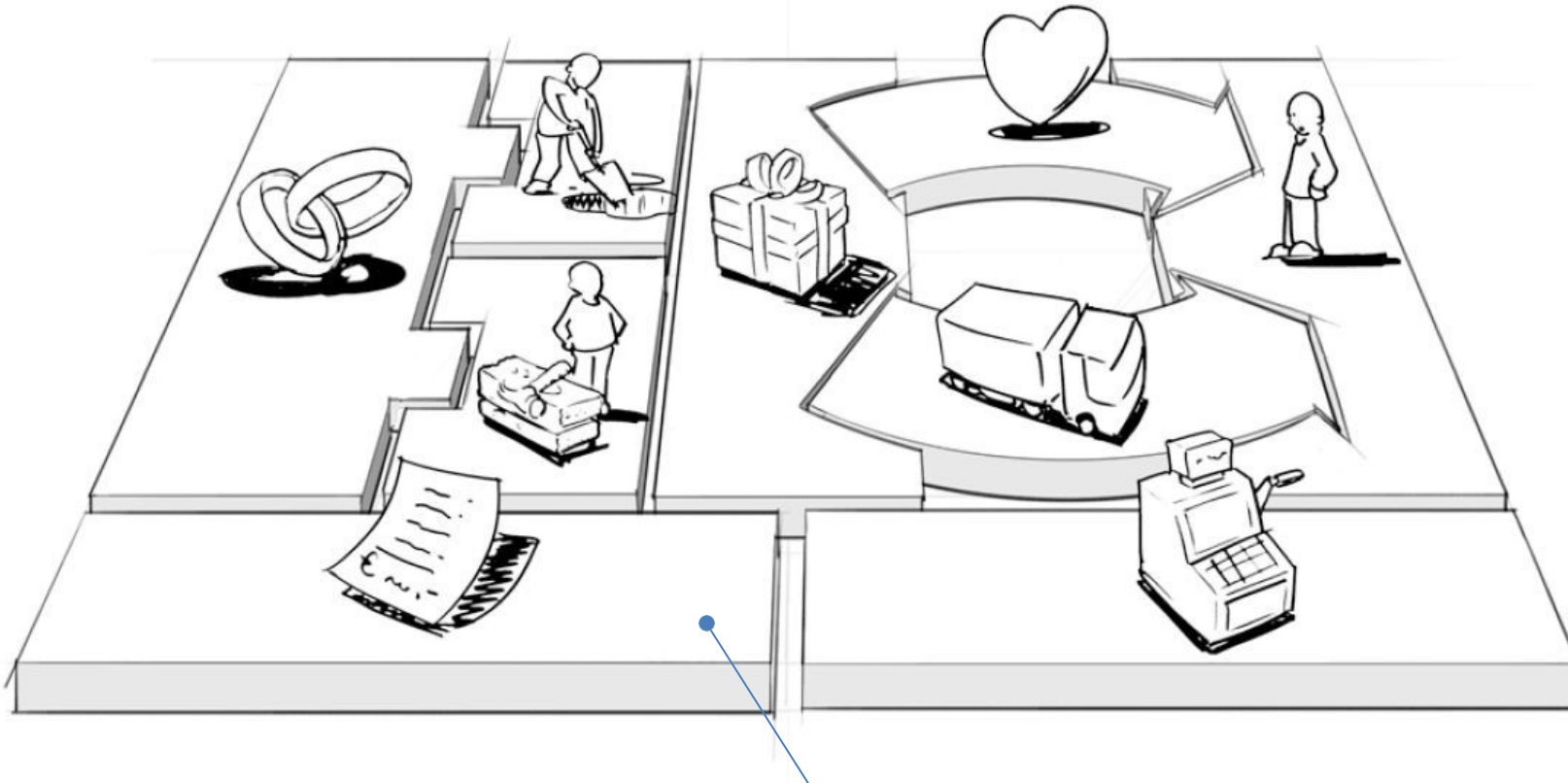
## Motivations

- Optimization/Economies of Scale
- Risk Reduction
- Acquisition of Specialized Resources/Activities

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# Cost Structure



what is the resulting cost structure? which key elements drive your costs?

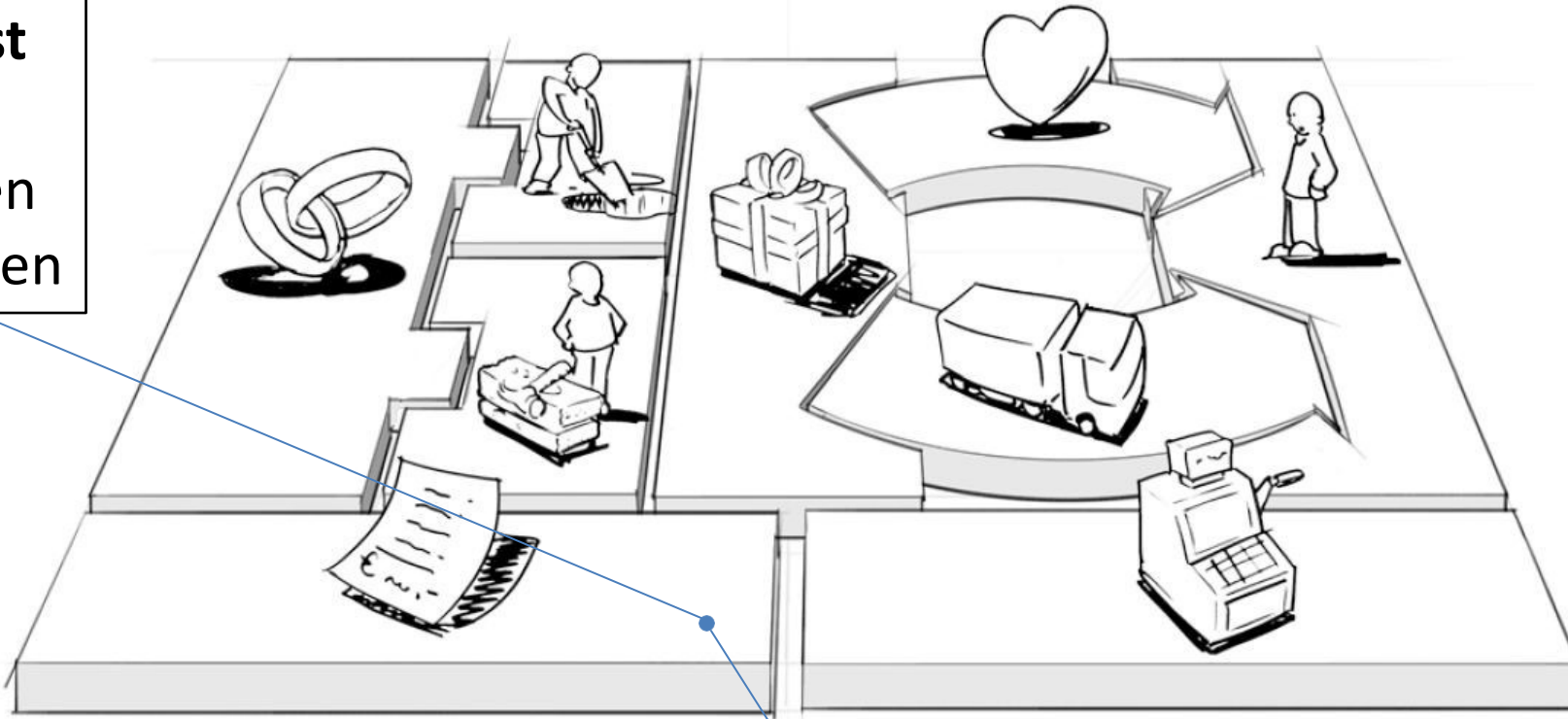
drawings by JAM



# Drilling Down: Cost Structure

## Types of Cost Structure

- Cost-Driven
- Value Driven



- Fixed Costs
- Variable Costs
- Economies of Scale
- Economies of Scope

drawings by JAM



# The Business Model Canvas

Designed for:

Designed by:

Date:

Version:

Key Partners 	Key Activities 	Value Propositions 	Customer Relationships 	Customer Segments 
	Key Resources 		Channels 	
Cost Structure 			Revenue Streams 	



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Designed by: Strategyzer AG

The makers of Business Model Generation and Strategyzer

 **Strategyzer**  
strategyzer.com



# Summarize the Canvas 1/2

- Who are the Customers?---Consumer, Business, Segmentation
- What Product Categor(ies)—Credit, Payments, Securities, Deposits, Other
- How are Products Distributed? -- Online/Mobile, Brokers, Physical Locations
- How is Company Funded?---Deposits, Short/Long Debt, Equity, Securitization
- What Revenue Sources? --Spread, Direct Fees, Subscriptions, Data “Sales,” Indirect Fees



## Summarize the Canvas 2/2










- How are Operations/Activities Run?-- Directly, Through 3<sup>rd</sup> Party “Partners”, Through Service Providers
  - What Issues Does Each Bring?
  - How is Revenue/Expense Split?
- Where is the Company Operating?—Both physically and virtually
- How Does the Company Use, Store & Protect Data?
  - Is ML or AI Being Used in the Business?
- What’s the One (or More Than One) Thing Absolutely Necessary for the Business to Thrive?



# But the Basic Canvas Sometimes Isn't Granular Enough for Our Consumer Fintech/Financial Services Needs

**The Business Model Canvas**

Designed for: \_\_\_\_\_ Designed by: \_\_\_\_\_ Date: \_\_\_\_\_ Version: \_\_\_\_\_

Key Partners 	Key Activities 	Value Propositions 	Customer Relationships 	Customer Segments 
	Key Resources 		Channels 	
Cost Structure 		Revenue Streams 		

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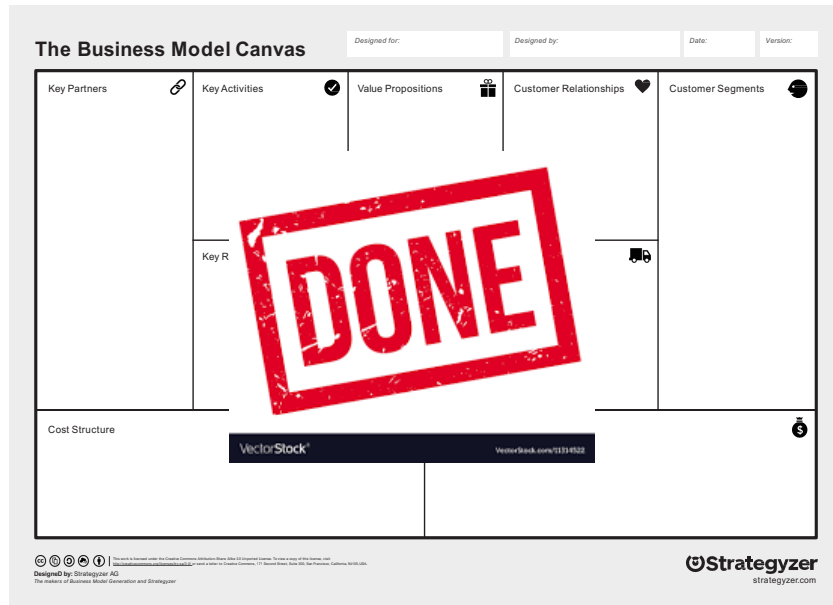




# 1

# We Need to Use Supplementary Tools

## 1A: Canvas



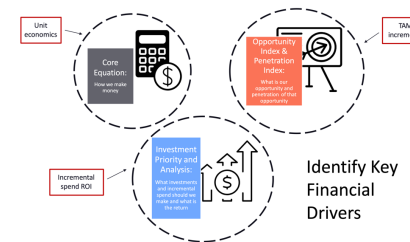
## 1B: Supplements



## 1C: Risks

**Financial Services Risks:**

- Credit risk**
- Market risk**
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- Data/AI risk**
- Systemic risk**





Key Product Insights

Customer Segment

Product Function

Product Value Prop

Pricing Structure

Who Pays/Subsidizes

Use of Banking Rails

Product Structure &

Behavior

Data/AI

# Business Model Analysis 1B: Key Product Insights



## Add “Key Product Level Insights” if Needed

- What is the Customer Segment for the Specific Product?
- What Does the Product Do?
- What is the Customer Value Proposition?
- Pricing Model for Product
- Who pays for the Product—Consumer/Advertiser/Employer/Retailer?
- Does the Product Use the Banking System and How?
- Does Product Structure Influence Behavior?
- How are Data/AI Collected and Used in Product?



# Key Product Level Insights

- Customer Segment
- Product Function
- Product Value Prop
- Pricing Structure

- Who Pays/Subsidizes
- Use of Banking Rails
- Product Structure & Behavior
- Data/AI



S STRENGTHS	W WEAKNESSES	O OPPORTUNITIES	T THREATS
<ul style="list-style-type: none"> <li>• Things your company does well</li> <li>• Qualities that separate you from your competitors</li> <li>• Internal resources such as skilled, knowledgeable staff</li> <li>• Tangible assets such as intellectual property, capital, proprietary technologies etc.</li> </ul>	<ul style="list-style-type: none"> <li>• Things your company lacks</li> <li>• Things your competitors do better than you</li> <li>• Resource limitations</li> <li>• Unclear unique selling proposition</li> </ul>	<ul style="list-style-type: none"> <li>• Underserved markets for specific products</li> <li>• Few competitors in your area</li> <li>• Emerging need for your products or services</li> <li>• Press/media coverage of your company</li> </ul>	<ul style="list-style-type: none"> <li>• Emerging competitors</li> <li>• Changing regulatory environment</li> <li>• Negative press/media coverage</li> <li>• Changing customer attitudes toward your company</li> </ul>

WordStream

# Business Model Analysis 1B: SWOT

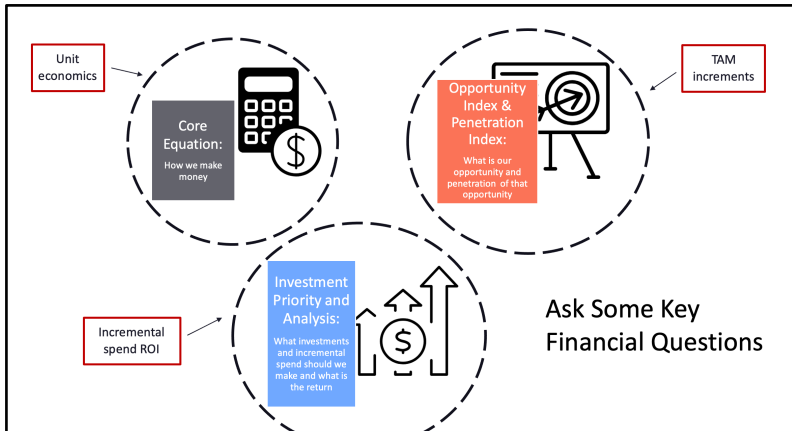


# Perform a Simple Swot Analysis

<b>S</b> <b>STRENGTHS</b>	<b>W</b> <b>WEAKNESSES</b>	<b>O</b> <b>OPPORTUNITIES</b>	<b>T</b> <b>THREATS</b>
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 WordStream





A FinTech's valuation is a function of its Life Time Value of customers, divided by Customer Acquisition Costs

$$\text{Valuation} = f(LTV/CAC)$$

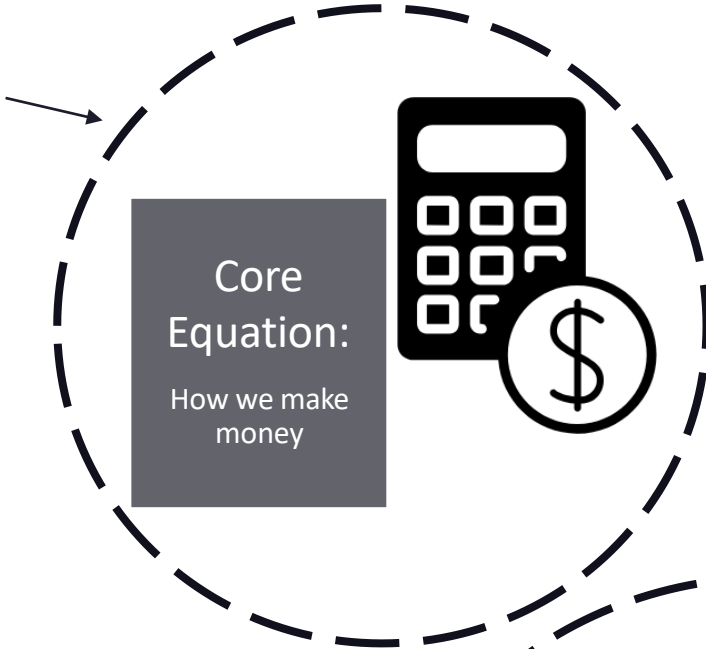
Life Time  
Value of  
Customer

Customer  
Acquisition  
Cost

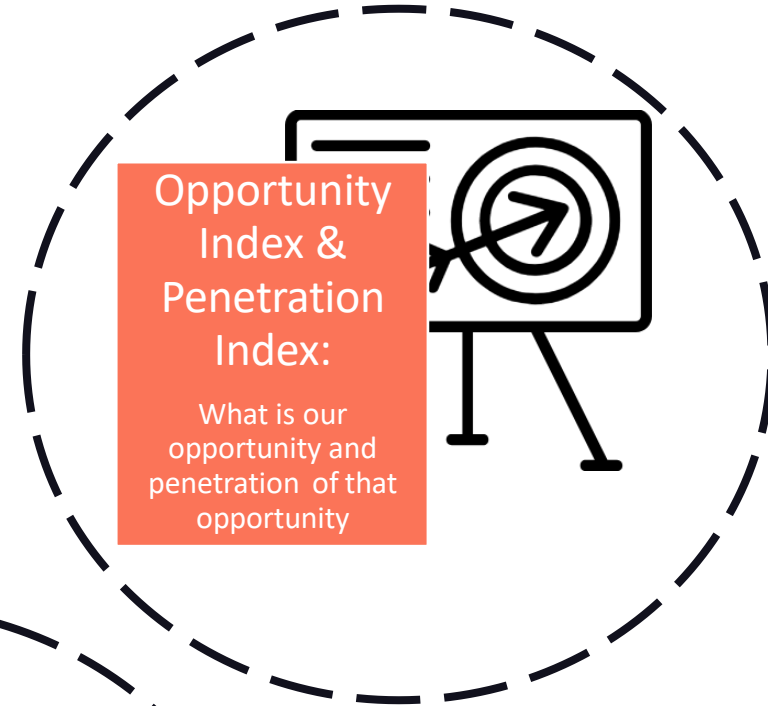
# Business Model Analysis 1B: Key Financial Drivers



