

September 3, 2020

The Honorable Brian P. Brooks
Acting Comptroller
Office of the Comptroller of the Currency
400 7th Street, SW
Washington, DC 20219
Delivered electronically

Re: Proposed rule to gut longstanding true lender doctrine; Docket ID OCC-2020-0026

Dear Acting Comptroller Brooks:

The undersigned 101 community, consumer, civil rights, and faith organizations write to vigorously oppose the OCC's proposed rule to gut the longstanding "true lender" anti-evasion doctrine. The proposed rule would trample state interest rate limits and unleash predatory lending in all 50 states, further exacerbating the economic impacts already experienced by COVID-19.

Interest rate limits are the single most effective tool states have to protect their residents from predatory loans. Predatory loans include payday and car title loans that often carry annual interest rates as high as 300% or more, as well high-cost installment loans and lines of credit with rates approaching and well exceeding 100%. Importantly, even high-cost loans that are less expensive than 300% APR are far more likely to *compound* borrowers' unaffordable debt burdens than to "compete" with 300% APR loans and bring borrowers relief.

At least 45 states and the District of Columbia (DC) have rate caps on installment loans, with median annual percentage rates of 25%-38.5% depending on the loan terms. Sixteen states and DC—representing about a third of the U.S. population—enforce annual percentage rates of 36% or less that keep all high-cost loans out of their state.

The OCC's proposal could render these longstanding interest rate limits virtually meaningless. Non-bank predatory lenders have long sought shelter in banks' exemptions from state usury limits by laundering their loans through banks. But states have successfully stamped out rent-a-bank scams by exposing that the true lender is in fact the non-bank predatory lender that is involved from the outset and has the predominant economic interest in the loan. The OCC proposal seeks to eliminate the true lender doctrine, and bar courts from looking past contrivances to what is true, by dictating that merely putting the bank's name on the paperwork makes the bank the lender. The proposal would take away a critical enforcement tool against usury evasions -- while upending centuries of law holding that, in matters of usury, including in interpretation of the National Bank Act, substance prevails over form.

The OCC's assurances that the agency will not permit grossly irresponsible and harmful loans ring hollow. Even now, the OCC is permitting Stride Bank to pilot loans up to 179.99% for CURO's Verge Credit in a plan to expand to states that do not permit those rates for non-banks. And the OCC has sided with World Business Lenders' purported right to charge astronomical rates despite extensive litigation involving the predatory small business loans that Axos Bank is enabling for WBL, such as a \$90,000 mortgage at 138% APR.

Predatory loans target financially distressed individuals and disproportionately prey on communities of color, stripping them of income, exacerbating financial exclusion, and widening the racial wealth gap.

We reject any notion that this proposal will serve our communities by expanding access to affordable credit. Instead, it will invite the spread of predatory lending while hamstringing the most effective tools to stop it: state interest rate limits.

We appreciate your consideration of our concerns.

Yours truly,

National organizations

American Civil Liberties Union
Americans for Financial Reform Education Fund
Better Markets
Center for Responsible Lending
Consumer Action
Consumer Federation of America
Credit Builders Alliance
Habitat for Humanity
Innovative Systems Group Inc.
NAACP
National Association of Consumer Bankruptcy Attorneys
National Baptist Convention USA
National Consumer Law Center (on behalf of its low-income clients)
Public Citizen
Public Counsel
Southern Poverty Law Center Action Fund
Student Borrower Protection Center
U.S. PIRG
Woodstock Institute

State/local organizations

Alabama

Alabama Appleseed Center for Law & Justice

Alaska

AKPIRG

Arizona

United Way of Tucson and Southern Arizona

Arkansas

Arkansans Against Abusive Payday Lending
Arkansas Community Institute
Arkansas Community Organizations

California

East Bay Community Law Center
Public Law Center
Shoreline Study Center

Colorado

The Bell Policy Center
CoPIRG (Colorado Public Interest Research Group)
WorkLife Partnership

Connecticut

Connecticut Legal Services, Inc.

District of Columbia

Legal Aid Society of the District of Columbia
Tzedek DC

Florida

Jacksonville Area Legal Aid, Inc.

Georgia

Atlanta Legal Aid Society, Inc.
Georgia Watch

Illinois

Manufactured Home Owners Association of Illinois IL

Indiana

Grace Church
Hoosier Action
Indiana Institute for Working Families
Indiana United Ways
Marion County Commission on Youth, Inc.
Unite Indy

Iowa

Coasap

Louisiana

New Hope Collaborative

Maine

Maine Equal Justice

Maryland

Public Justice Center MD

Michigan

Community Economic Development Assoc. of MI (CEDAM)
Project GREEN

Minnesota

Mid-Minnesota Legal Aid

Missouri

R.A.A. - Ready Aim Advocate

Montana

Montana Organizing Project

Rural Dynamics, Inc

Nevada

Progressive Leadership Alliance of Nevada

New Hampshire

New Hampshire Legal Assistance

New Jersey

New Jersey Citizen Action

New York

Action for A Better Community

Brooklyn Cooperative FCU

Empire Justice Center

Hebrew Free Loan Society

North Carolina

Cedar Grove Institute for Sustainable Communities

Charlotte Center for Legal Advocacy

Church Women United

Coastal Credit Union

The Collaborative

Disability Rights NC

Elizabeth City Habitat for Humanity

Episcopal Diocese of North Carolina

Financial Protection Law Center

Habitat for Humanity Cleveland County

Latino Community Credit Union

MDC

NC Conference of the United Methodist Church

NC State AFL-CIO

New Hope Collaborative

North Carolina Alliance for Retired Americans

North Carolina Council of Churches

North Carolina Justice Center

Olive Hill Community Economic Development Corporation, Inc

Ohio

Consumer Credit Counseling Service of the Miami Valley

Policy Matters Ohio

Oklahoma

VOICE - OKC

Oregon

CASA of Oregon

DevNW

Neighborhood Partnerships

OSPIRG

Pennsylvania

Bucks County Women's Advocacy Coalition

The One Less Foundation

South Carolina

SC Appleseed Legal Justice Center

South Carolina Christian Action Council, Inc.

Texas

Brazos Valley Affordable Housing Corp.

Community Enrichment Center

Every Texan

United Way of Central Texas

Virginia

Legal Aid Justice Center

Virginia Citizens Consumer Council

Virginia Organizing

Washington

Solid Ground Washington

Statewide Poverty Action Network