

September 3, 2020

The Honorable Brian P. Brooks  
Acting Comptroller  
Office of the Comptroller of the Currency  
400 7<sup>th</sup> 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