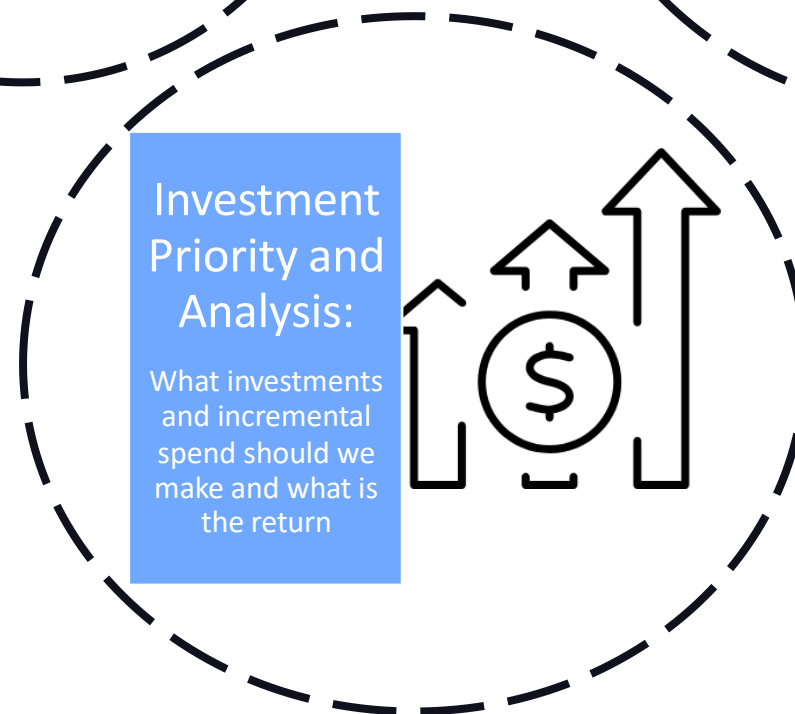
Unit economics



TAM increments



Incremental spend ROI



Identify Key Financial Drivers



A FinTech's valuation is a function of its Life Time Value of customers, divided by Customer Acquisition Costs

$$\text{Valuation} = f(LTV/CAC)$$

Life Time  
Value of  
Customer

Customer  
Acquisition  
Cost

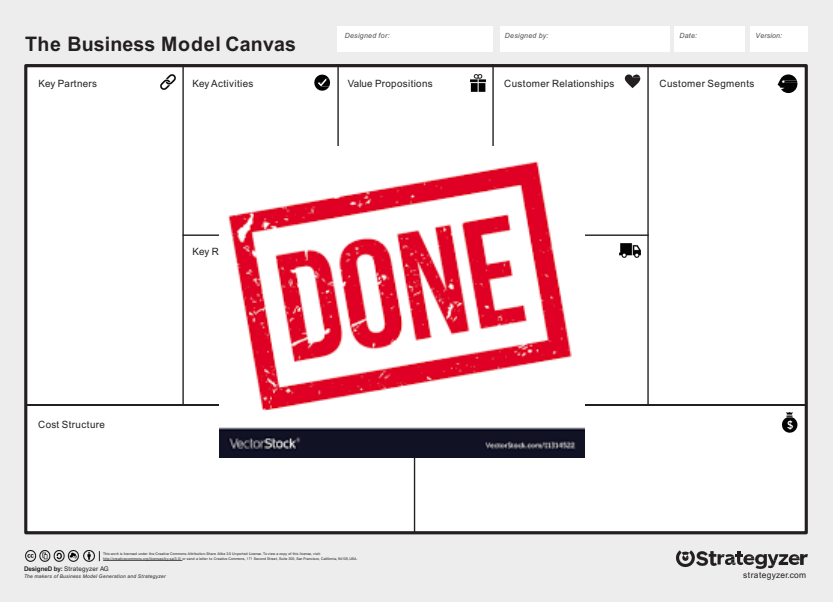
Assess  
What's  
Most  
Important  
to Value



# 1

# Now We Must Consider Risks

## 1A: Canvas



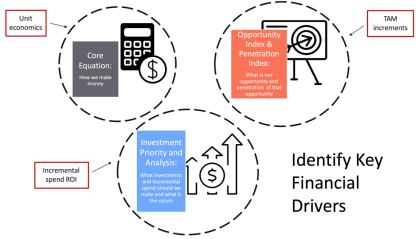
## 1B: Supplements



## 1C: Risks

**Financial Services Risks:**

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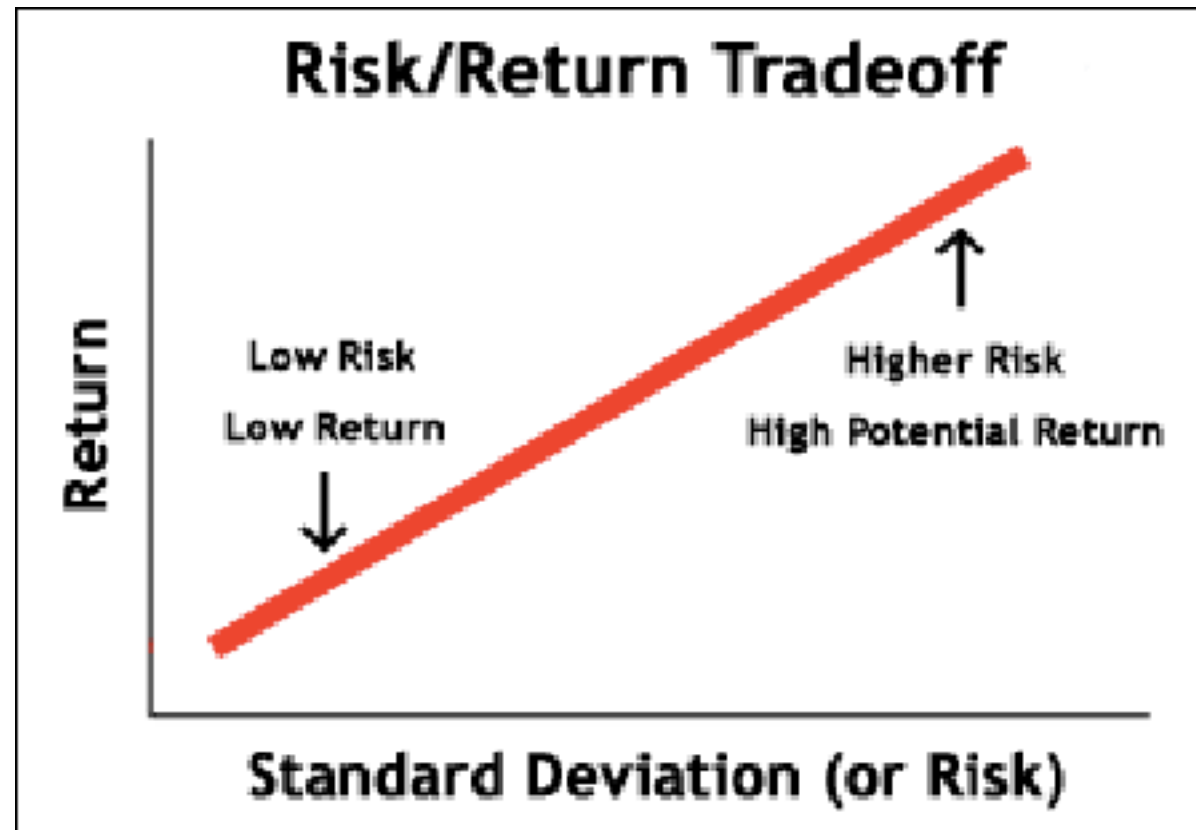
# There are Special Financial Services Risks

- Credit risk
- Market risk
- Operational risk
- Liquidity (Funding) risk
- Reputational risk
- Legal, regulatory and political risk
- Data /AI risk
- Systemic risk





# Risk Is The Principal Source of Reward in Financial Services





# And Banks & FinTechs are in the Business of Managing Risk for Optimized Returns



=





But Risk Is Also the Main Reason for Regulation





**Financial Services Risks:**

**Credit risk**

**Market risk**

**Operational risk**

**Liquidity (Funding) risk**

**Reputational risk**

**Legal, regulatory and  
political risk**

**Data /AI risk**

**Systemic risk**

# Business Model Analysis 1C: Special Financial Services Risks



# Credit & Market Risk

- **Credit risk** is the possibility of a loss resulting from a borrower's failure to repay a loan or meet contractual obligations
- **Market risk** is the risk of losses in positions arising from movements in market prices.



# Operational & Liquidity Risk

- **Operational risk** is the prospect of loss resulting from inadequate or failed procedures, systems or policies. Employee errors. Systems failures. Fraud or other criminal activity. Any event that disrupts business processes.
- **Liquidity risk or Funding liquidity risk** is the risk that a bank may be unable to meet short term financial demands. This usually occurs due to (a) the inability to convert a security or hard asset to cash without a loss of capital and/or income in the process and/or (b) the inability to roll over borrowings



# Legal/Regulatory & Reputational Risk

- **Legal or regulatory risk** is the **risk** of financial loss or disruption in business operations that can result from lack of awareness or misunderstanding of, ambiguity in, or reckless indifference to, the way laws and regulations apply to a business, its relationships, processes, products and services.
- **Reputational risk** is the potential loss to financial capital, social capital and/or market share resulting from damages to a firm's reputation. This is often measured in lost revenue, increased operating, capital or regulatory costs, or destruction of shareholder value.



# Data Management & Systemic Risk

- **Data/AI risk** is the exposure to loss of value or reputation caused by issues or limitations to an organization's ability to acquire, store, transform, move, protect and use its data assets.
- **Systemic risk** is the possibility that an event at the company level could trigger severe instability or collapse an entire industry or economy.



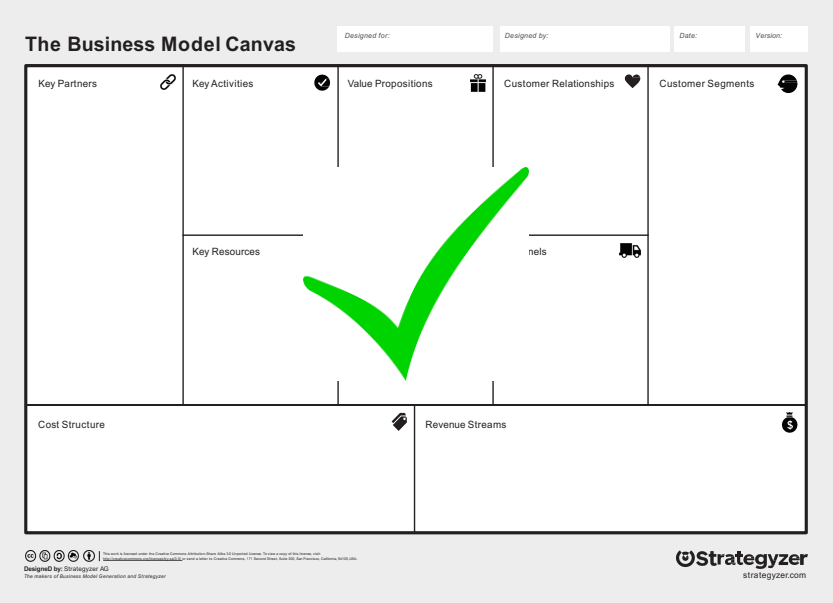
# A Reminder: FinTech Startups Also Have Non-Industry Specific Risks Shared With All Startups

- **Capability Risk**
- **Design Risk**
- **Development Risk**
- **Economic Risk**
- **Economic Life Risk**
- **Equity Funding Risk**
- **Legislative and Policy Risk**
- **Maintenance Risk**
- **Management Risk**
- **Operations Risk**
- **Procurement Risk**
- **Research Risk**
- **Technology Risk**
- **Volume / Demand Risk**



# 1 FinTech Business Model Analysis is Complete

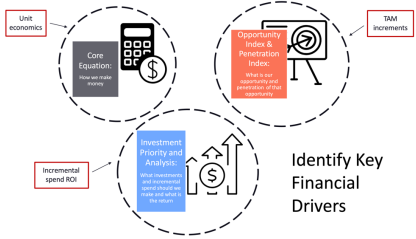
## 1A: Canvas



## 1B: Supplements

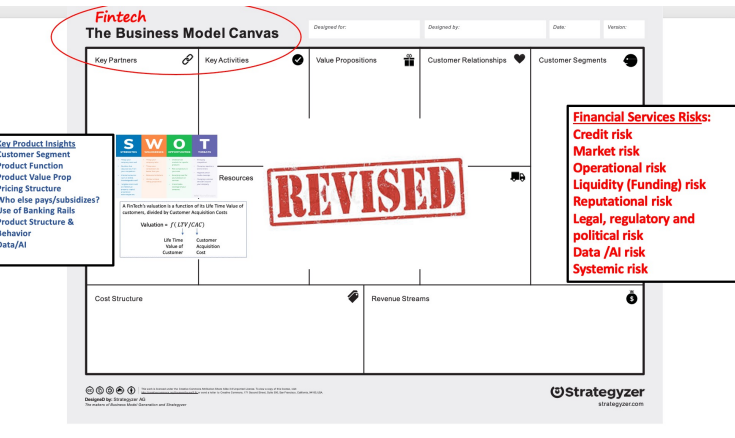


## 1C: Risks





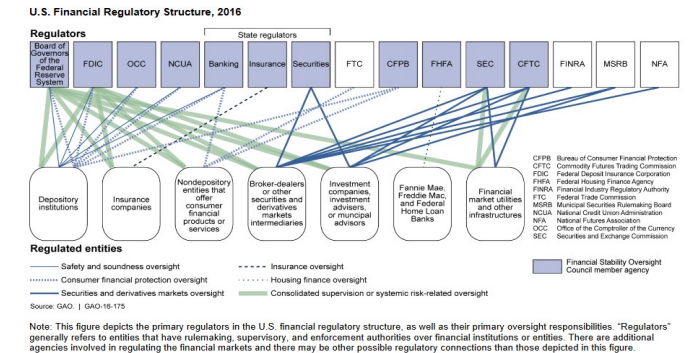
# Now: Add Second Dimension: Public Policy



1



2



3





# Public Policy Analysis



# Policy Screens for Consumer FinTech

## Utility/Scalability

- Utility: Cost/Avoidance vs. Alternatives
- Delivery at Scale Possible?

## Inclusivity/Exclusivity

- Wealth/Income/Race/Ethnicity/Sex/Disability

## Alignment Analysis

- The incentives imbedded in a fintech business and/or product model and consumer interests

## Data Utilization

- Source/Privacy/Control

## Systemic Impact



# Utility

- “Utility” is the ability of the financial products offered by a company to either (a) provide a superior substitute for current products in producing financially healthy outcomes, or (b) provide an effective mechanism for consumers to avoid the use of current products producing financially unhealthy outcomes.
- A product is a “superior” substitute if it provides substantially equivalent functionality at a significantly lower price or with a product structure that would be likely to avoid outcomes adverse to consumer financial health.
- In considering Utility in either of the two alternative meanings noted above, take into account a time element, in that companies sometimes describe their products as part of an explicit multi-step path for the consumer culminating in increased Utility through (i) the ability to access a superior substitute (i.e., credit on standard terms and pricing) and/or (ii) financial resilience through improved financial capacity.



# Scalability

- “Scalability,” is the potential for a company’s business model to support rapid penetration of the market to serve a significant percentage of total available households.
- Scalability is important in that positive or negative policy effects are maximized to the extent that a business is scalable
- In assessing Scalability, consider various impediments to scale, including
  - funding and capital requirements
  - operational complexity
  - technology constraints
  - regulatory structure
  - reliance on third-party infrastructure and
  - length of sales cycle
- Focus on key revenue and expense drivers from the business model analysis to ask whether a company appears capable of generating an appropriate return on capital only if Scale is reached.
- Also assess whether, and to what extent, external assistance or subsidy—from employers, non-profits or government—would be required to serve a significant portion of low-income households, or to accelerate the scaling process.



