New OCC Rule Protecting Predatory Lenders Could Face Legal Challenge

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Rule that evades state interest rate laws will severely impact low-income and communities of color

WASHINGTON, D.C. – The regulator of the nation's largest banks has finalized a rule that allows predatory lenders to do an end-run around state interest rate caps, exposing people to loans in excess of 100% APR that violate state rate limits. Merely by putting a bank's name on the fine print of the paperwork, predatory lenders could claim that the loan is a bank loan exempt from state rate caps.

"Today's rule takes us back to the time 20 years ago, when payday lenders were evading state interest rate caps merely by putting a bank's name on the paperwork. The OCC's rule protects predatory online lenders that are charging 160% or more in violation of state interest law, and eviscerates power that states have had since the time of the American Revolution to protect people from predatory lending," said **Lauren Saunders, associate director of the National Consumer Law Center. "**The OCC's rule would prohibit courts from looking behind the fine print to the truth about which party is running the loan program and is the "true lender."

The rule would protect predatory lenders from state enforcement, such as the recent lawsuit by the District of Columbia (D.C.) attorney general, which sued Elevate for charging 99% to 251% in violation of DC's rate caps, and potential enforcement as a result of California's investigation into LoanMart, an auto title lender that uses rent-a-bank schemes to charge 170% APR in states like California where that rate is illegal. Currently, 45 states and D.C.* have interest rate caps on at least some installment loans to protect residents from high-cost predatory lending.

"The OCC has already been sued by state attorneys general for its first attempt to protect predatory rent-a-bank lenders, and I expect the agency will be sued once again over this rule, which far exceeds the OCC's authority to take away states' power to protect people from predatory lending." **Saunders added.** "The OCC claims that it will not allow predatory lending, but it is already allowing Axos Bank to help predatory small business lenders evade state rate caps for loans up to 139% APR that are not only devastating to small businesses but even put the owner's home in foreclosure."

"With this rule, the OCC is quite simply throwing the doors open to predatory lending nationwide, including in states that have enacted laws to specifically protect their citizens from the debt traps created by unaffordable, high-cost loans," said **Linda Jun, senior policy counsel at Americans for Financial Reform**. "Instead of shielding vulnerable consumers, federal regulators are sanctioning schemes designed to outflank interest rate caps and other protections that are especially critical for families as they weather the ongoing economic fallout from the COVID-19 pandemic."

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