New OCC “Fintech” Charter Could Open the Floodgates to Predatory Lending

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Special purpose “national bank” charters will allow nonbank lenders to ignore state interest rate caps

WASHINGTON – The Office of the Comptroller of the Currency’s (OCC) plan, announced today, to accept applications for “fintech” national bank charters, is both outside its authority and risks an expansion of predatory lending across the country, according to advocates at the National Consumer Law Center, Americans for Financial Reform, the Center for Responsible Lending, the Consumer Federation of America, and U.S. PIRG. National banks can ignore state interest rate limits, and the OCC is now planning to grant “national bank” charters to lenders that do not take deposits or otherwise function as traditional banks. A report released today by the U.S. Treasury Department also recommends that the OCC grant such charters. In 2017, more than 250 organizations sent a letter to the OCC opposing a fintech national bank charter.

“State interest rate limits are the primary protection against predatory lending, and giving ‘national bank’ charters to nonbank lenders could open the floodgates to a wide range of predatory actors making loans at 100 percent APR or higher,” **said Lauren Saunders, associate director of the National Consumer Law Center.** Two-thirds of the states cap a $2,000 loan at 36 percent or less, but a nonbank charter could allow lenders to avoid those limits.

“State interest rate limits currently save borrowers over $2.2 billion annually in fees on short-term payday and auto title fees alone,” **said Diane Standaert at the Center for Responsible Lending**, “but a national bank charter might allow high-cost lenders to make payday loans in states where they are illegal.”

“The OCC does not have the legal authority to hand out ‘national bank’ charters to entities that do not take deposits,” **said Linda Jun at Americans for Financial Reform**. “I expect the courts will stop this power grab by the OCC that takes away states’ ability to protect their citizens,” she added.

“Allowing nonbank lenders to ignore state interest rate limits is a dangerous step in the wrong direction and could repudiate the will of voters in South Dakota, Montana and many other states where people have overwhelmingly voted to limit interest rates to 36 percent or less,” **said Christopher Peterson, director of Financial Services and Senior Fellow at the Consumer Federation of America**.

“States have been leaders in protecting consumers from high-cost lenders,” **added Ed Mierzwinski, senior director for consumer programs at U.S. PIRG**. “The proposed OCC charter unwisely usurps those protections and could benefit predators, not innovators.”

Related Resources

Comments to the OCC from more than 250 organizations, the National Consumer Law Center, the Center for Responsible Lending, the Leadership Conference on Civil and Human Rights and NAACP, and Americans for Financial Reform opposing a fintech national bank charter.

Conference of State Bank Supervisors lawsuit opposing the OCC establishing a national bank charter for fintech companies, Sept. 13, 2017

Poll Finds Continued Bipartisan Opposition to Payday Lenders, July 31, 2018