# Inclusivity/Exclusivity

- “Inclusivity/Exclusivity” has several dimensions:
  - whether a company’s products are appropriate for the full range of consumer income/wealth segments (e.g., savings accounts), or are designed for and marketed to high, middle, or low-income/wealth consumer segments (e.g., private banking vs. payday lending)
  - whether the makeup of the company’s customer base, or the profitability of its business model or products, is skewed towards particular income/wealth or protected class segments
  - whether company’s practices have a disparate impact on, or are otherwise discriminatory with respect to, protected classes defined by race, ethnicity, sex, and/or disability
  - Special attention should be paid to a company’s data and AI practices



# Alignment

- “Alignment” or “Misalignment” is a measure of the extent to which the incentives (primarily financial) imbedded in a fintech business and/or product model are **aligned or misaligned** with consumer interests measured by changes in consumer financial health.
- Understanding Alignment is critical to evaluating the public policy impact of any fintech business model



# Financial Health Outcomes- Based Analysis is the Preferred Basis for Alignment Review

- Consumer financial regulation in the U.S. is biased in favor of maximizing “consumer choice” effected through disclosure and against examination of the actual outcomes for consumers using financial products.
- The “consumer choice” construct is tautological: it presumes that the markets for consumer financial services are competitive and that consumers rationally and knowledgeably choose what is best for themselves. This then obviates any need to assess whether consumer welfare has been maximized.
- Recently, empirical measures of “financial well-being” or “financial health” have emerged for use in assessing consumer financial welfare.
- These measures seek to characterize and quantify how the financial and monetary circumstances of an individual or household stack up against normative definitions of financial well-being and to measure changes in those circumstances over time.



The system created by the Financial Health Network is the most advanced

---



FINANCIAL HEALTH  
NETWORK



# Eight Indicators of Financial Health







# Alignment Assessment Process

- Use output from Business Model Analysis to identify financial incentives imbedded in in Fintech business and/or product model
  - Pay particular attention to product structure & behavioral incentives on consumer experience
- Assess whether provider incentives work to improve or degrade customer financial health
  - Empirical analysis of outcomes data if available
  - Normative assessment based on experience if data unavailable (e.g., default is bad/savings is good)



# Data Utilization

- Assess the extent to which a company follows evolving best practices in the sourcing, utilization and protection of consumer personally identifiable information.
  - CFPB Principles For Consumer-Authorized Financial Data Sharing and Aggregation
  - Financial Health Network Data Sharing Principles
  - GDPR Standards
  - California Data Privacy Rules





# Systemic Risk

- Refer to Business Model Risk Assessment









# Legal and Regulatory Analysis



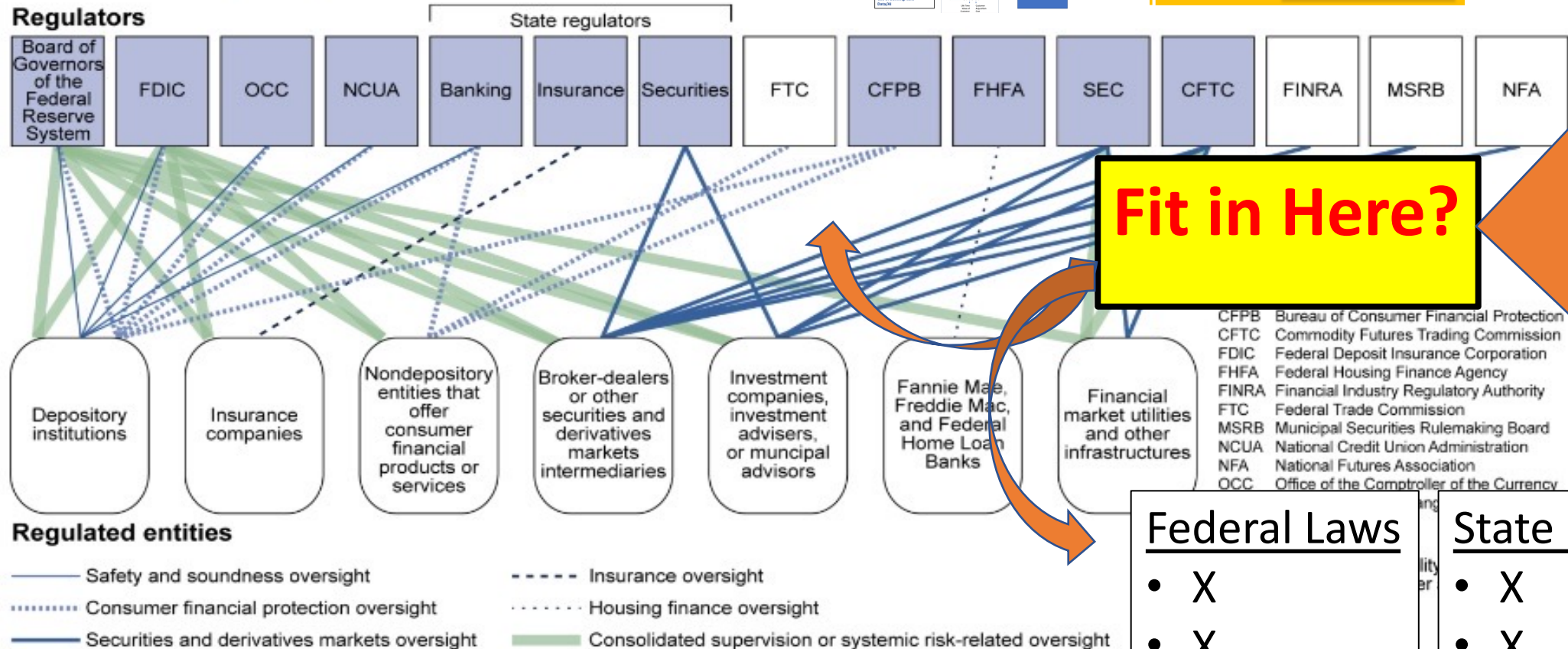




# Tools for Legal/Regulatory Analysis

How Do These...

U.S. Financial Regulatory Structure, 2016



Source: GAO. | GAO-16-175

Note: This figure depicts the primary regulators in the U.S. financial regulatory structure, as well as their primary oversight. The term "primary" generally refers to entities that have rulemaking, supervisory, and enforcement authorities over financial institutions. This figure does not include all agencies involved in regulating the financial markets and there may be other possible regulatory connections to

Fit in Here?

## Federal Laws

- X
- X
- X
- X

## State Laws

- X
- X
- X
- X



# US Approach to Fintech Regulation is Uncoordinated

## Entity-Based Regulation at Federal Level

- Bank Regulatory Agencies
- Broker-Dealer Regulation

## Activity-Based Regulation at Federal Level

- SEC, CFTC, FinCen

## Entity-Based Regulation at State Level

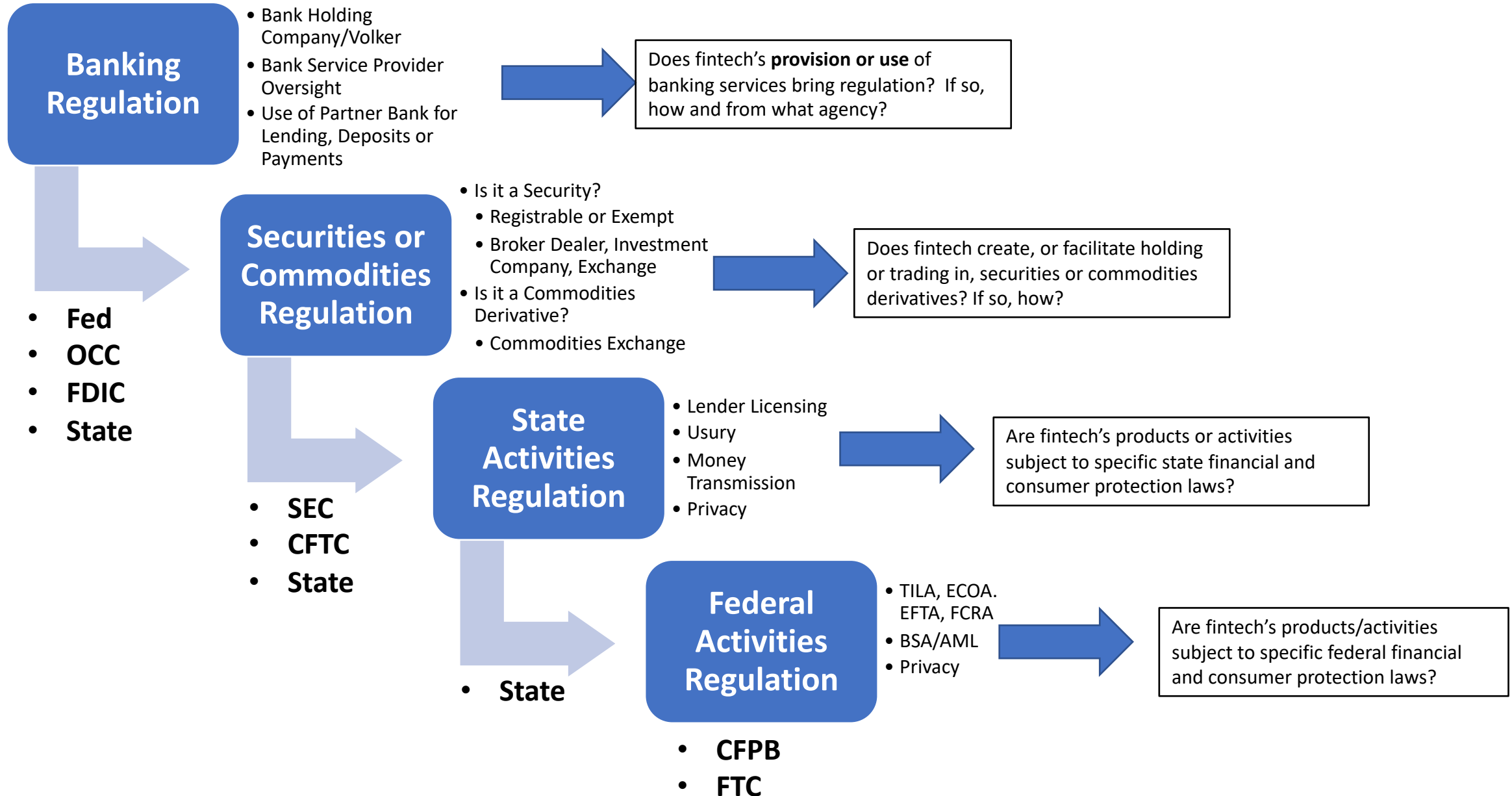
- State Banking and Insurance Regulation

## Activity-Based Regulation at State Level

- Lender Licensing, Money Transmitters



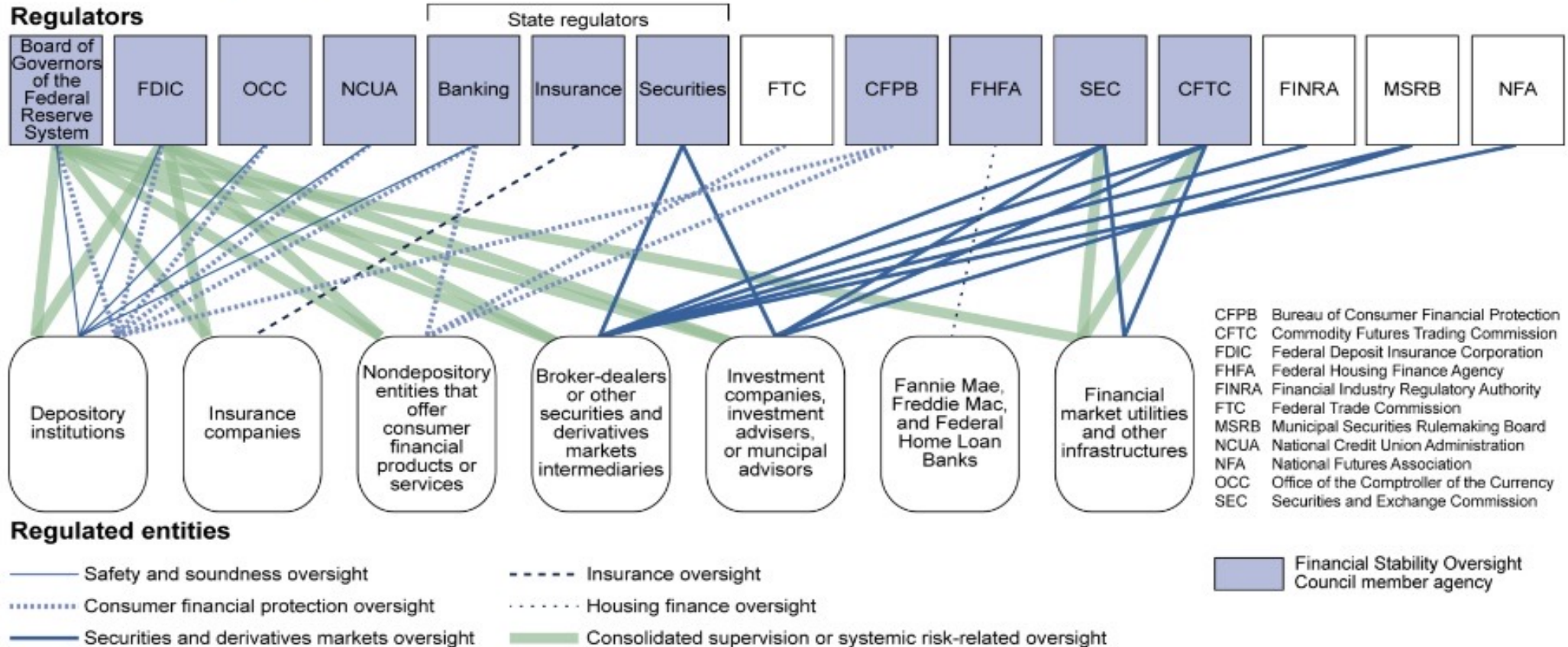
# No US Laws Specifically Designed for Fintech—A Multi-Layer Analysis Must be Followed





# Assess How Many Ways Fintech is Regulated Directly and Indirectly

U.S. Financial Regulatory Structure, 2016



Source: GAO. | GAO-16-175

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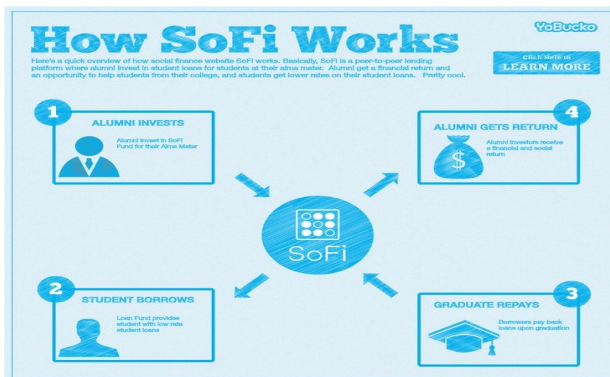
# “Rebundling” Increases Complexity

Evolution of SoFi



**2011**

- ***Student Loan Refi***



**2022**

- ***Student Loan Refi***
- ***Private Student Loans***
- ***Personal Loans***
- ***Credit Cards***
- ***Home Improvement Loans***
- ***Mortgages***
- ***Small Business Loans***
- ***Loans Funded by***
  - ***Marketplace***
  - ***Balance Sheet***
  - ***Securitizations***
  - ***Bank***
- ***Broker-Dealer***
  - ***Active***
  - ***ETF/IPOs***
  - ***Crypto***
- ***SoFi Bank***
- ***Asset Management (Active/Passive) and Financial & Estate Planning***
- ***Renters, Homeowners, Auto, Life Insurance***
- ***International P2P Transfers***
- ***Networking/Career Services***
- ***Bank Acquisition***
- ***SPAC IPO***

Don't bank. SoFi





# SoFi Regulatory Structure 2011



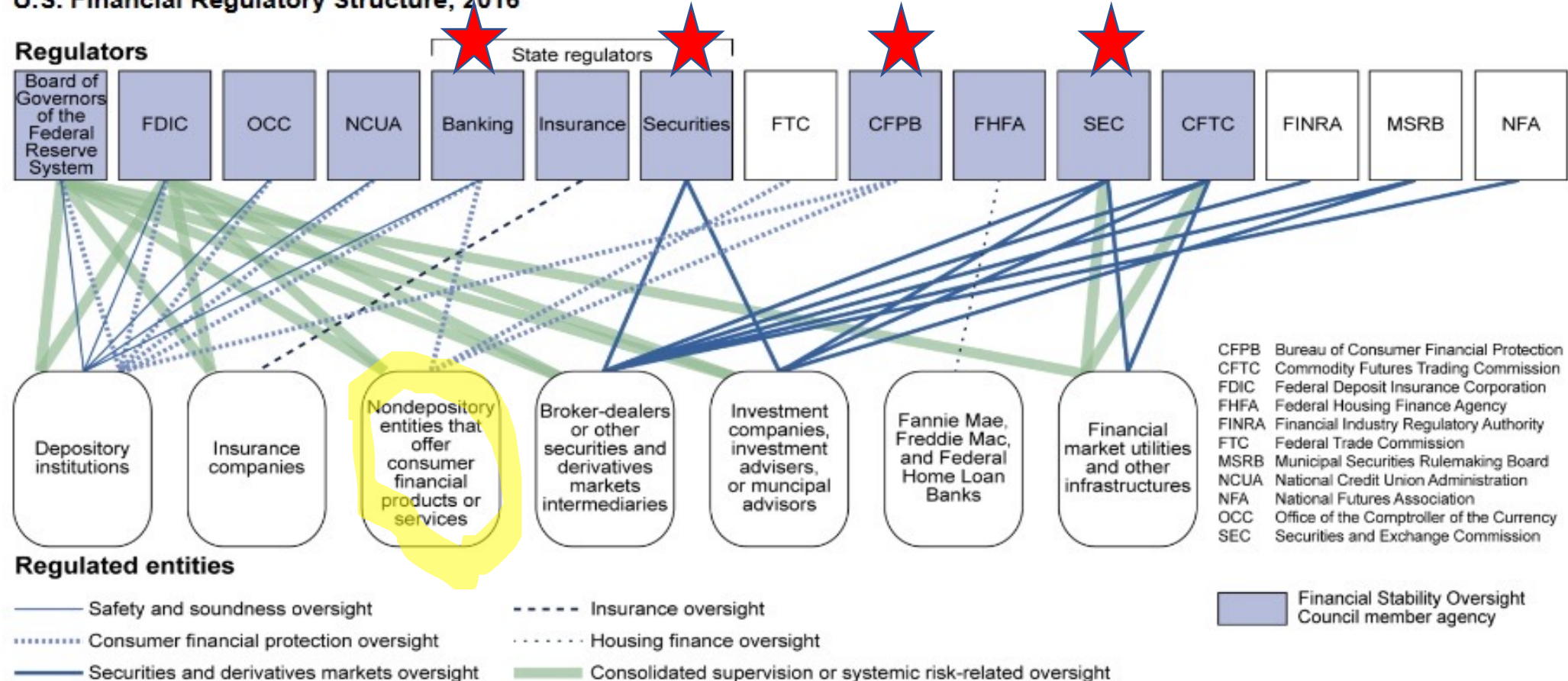
SoFi



Direct Regulation

Indirect Regulation

## U.S. Financial Regulatory Structure, 2016



Source: GAO. | GAO-16-175

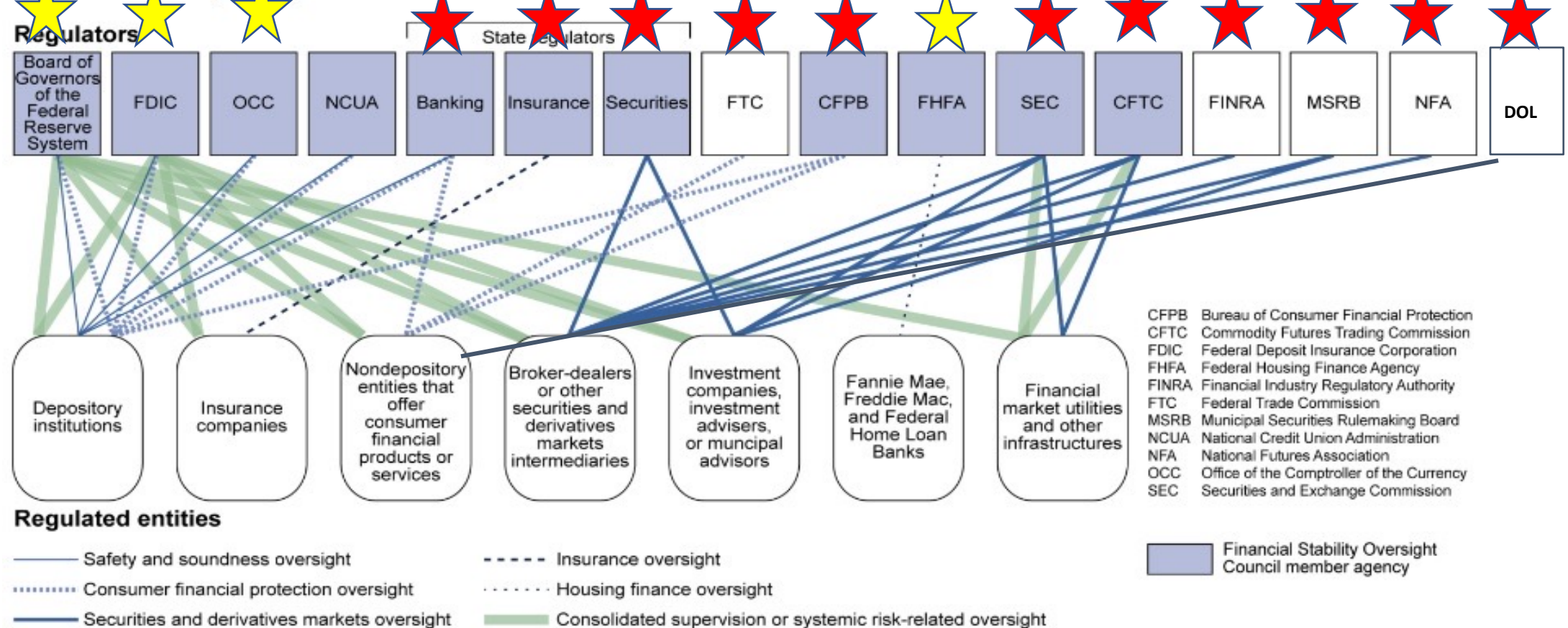
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# SoFi Regulatory Structure 2019



U.S. Financial Regulatory Structure, 2016



Source: GAO. | GAO-16-175

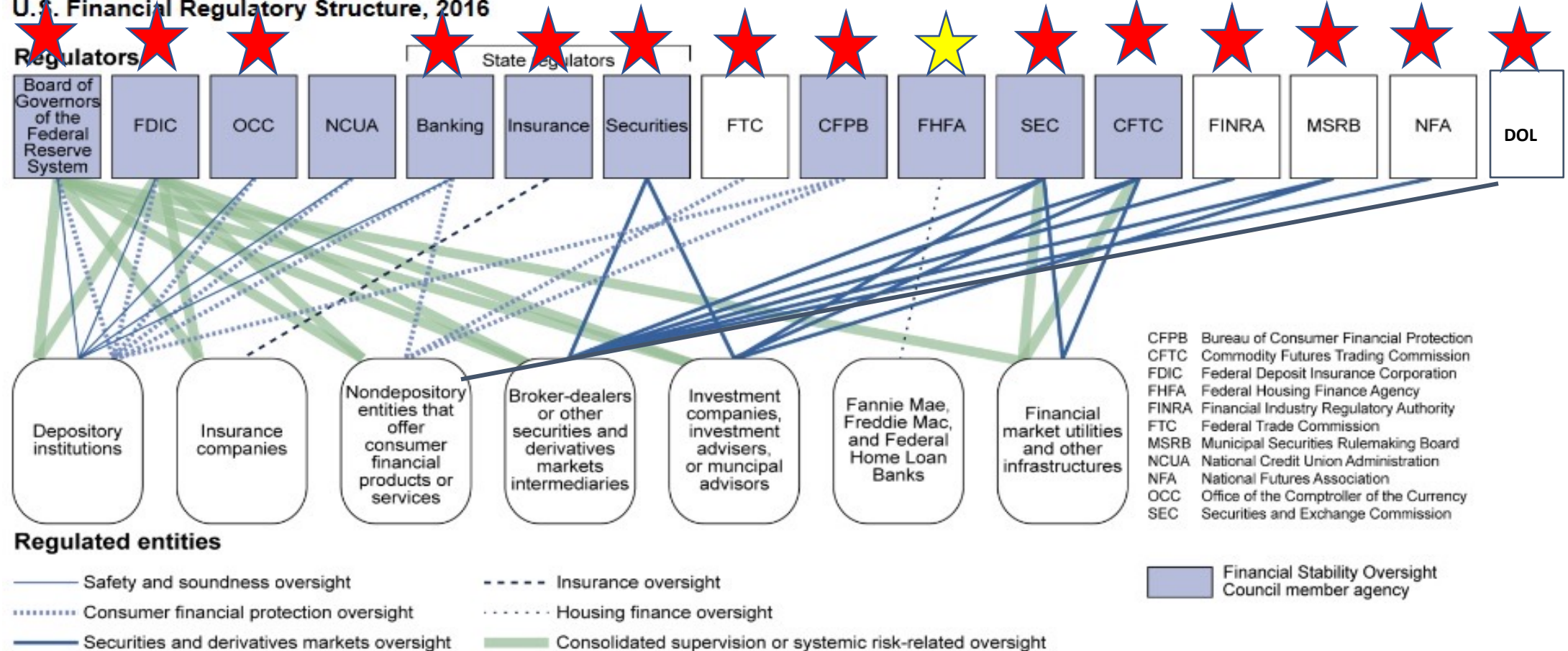
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# SoFi Regulatory Structure 2022



U.S. Financial Regulatory Structure, 2016

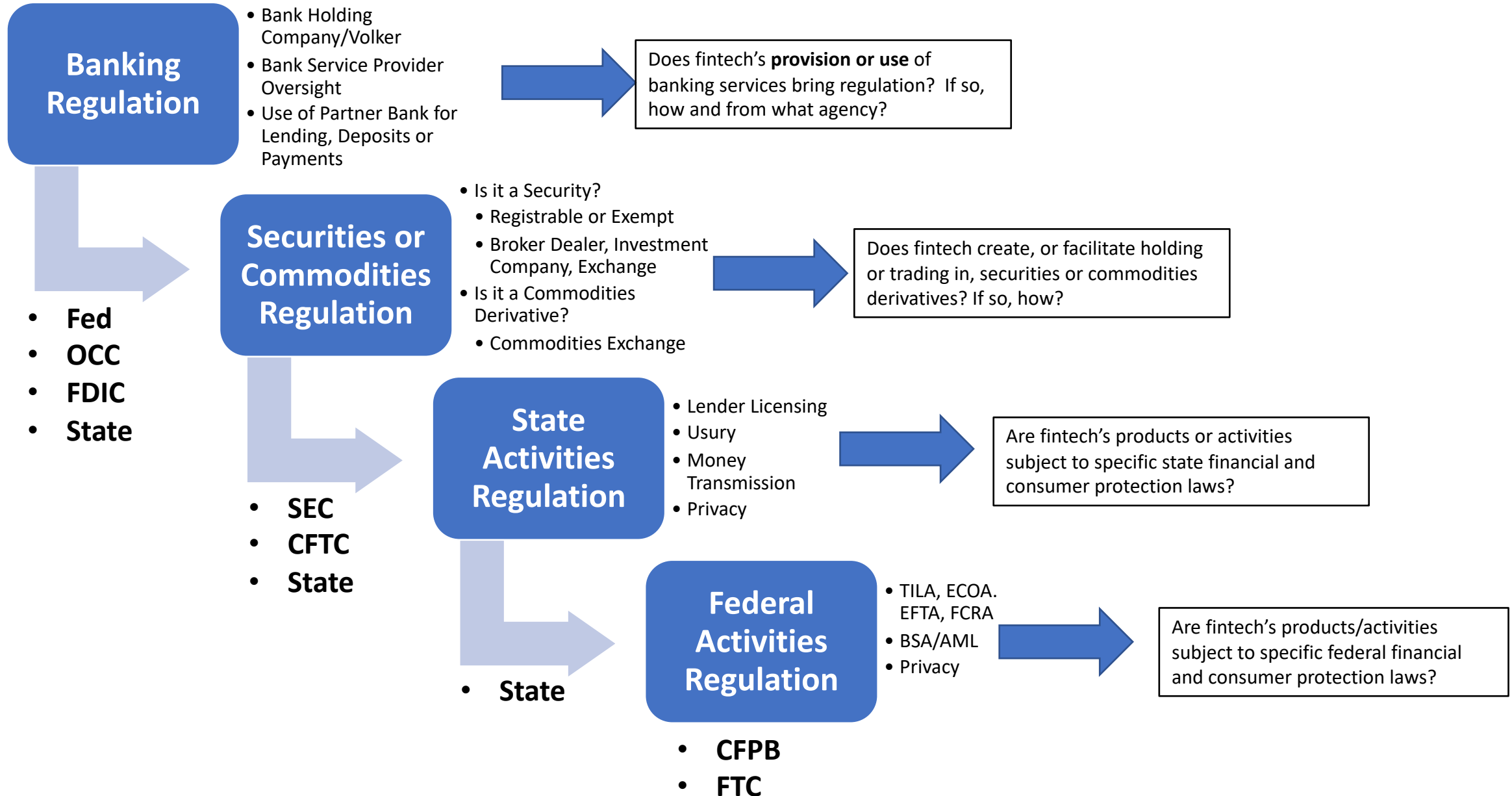


Source: GAO. | GAO-16-175

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# Follow the “Waterfall” to...





# Identify and Assess Laws Applicable to a FinTech

## Federal Laws

- X
- X
- X

## State Laws

- X
- X
- X



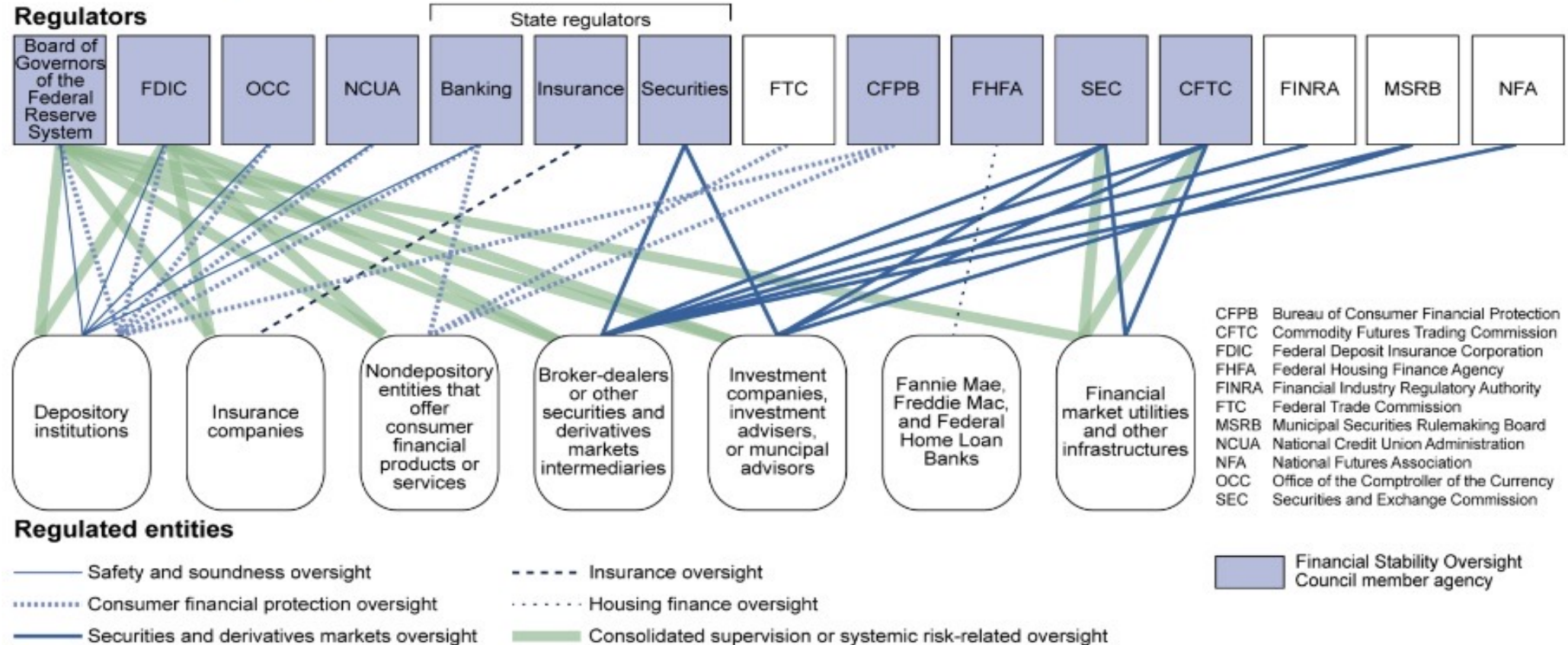
# US Regulatory Structure

- “The financial regulation and architecture we have today is the result of principled and differing views about the appropriate nature of regulation, turf battles among congressional committees and regulatory agencies, politics, lobbying and inter-sectoral wars in the private sector, and happenstance, personality, technology, and the long shadow of history.”
- --*Barr, Jackson and Tahyar*



# US Regulatory Structure is Complex

U.S. Financial Regulatory Structure, 2016



Source: GAO. | GAO-16-175

Note: This figure depicts the primary regulators in the U.S. financial regulatory structure, as well as their primary oversight responsibilities. "Regulators" generally refers to entities that have rulemaking, supervisory, and enforcement authorities over financial institutions or entities. There are additional agencies involved in regulating the financial markets and there may be other possible regulatory connections than those depicted in this figure.



# US Bank Regulators

The United States has a complex regulatory framework that features a myriad of federal regulatory agencies having often overlapping responsibility for banking regulation. A brief description of the relevant bank regulatory agencies follows:

- The Board of Governors of the Federal Reserve System (“**Federal Reserve**”)  
The Federal Reserve System is the central banking system of the United States and conducts U.S. monetary policy. In addition, the Federal Reserve supervises BHCs (and FHCs), state-chartered banks that are members of the Federal Reserve System, the U.S. activities of FBOs, and SIFIs designated by the FSOC (as described below).
- The Federal Deposit Insurance Corporation (“**FDIC**”)  
The FDIC is the primary regulator for state-chartered banks that are not members of the Federal Reserve System as well as state-chartered thrifts. The FDIC also insures bank and thrift deposits and has receivership powers over FDIC-insured banks and certain other institutions.
- The Office of the Comptroller of the Currency (“**OCC**”)  
The OCC is an independent bureau of the U.S. Department of the Treasury led by the Comptroller of the Currency that charters, regulates, and supervises all national banks and federal savings associations as well as federal branches and agencies of foreign banks (although most FBOs operate through state-licensed branches).
- The Consumer Financial Protection Bureau (“**CFPB**”)  
The CFPB has primary authority to develop consumer protection regulations applicable to both banks and non-banks, and to enforce compliance with such laws by banks with \$10bn or more in assets and their affiliates, as well as by certain non-banks.
- The Financial Stability Oversight Council (“**FSOC**”)  
The FSOC is chaired by the Secretary of the U.S. Treasury and comprises the heads of eight financial regulators and one independent member with insurance experience. Notably, FSOC is empowered to designate systemically significant non-bank financial institutions (generally referred to as non-bank SIFIs) for supervision by the Federal Reserve. However, no such institutions are currently subject to Federal Reserve supervision.



# Primary Federal Banking Statutes

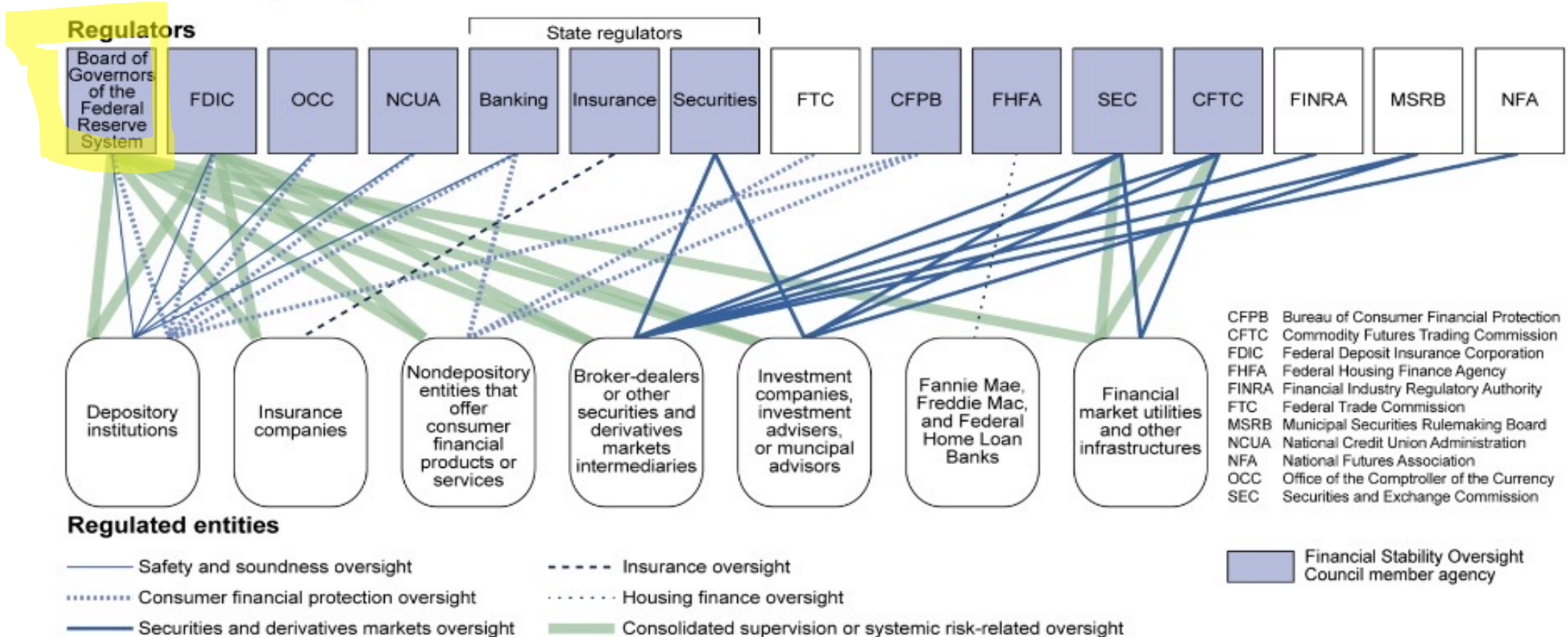
## Primary federal banking statutes

- The National Bank Act (1863) created the basic framework for the U.S. banking system and the chartering of national banks.
- The Federal Reserve Act, enacted in 1914, created the Federal Reserve System.
- The Banking Act of 1933 generally separated commercial banks from investment banks and created the system of federal deposit insurance.
- The Federal Deposit Insurance Act ("**FDI Act**") consolidated prior FDIC legislation into one act and authorised the FDIC to act as the receiver of failed banks. Section 18(c) of the FDI Act, commonly called the Bank Merger Act, subjects proposed mergers involving FDIC-insured depository institutions to prior regulatory approval. Section 7(j) of the FDI Act, commonly called the Change in Bank Control Act, subjects certain acquisitions of FDIC-insured institutions to prior regulatory approval.
- The Bank Holding Company Act of 1956 ("**BHC Act**") requires Federal Reserve approval for a company to acquire a bank (and thereby become a BHC) and requires BHCs to obtain prior Federal Reserve approval to acquire an interest in additional banks and certain non-bank companies.
- The act commonly known as the Bank Secrecy Act (1970) requires all financial institutions, including banks, to establish a risk-based system of internal controls to prevent money laundering and terrorist financing.
- The International Banking Act of 1978 ("**IBA**") establishes the framework for federal supervision of foreign banks operating in the United States.
- The Gramm-Leach-Bliley Act (1999) generally repealed the provisions of the Banking Act of 1933 that separated investment banks from commercial banks (Glass-Steagall Act) and authorised the creation of FHCs.
- The Dodd-Frank Act (2010) was the greatest legislative overhaul of financial services regulation in the United States since the 1930s and made significant changes to the U.S. bank regulatory framework.
- The Economic Growth, Regulatory Relief, and Consumer Protection Act ("**EGRRCPA**"), Pub. L. 115-174 (2018), relaxed the regulatory requirements imposed by Dodd-Frank for all but the very largest banks, those holding \$250bn or more in assets.



# The Federal Reserve

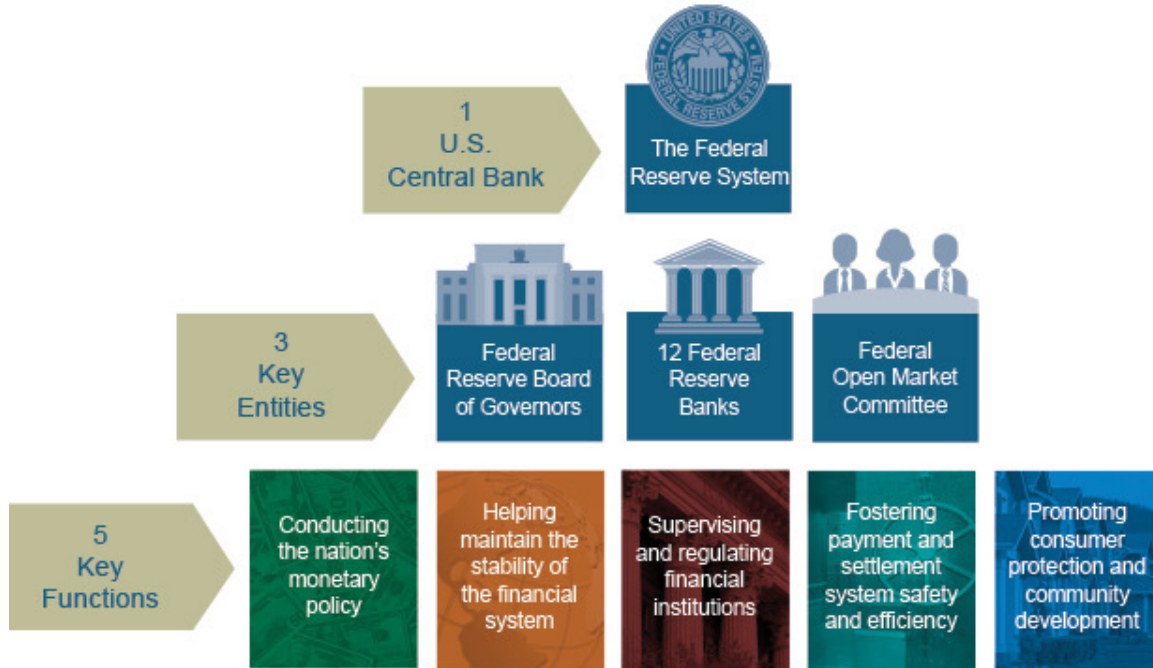
U.S. Financial Regulatory Structure, 2016



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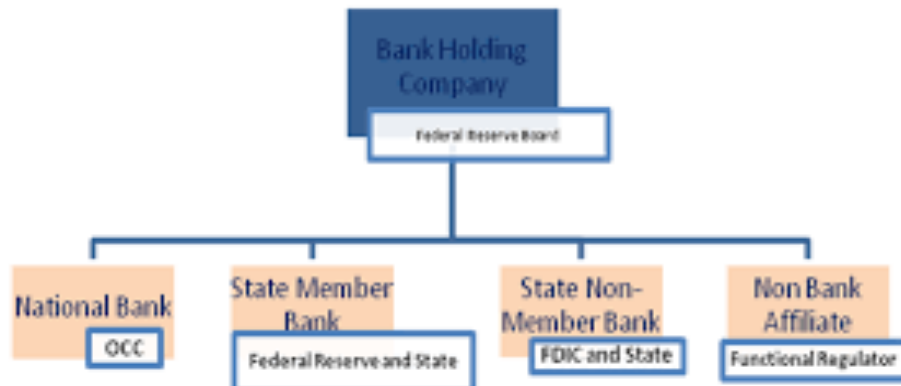
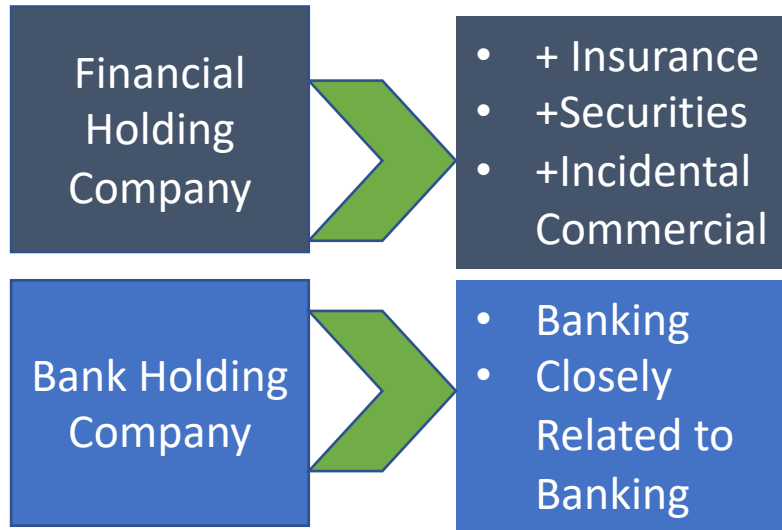




# Federal Reserve Wears Many Hats



# Bank & Financial Holding Companies



“Control” of a Bank is the Key Concept:

- The size and terms of investments in banks are dictated by a variety of Federal Reserve, FDIC and OCC rules, many of them unwritten.
- Control thresholds arise when an investor owns more than 4.9%, 9.9%, and 24.9% of a single class of voting stock, but softer factors are given great weight.
- Effectively has precluded many private equity and VC investments in banks.
- “Volcker Rule” a related issue



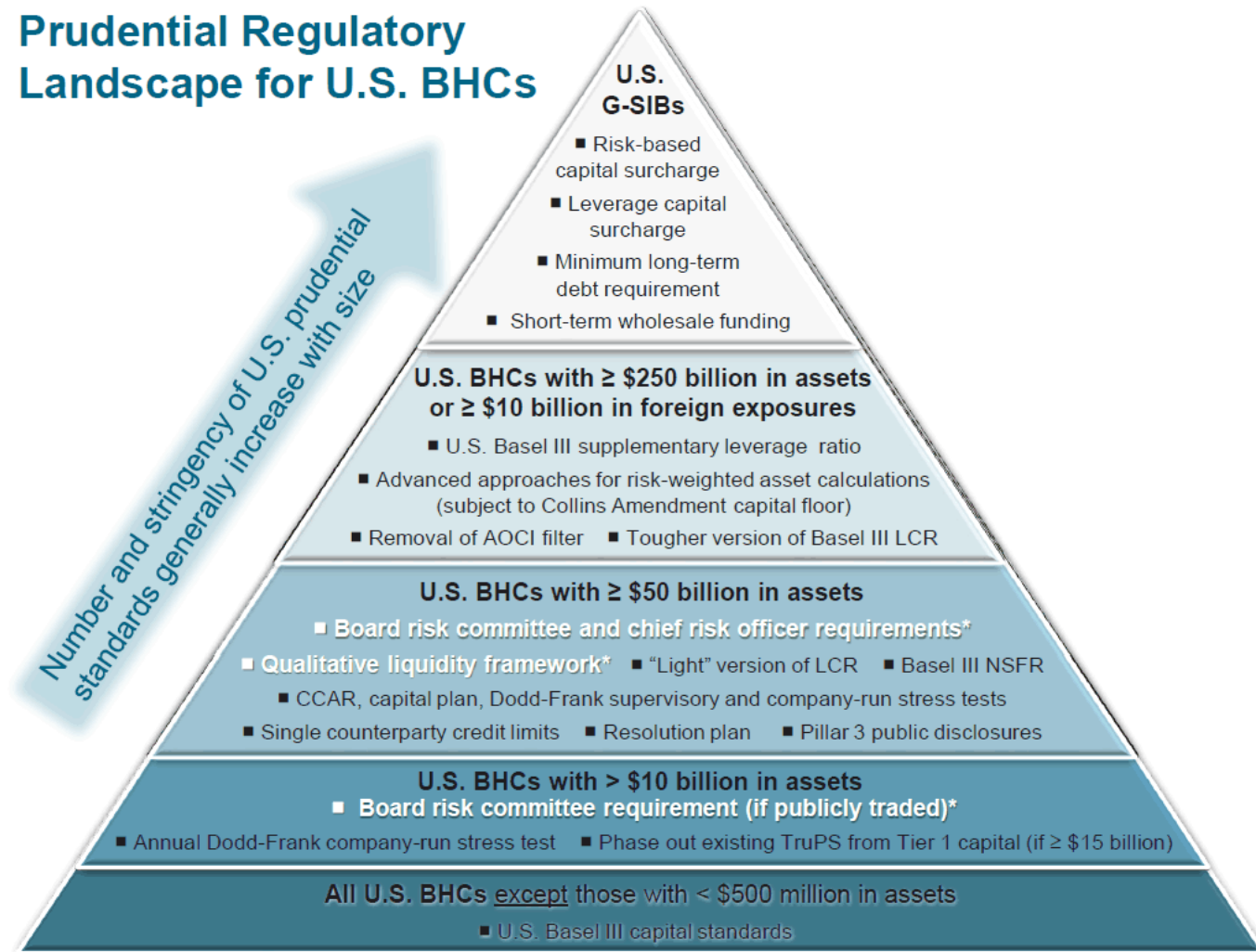
# Bank Holding Company Restrictions

- The primary legislation defining the allowable scope of BHC activities is the Bank Holding Company Act of 1956 (BHCA, 12 U.S.C. § 1841). The Act establishes conditions under which a corporation may own a U.S. commercial bank and invests responsibility for supervising and regulating BHCs with the Federal Reserve.
  - **A key original goal of the BHCA was to limit the comingling of banking and commerce, that is, to restrict the extent to which BHCs or their subsidiaries could engage in nonfinancial activities.**
  - This separation is intended to prevent self-dealing and monopoly power through lending to nonfinancial affiliates and to preventing situations where risk-taking by nonbanking affiliates erodes the stability of the bank's core financial activities, such as lending and deposit-taking.
  - To further enhance stability, BHCs are also required to maintain minimum capital ratios and to act as a "source of strength" to their banking subsidiaries, that is, to provide financial assistance to banking subsidiaries in distress.
- BHCs today engage in a significantly broader range of activities than the narrow limits set out in the 1956 BHCA, enabled through subsequent amendments to the Act.
  - For example, in 1970 the BHCA was amended to allow multibank holding companies to engage either directly or indirectly through subsidiaries in activities that are "closely related to banking" BHCs may invest in nonfinancial firms, although their stake cannot generally exceed 5 percent of the company's outstanding voting stock.
  - The passage of the Gramm-Leach-Bliley Act (GLBA) of 1999 further amended the BHCA to enable a BHC to register as a **financial holding company (FHC)**, thereby allowing the firm to engage in a broad range of financial activities, including securities underwriting and dealing, insurance underwriting, and merchant banking activities.<sup>7</sup>
  - Today, virtually all large BHCs are registered as FHCs.



# Holding Company Requirements Grow with Size

## Prudential Regulatory Landscape for U.S. BHCs



Many details are omitted from this visual overview

\* Adopted in February 2014 EPS final rule



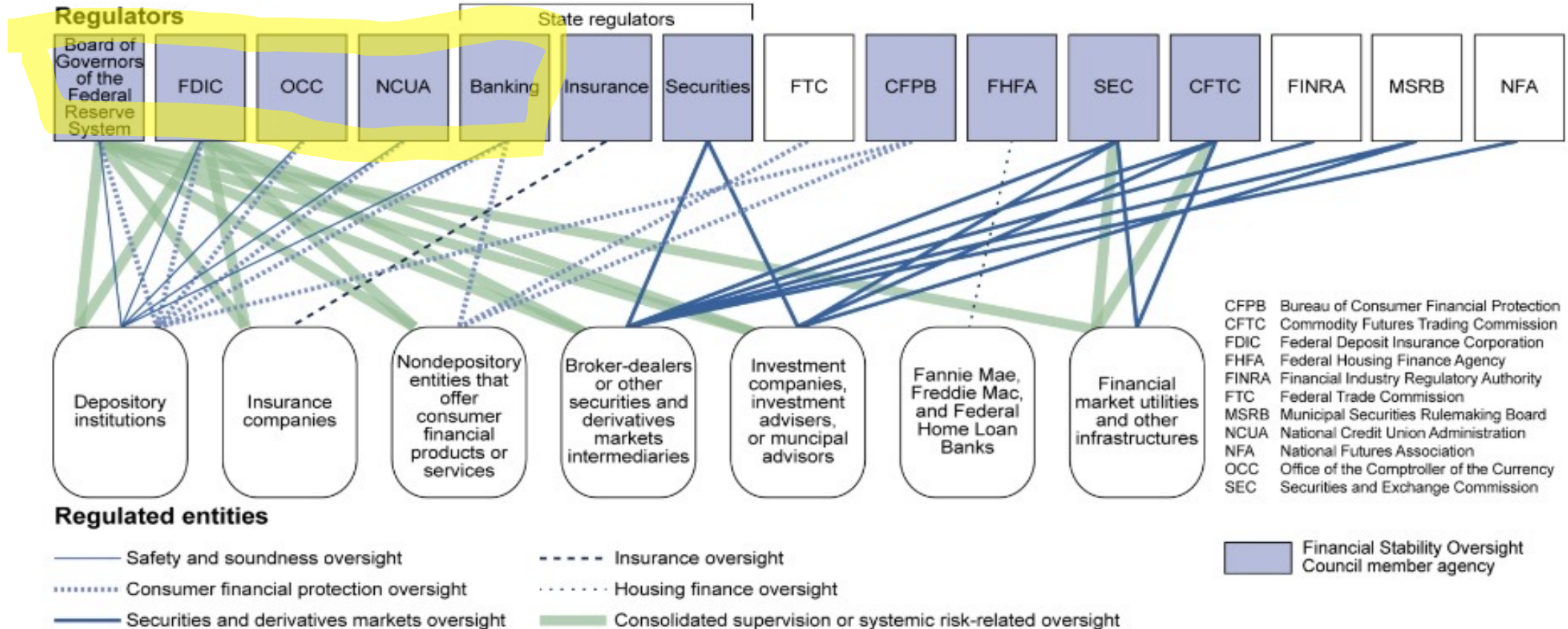
# VC and PE and Strategic Investors Don't Want to be Bank or Financial Holding Companies

- They typically invest in a variety of sectors that go well beyond Bank and Financial Holding Company limitations
- They would have to divest all noncompliant investments if they were deemed to “control” a bank
- They would be required to hold capital and act as a “source of strength” to the bank
- They would become subject to supervision, examination etc etc.



# The Prudential Bank Regulators

U.S. Financial Regulatory Structure, 2016

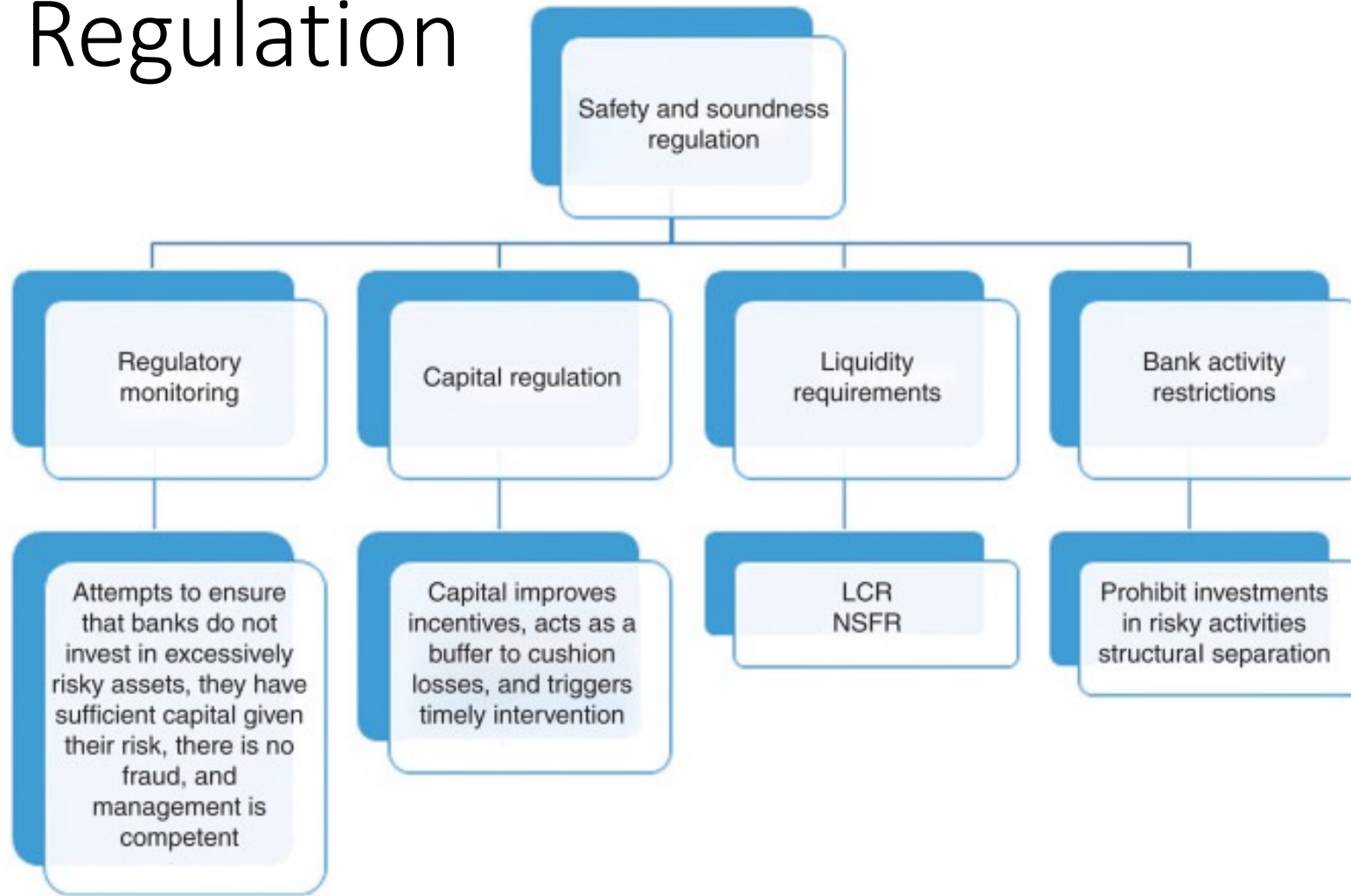


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# US Prudential (Safety & Soundness) Bank Regulation



**OCC**---National Banks & Thrifts

**FDIC**—State Non-Member Banks

**NCUA**—Credit Unions

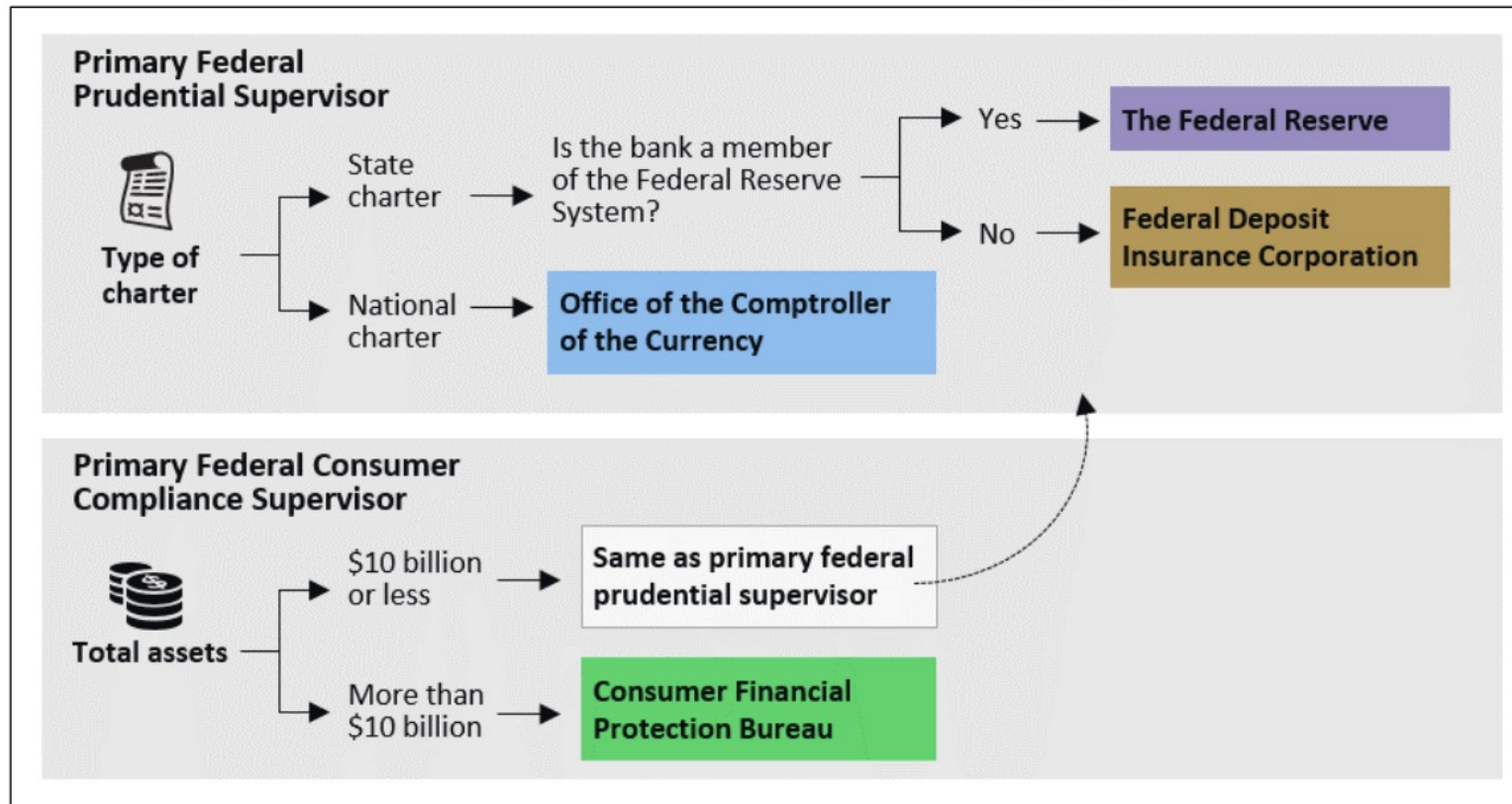
**Federal Reserve**---State Member Banks and BHCs

**States**---State Banks



# Who's Your Consumer Regulator?

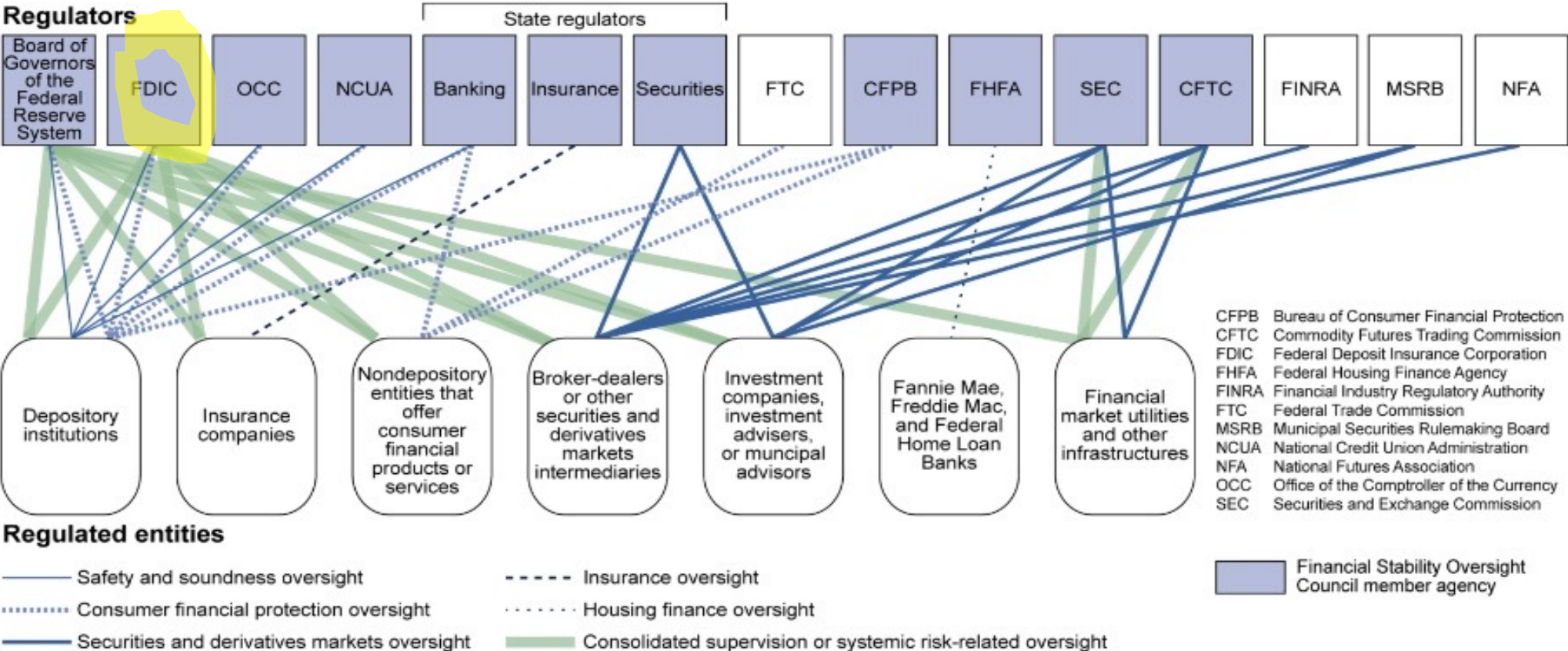
**Figure 1. Which Agency Is a Bank's Primary Supervisor?**





# Deposit Insurance

## U.S. Financial Regulatory Structure, 2016



Source: GAO. | GAO-16-175

Note: This figure depicts the primary regulators in the U.S. financial regulatory structure, as well as their primary oversight responsibilities. “Regulators” generally refers to entities that have rulemaking, supervisory, and enforcement authorities over financial institutions or entities. There are additional agencies involved in regulating the financial markets and there may be other possible regulatory connections than those depicted in this figure.



# Deposit Insurance Regulation



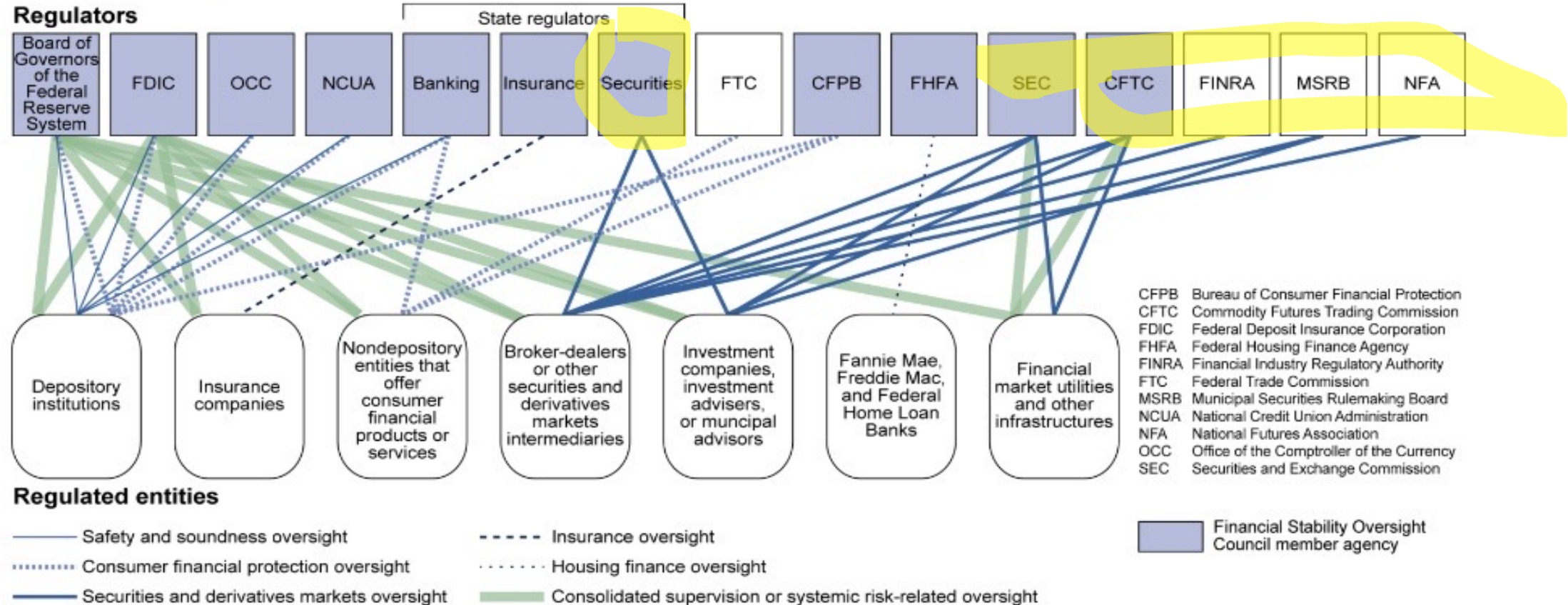
- The obligation of the bank to service its depositors so long as it is solvent creates an incentive on depositors who are concerned about the viability of the bank to withdraw their deposits ahead of other people—i.e. make a "run" on the bank.
- Deposit insurance was created in part to deal with this problem.





# Securities Regulators

U.S. Financial Regulatory Structure, 2016



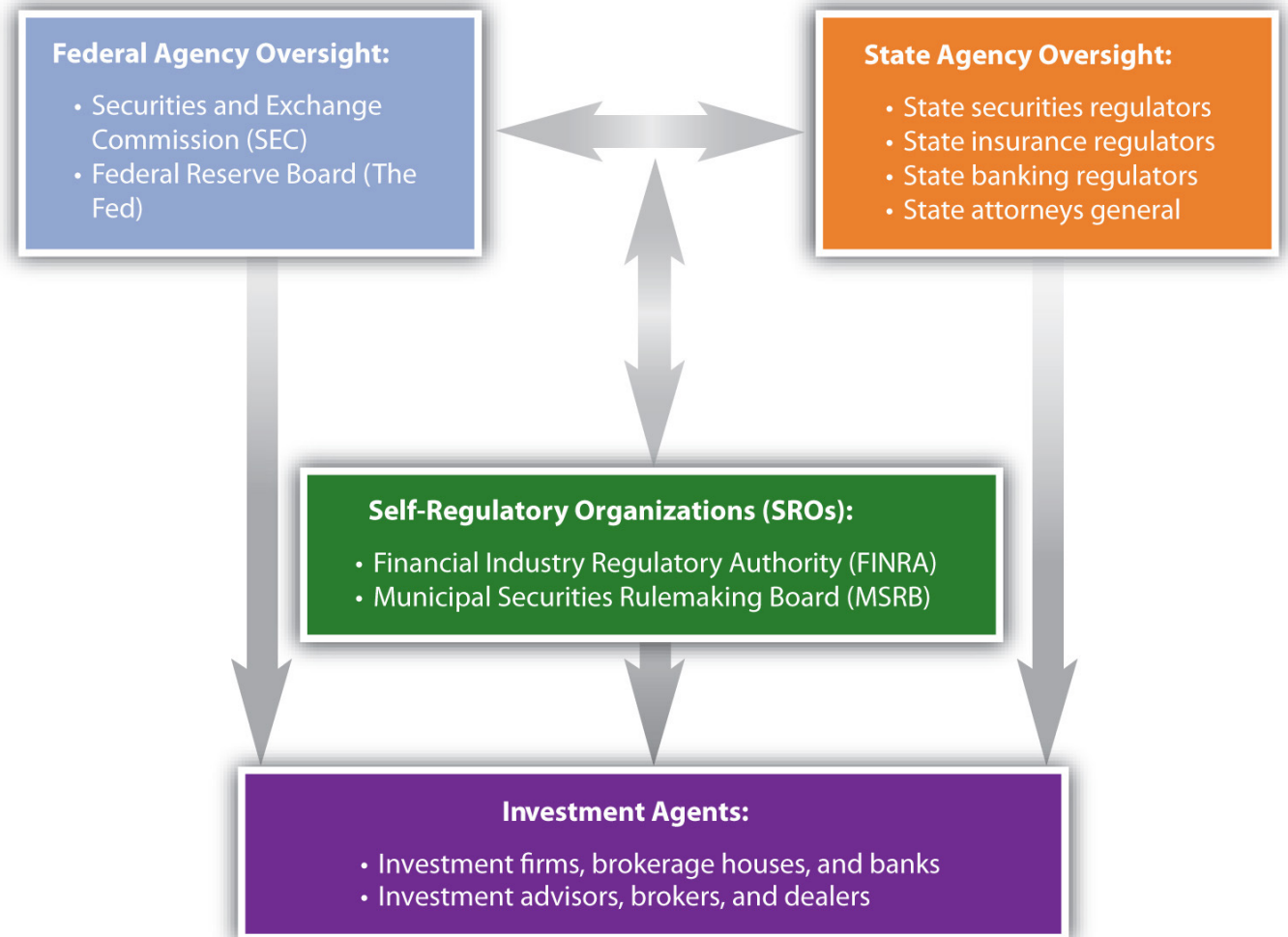
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# Securities Regulation

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# SEC



SEC

OFFICE OF INVESTOR  
EDUCATION AND ADVOCACY

## The Mission

### *The Mission of the SEC:*

- Protect Investors
- Maintain Fair, Orderly, and Efficient Markets
- Facilitate Capital Formation

3



SEC

OFFICE OF INVESTOR  
EDUCATION AND ADVOCACY

## The Mission

### Accomplishes its Mission by:

- Administering and enforcing federal securities laws
- Overseeing brokerage firms and investment advisers
- Reviewing filings by most public companies

5



# SEC



SEC  
OFFICE OF INVESTOR  
EDUCATION AND ADVOCACY

## Organization of the SEC

### *5 Major Divisions*

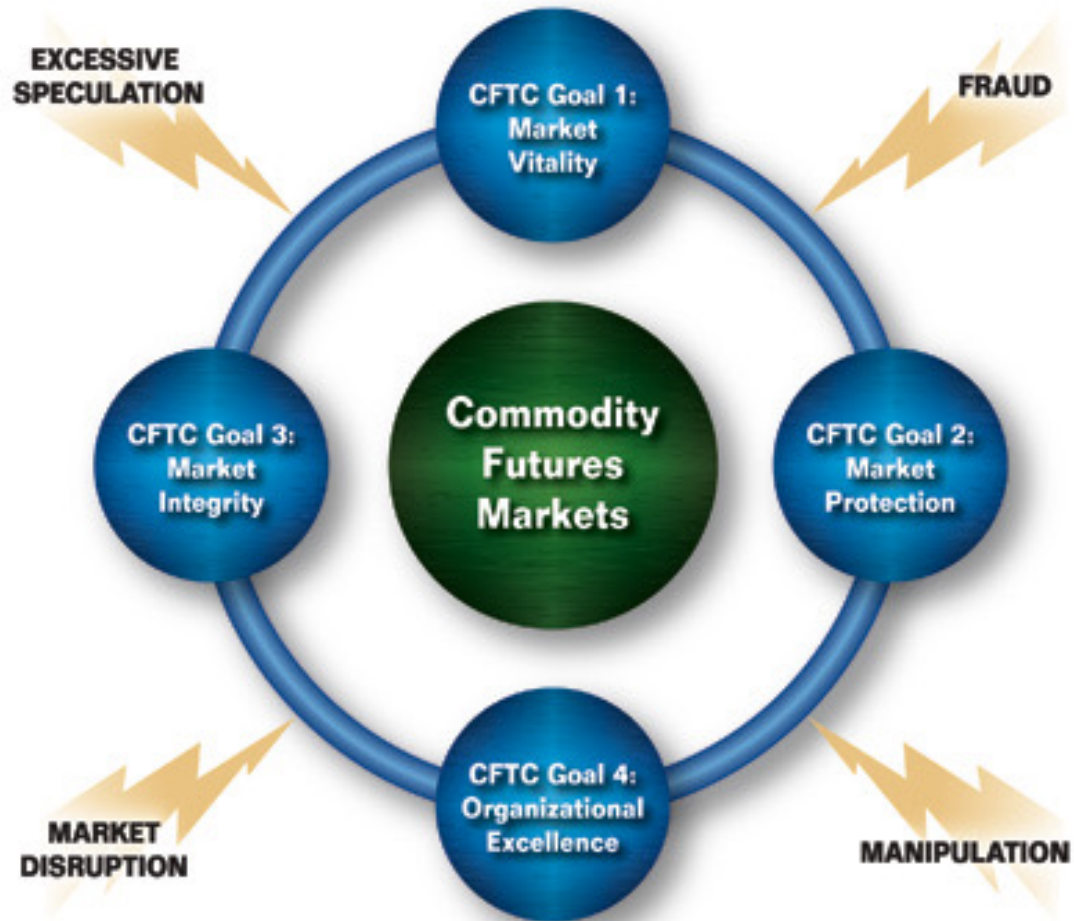
- Division of Enforcement (“Enforcement”)
- Division of Corporation Finance (“Corp Fin”)
- Division of Trading and Markets (“TM”)
- Division of Investment Management (“IM”)
- Division of Economic and Risk Analysis (“DERA”)

9

- Securities Offerings
- Public Reporting
- Anti-Fraud
- Broker- Dealers
- Investment Companies
- Investment Advisors



# CFTC



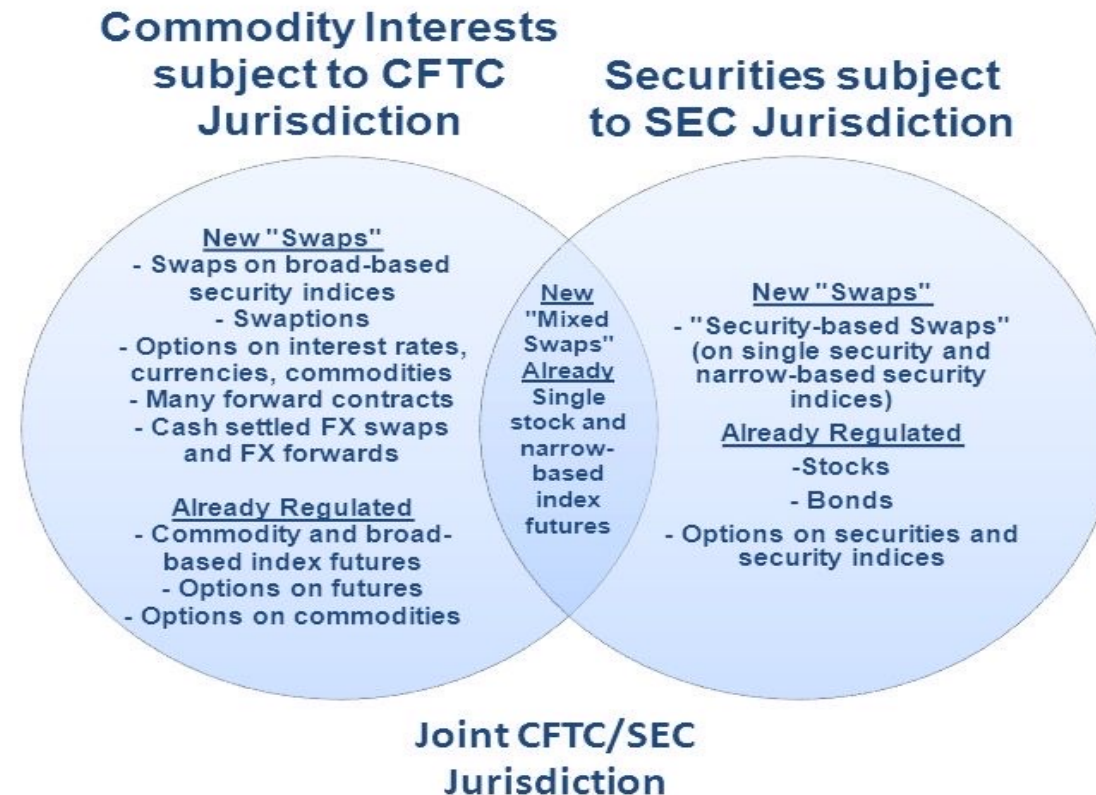
- The mission of The Commodity Futures Trading Commission (CFTC) is to foster open, transparent, competitive, and financially sound markets. To achieve this aim, the CFTC administers and enforces the Commodity Exchange Act ("CEA") and its respective regulations.
- The CFTC has exclusive jurisdiction over, among others, any transaction "for the contract of sale of a commodity for future delivery," with certain exceptions. Consequently, commodities are generally subject to the regulatory requirements of the CEA.
- In addition, market participants in commodities face CFTC registration requirements for traders, advisors, agents and exchanges as well as enforcement actions brought by the CFTC's Division of Enforcement for violations of fraud and manipulation rules and regulations.



# SEC and CFTC



## CFTC and SEC Jurisdiction



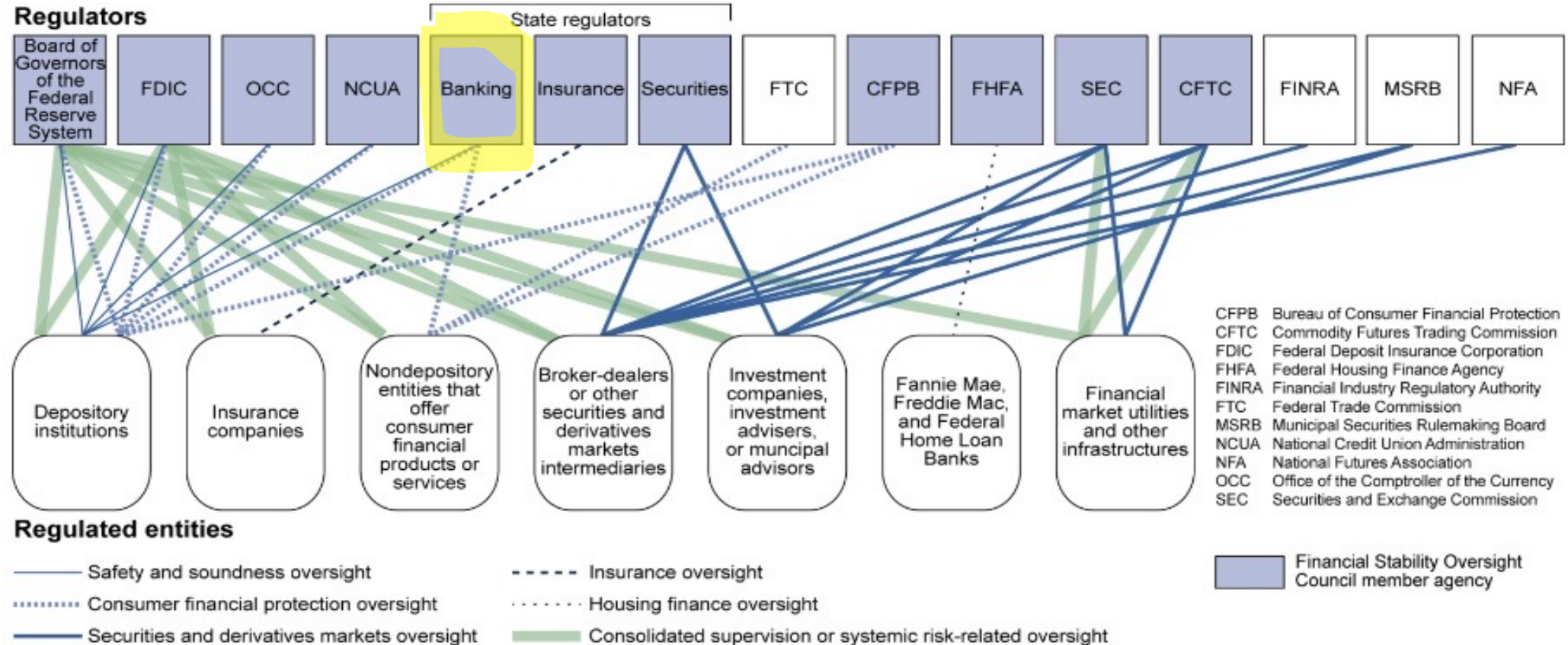


# State Regulatory and Legal Structures Relevant to FinTech, Banking and Securities



# State Non-Bank Regulation

U.S. Financial Regulatory Structure, 2016



Source: GAO. | GAO-16-175

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# State Regulation



## National Banks

Banks chartered and regulated by the Office of the Comptroller of the Currency (OCC).

- FDIC-insured.
- Regulated by the OCC.

## State-chartered Member Banks (\*)

Banks chartered by the state which are members of the Federal Reserve System.

- FDIC-insured.
- Regulatory responsibilities are shared by the state and the Federal Reserve.

## State-chartered Nonmember Banks (\*)

Banks chartered by the state which are NOT members of the Federal Reserve System.

- FDIC-Insured.
- Regulatory responsibilities are shared by the state and the FDIC.

## State-chartered Credit Unions

Credit Unions chartered by the state.

- NCUA-insured.
- Regulatory responsibilities are shared by the state and the NCUA.

## Federal Credit Unions

Credit unions chartered by the National Credit Union Administration (NCUA).

- NCUA-insured.
- Regulated by the NCUA.

## State-licensed Non-Depository Service Providers

Collection Agencies  
Debt-Settlement Providers  
Deferred Presentment Service Providers (Payday Lenders)  
Money Brokers  
Money Transmitters  
Mortgage Loan Originators  
Trust Companies

(\*) Some banks receive a separate authority to operate a trust department.



# Kansas State Bank Commissioner

## Who We Regulate

[Home](#) » [Consumer Assistance](#) » [Who We Regulate](#)

- > [Who We Regulate](#)
- > [Online Institution Lookup](#)
- > [File a Complaint](#)
- > **[Consumer Education](#)**
- > [Kansas Financial Scholars](#)
- > [Calendar](#)
- > [FAQs](#)
- > [Other Resources](#)
- > [Open Records Request](#)

## Who We Regulate

- ✓ Residential Mortgage Lenders and Brokers ([Licensed as Mortgage Companies](#))
- ✓ Loan Originators ([Licensed as Loan Originators](#))
- ✓ State Chartered Banks - [Kansas Chartered](#)
- ✓ State Chartered [Trust Companies](#)
- ✓ Finance Companies ([Licensed as Supervised Lenders](#))
- ✓ Payday Lenders ([Licensed as Supervised Lenders](#))
- ✓ Title Loan Companies ([Licensed as Supervised Lenders](#))
- ✓ Debt Buyers ([Licensed as Supervised Lenders](#))
- ✓ Auto Dealers who Extend Credit ([Notification Registrants](#))
- ✓ Consumer Credit Sales ([Notification Registrants](#))
- ✓ Credit Counseling Companies ([Licensed as Credit Service Organizations](#))
- ✓ Debt Management Companies ([Licensed as Credit Service Organizations](#))
- ✓ [Money Transmitters](#)

## Who We DO NOT Regulate

- ✓ Nationally Chartered Banks (Often have NA following their name) - Regulated by [Office of the Comptroller of Currency \(OCC\)](#)
- ✓ Federal Savings Banks (Often have FSB following their name) - Regulated by [Office of the Comptroller of Currency \(OCC\)](#)
- ✓ State Chartered Banks Chartered in Other States - Regulated by the State in which they are chartered. See [CSBS Directory of State Banking Departments](#)
- ✓ Kansas Chartered Credit Unions - Regulated by [Kansas Department of Credit Unions](#)
- ✓ Nationally Chartered Credit Unions - Regulated by the [National Credit Union Administration](#)
- ✓ Collection Agencies\* - Fair Debt Collection Practices Act is enforced by [Federal Trade Commission \(FTC\)](#)

\*If consumer debt is purchased by a collection agency, then it would qualify as a 'Debt Buyer' and licensure may be required as a supervised lender as indicated above in the "Who We Regulate" section.



# State Financial Regulation

- 50 States Plus DC, PR and Territories: **Every One Has a Regulator**
- What State Law Applies?
  - Contractual Choice of Law and Location of FinTech Not Dispositive
  - Generally if Customer in State or Solicits by Any Means in State, That State Law Applies
  - Email, Internet, Smartphone, Telephone all Count as Solicitation
- Jealous of Authority & Active in Enforcement
  - Directly and through State AGs



# Types of Nonbank State Laws 1/3

- Banks are Exempt from Most, but Not All
- Lending & Loans
  - Usury Caps
  - Loan Broker Licensing
    - Lead Generators (NerdWallet) as Brokers
- Money Transmitters
  - Very Broadly Defined
  - Example: Maryland
    - *“the business of selling or issuing payment instruments or stored value devices, or receiving money or monetary value for transmission to a location within or outside of the United States by any means, including electronically or through the Internet.”*
- Financial Privacy
  - States Can Go Further than Federal (GLB Act) Law



# Types of Nonbank State Laws 2/3

- California as Example of Financial Privacy Laws
  - California Consumer Privacy Act of 2018 (Later Slide)
  - California California Financial Privacy Act
    - Opt-in vs Opt-out
    - Financial Institution can't sell, share, transfer or otherwise disclose nonpublic personal information to or with any nonaffiliated third parties without explicit prior consent of consumer
  - Song-Beverly Credit Card Act
  - California Online Privacy Protection Act
    - Requires an company that collects personally identifiable information through website or mobile app to post a privacy policy.
- Electronic Transmission Laws
- Bitcoin and Crypto Laws



## Cryptocurrency Regulation in the USA, by State



## Types of Nonbank State Laws 3/3

Bitcoin and Crypto Laws



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## Welcome to the NMLS Resource Center

The NMLS Resource Center is the official gateway into the Nationwide Multistate Licensing System & Registry (NMLS) and provides users with tools, tips, news and updates.

[Getting Started Company](#)
[Getting Started Mortgage Loan Originator](#)

### NMLS News

**Reminder: Request for Ombudsman Meeting Agenda Items - 2019 NMLS Annual Conference**  
Posted 1/22/2019  
 The NMLS Ombudsman Meeting will be held Wednesday, February 20, from 9:00 a.m. to 12:00 p.m. ET, at the 2019 NMLS Annual Conference & Training in Orlando, Florida. Submit agenda items by emailing [ombudsman@nmls.org](mailto:ombudsman@nmls.org) no later than Wednesday, January 30. Please provide the issue and any relevant information on your company's letterhead. The meeting will be in-person only; there will be no dial-in number available. Individuals who submit agenda items must attend the meeting in-person to present their issue.  
 Visit the [NMLS Annual Conference website](#) to get more information about this year's event.

**NMLS Mortgage Industry Report for 2018 Q3 Released**  
Posted 11/1/2018  
 The NMLS Mortgage Industry Report for the third quarter of 2018 is now available. Updates to the Money Services Businesses Fact Sheet and Debt Collection Fact Sheet have also been posted. For all reports, including updated Mortgage Call Report data, go to [NMLS Reports](#).

**NMLS Annual Renewal Period to End at Midnight, December 31; Reinstatement Period Begins January 2**  
Posted 12/1/2018  
 The NMLS annual renewal period will end at midnight ET on December 31. NMLS will be unavailable on January 1, 2019 (New Year's Day).  
 The Reinstatement Period will start January 2, 2019 and end at midnight ET on February 28, 2019. Review the [State Licensing](#) Annual Renewal page of the NMLS Resource Center for steps to reinstate your license.

**NMLS Annual Renewal Ends December 31, 2018**

### Agency News

**Massachusetts Division of Banks Adopts Uniform Authorized Agent Reporting**  
Posted 1/4/2019  
 The Massachusetts Division of Banks will begin using the [NMLS Uniform Authorized Agent Reporting](#) functionality to fulfill agent reporting requirements for their Check Seller License. **Companies are required to upload Massachusetts located agents in NMLS by February 14, 2019.**  
 See the [NMLS Uniform Authorized Agent Reporting](#) page of the NMLS Resource Center for more information.

**Illinois Department of Financial and Professional Regulation to Add Student Loan Servicer License to NMLS December 15, 2018**  
Posted 12/13/2018  
 Starting December 15, NMLS will begin receiving new application filings for the Illinois Department of Financial and Professional Regulation Student Loan Servicer License. New applicants will be able to submit these records through NMLS. [Click here for more information.](#)

**New Jersey Adds Transitional Mortgage Loan Originator License, Registered Depository Institution and Exempt Company Registration to NMLS November 21, 2018**  
Posted 11/21/2018  
 NMLS is now receiving new applications for the New Jersey Department of Banking and Insurance Transitional Mortgage Loan Originator License, Registered Depository Institution and Exempt Company Registration. New applicants can now submit these records through NMLS.

### 2019 NMLS Annual Conference & Training

11th Annual Conference & Training  
 February 19-21, 2019  
 Hilton Orlando Lake Buena Vista

Visit [www.nmlsconference.org](http://www.nmlsconference.org) to view the agenda, venue information and fee schedule. Register today!

### Popular Links

- [Workflow for New Companies](#)
- [State Agency Checklist](#)
- [Quick Guides - Company](#)
- [Quick Guides - Individual](#)
- [NMLS Expanded Industries](#)
- [Mortgage Call Report](#)
- [Money Services Businesses Call Report](#)
- [Employment Changes \(Quick Guide\)](#)
- [NMLS Call Center](#)
- [FAQs: S.2155 Temporary Authority to Operate](#)


[Annual Renewal](#)
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# Multistate Licensing





# Coordinated Exams

- Money transmitters like Western Union, PayPal and cryptocurrency firms will be able to more easily expand across the United States, after 48 state regulators agreed to a single set of supervisory rules that should reduce their compliance costs.
- Money services businesses will undergo a single exam by a joint group of state regulators that oversee licensing, instead of dozens of individual state exams.
- The new streamlined regime applies to 78 large payment and cryptocurrency firms, which combined move over \$1 trillion annually.




The screenshot shows the CSBS (Conference of State Bank Supervisors) website. The header includes the CSBS logo, navigation links (About, Newsroom, Policy, Data & Research, Examiners, NMLS), a search icon, and a 'Sign In' button. The breadcrumb trail reads 'Home > State Regulators Roll Out One Company, One Exam for Nationwide Payments Firms'. The main heading is 'State Regulators Roll Out One Company, One Exam for Nationwide Payments Firms'. Below the heading is the date 'Sep 15, 2020' and a 'Download PDF' link. The text of the press release describes a new exam protocol for nationwide payments firms, mentioning that 48 states will benefit from streamlined supervision in 2021. It also includes quotes from Rosemary Gallagher and Kevin Hagler. On the right side, there are 'Related Posts' including podcasts and press releases. At the bottom right, there is a 'Subscribe to CSBS' section with a 'GET UPDATES' link and a 'Subscription Type\*' dropdown.


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**PRESS RELEASES**

## State Regulators Roll Out One Company, One Exam for Nationwide Payments Firms

Sep 15, 2020 | [Download PDF](#) 

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Money transmitters operating in 40 or more states will benefit from streamlined state supervision in 2021.

The Conference of State Bank Supervisors (CSBS) announced today the launch of a state-initiated program whereby nationwide payments firms will undergo a single comprehensive exam to satisfy all state regulatory requirements. Known as MSB Networked Supervision, the initiative will apply to 78 of the nation's largest payments and cryptocurrency companies that combined move more than \$1 trillion a year in customer funds.


Building on years of multistate coordination, this exam protocol will enable states to fine tune a risk-based approach to each company's operations. When compliance issues arise, the states will be better positioned to follow up throughout the year.


The single exam will be led by one state overseeing a group of examiners sourced from across the country. By relying on experts across the state system — including in cyber security and anti-money laundering — regulators will gain more insight while also freeing up state resources.


**Rosemary Gallagher**, Western Union associate general counsel, shared, "Western Union was a proud participant in the CSBS's successful one company, one exam pilot. We firmly believe that the impact of this new approach to multistate exams will be significant in terms of driving harmonization and streamlining of state supervision across the board."

**Kevin Hagler**, Georgia Department of Banking and Finance commissioner and CSBS Board chair, said,

**Related Posts**

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**#26 - Who Protects Your Payments?**  
Sep 1, 2020

 **PRESS RELEASES**  
**State Regulators Seek Industry Input on Mortgage Loan Originators Licensing Test**  
Aug 25, 2020

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Jul 1, 2020

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# Other Relevant Federal Laws 1/3

- Bank Service Provider Rules
  - Allows examination and enforcement against contractors for banks (e.g., FinTechs)
- Electronic Funds Transfer Act---Reg E
  - EFTs in and out of consumer accounts
- Bank Secrecy Act
  - Applies to “Money Service Businesses”
    - Forex, check cashing, travelers checks, money orders, prepaid access, money transmitter



# Other Relevant Federal Laws 2/3

- Truth in Lending Act
  - Consumer credit and finance charges
- Privacy, Title V of Gramm-Leach-Bliley Act
  - Any institution “substantially engaged” in “financial activities”
  - CFPB Regulation P
    - Notices re privacy policy
    - Procedures for sharing nonpublic personal information with unaffiliated third parties
    - Opt-out right for consumer
  - FTC retains authority over some nonbanks, including money transmitters

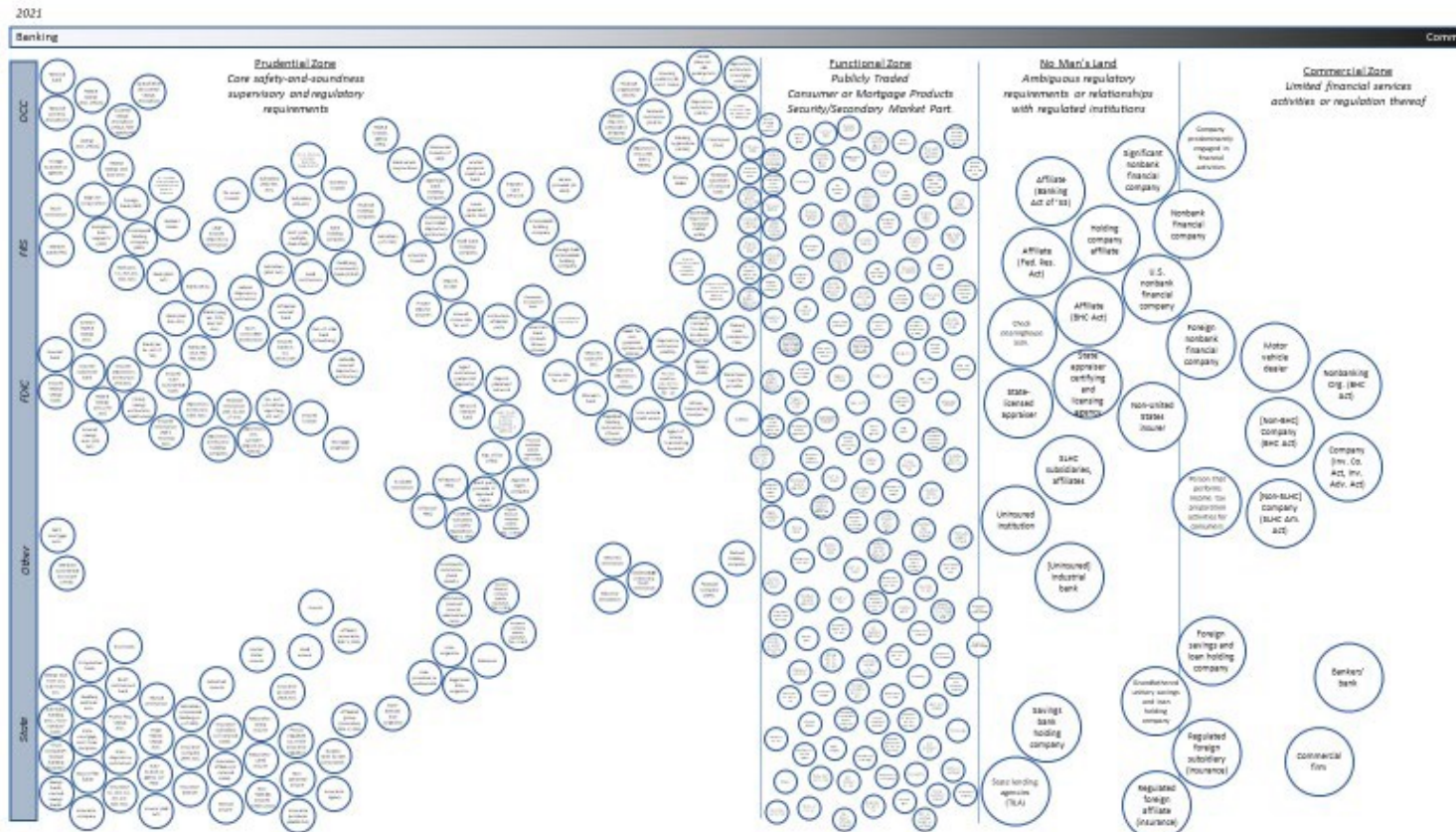


## Other Relevant Federal Laws 3/3

- Equal Credit Opportunity Act (ECOA)
  - Discrimination in Lending
- Fair Credit Reporting Act
  - Consumer Reporting Agencies
- Fair Debt Collection Practices Act



# Keep in Mind That The Regulatory Perimeter Shifts Over Time



- FinTech Can Be Found in All the Zones
- We Are in a Moment of Possible Big Change

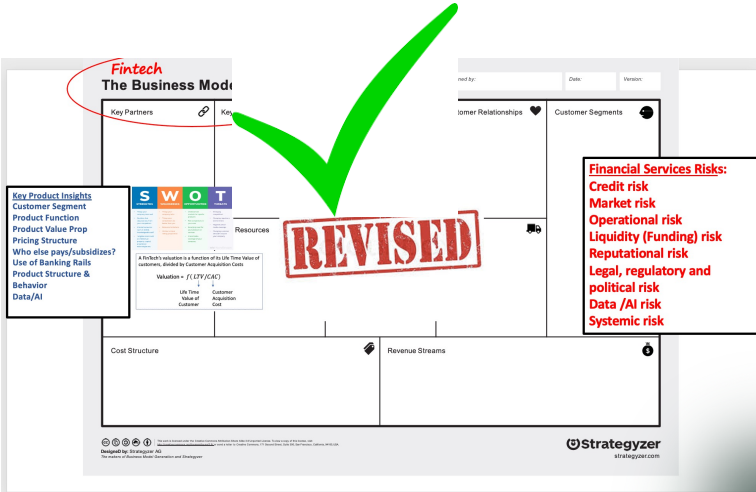


# And Consider What to Do When Legal Status "Falls Between the Cracks"





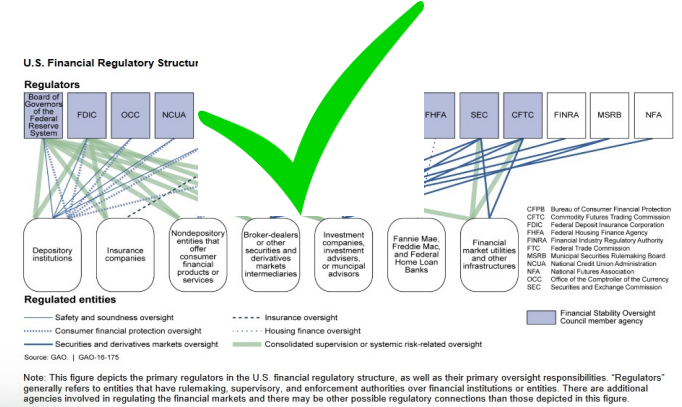
# These are the Three Analytic Dimensions You Need to Master...



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policy

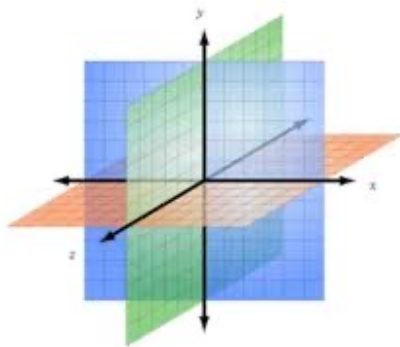
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# So You Can Answer that Question with Confidence...

- An Entrepreneur Pitches a New Fintech Idea to You and Asks for Advice...
- How Do You Respond?





# THE THREE DIMENSIONS OF FINTECH: AN ANALYTIC FRAMEWORK

July 2022



**RICHMAN  
CENTER**

**TODD H. BAKER**

SENIOR FELLOW, RICHMAN CENTER FOR BUSINESS, LAW & PUBLIC POLICY, COLUMBIA UNIVERSITY