December 22, 2020

Office of the Comptroller of the Currency
Western District Office
Director for District Licensing
1225 17th Street, Suite 300
Denver, CO 80202
Delivered electronically

Re: Oportun's New Bank Charter Application; Application # 2020-WE-CHARTER317993; Proposed Charter #25248

We the undersigned community, consumer, and civil rights organizations write to express serious concerns about Oportun's application to the Office of the Comptroller of the Currency (OCC) for a national bank charter. Unfortunately, recent investigations and research have revealed egregious debt collection practices by Oportun. The investigation raised problems including unaffordable loans, high volumes of collections suits, and abusive and intimidating debt collection tactics. These raise substantial and serious questions regarding Oportun's application.

Regarding Oportun's underwriting standards, the company uses a proprietary scoring model to assess a borrower's ability-to-repay. That does not give us a lot of information about their debt-to-income ratio and risk factors that they consider. What we do know is that Oportun encourages and enables multiple refinances, which is a sign of unaffordability. Repeat refinances can amount to a cycle of debt and borrowers may end up paying more interest than principal. While Oportun's refinance rates are not available, 80% of its dollars loaned go to repeat customers.[i] According to *ProPublica*, "3.8 million loans [Oportun] has disbursed to date have gone to about 1.7 million people, meaning each person takes out an average of more than two."[ii] Oportun's late fees also signal unaffordability: In 2018, it collected nearly $8.2 million in late fees *on roughly 75% of its loans*.[iii]

We also know that in the summer of 2020, Oportun made headlines for grossly abusive debt collection practices, which is especially alarming given the company's focus on serving Latino and low-to-moderate income borrowers. [iv] *ProPublica* and *The Guardian* published investigations of Oportun's **sue-to-intimidate method** and CRL has also conducted research on Oportun's collections practices.[v] Key findings include:

- Oportun filed 47,000 suits across Texas over the last four years, making it the state's most litigious personal loan company.[vi]
- CRL's analysis of cases filed in 2019 and 2020 in Los Angeles County confirms that Oportun files more cases than prolific collectors like Midland Funding, Portfolio Recovery Associates, and Discover Bank.[vii]
- CRL's analysis of the top ten most-populous counties in California indicates that Oportun filed at least 23,500 cases in California in 2019 and has filed over 13,000 cases in 2020, a total of over 36,500 cases filed over two years.[viii]

Oportun files almost all cases in small claims courts, where collectors can pursue a maximum amount of $2,500 in California. Two of the main concerns in California include a) such courts are not legally required to provide interpreters and b) they do not permit attorney representation legal counsel. This is especially problematic when Oportun is predominantly serving the Latino community, for whom Spanish is the main spoken language for many and who may experience additional barriers in confronting an English-only legal process. Additionally, for undocumented immigrants this sue-to-intimidate method is even more terrorizing because they are required to appear in person to court.

Following media inquiries into its litigation practices, Oportun announced changes to its practices. The company announced that it would lower its maximum APR to a fee-inclusive 36%, drop its pending lawsuits, suspend new filings for the time being, and reduce its filing rate going forward by 60%.[ix] Even with these changes, many questions remain about underwriting to ensure affordability and not using the legal system to threaten to collect. Even if it meets the target of 60% filings, Oportun would be the fifth most litigious debt collector in Texas and among the top debt collectors in California.[x] Finally, it is important to note that 36% APR is quite expensive for larger loans such as those of $9,000 which would cost a borrower more than $10,000 in interest alone (Figure 1).

Figure 1: Cost of $9,000 loan for 60 months at 36% APR vs. 25% APR

Principal Amount Loaned	**Annual Percentage Rate Modeled**	**Term Length**	**Payment Frequency**	**Total Amount Due** ***(Monthly payment due)***	**Amount Paid in Interest Over loan** ***(Percent of principal amount loaned paid in interest)***
$9,000.00	36%	60 months	Monthly	$19,511.45 *($325.20)* *	$10,511.45 *(116.8%)*
$9,000.00	25%	60 months	Monthly	$15,849.25 *($264.17)* ^	$6,849.25 *(76.1%)*

** 1 final payment of $324.65.*

^ 1 final payment of $263.22

Further, we have serious concerns about how Oportun will comply with its Community Reinvestment Act (CRA) obligations to help meet the credit needs of its low and moderate income communities. Oportun provides very little detail on its CRA plans, though it appears those plans consist of online-only bank accounts, and Oportun's high cost consumer, credit card, and auto loans, with rates up to 36% APR. These products are currently pushing Oportun customers into default and subjecting them to Oportun's aggressive debt collection practices, damaging credit and putting mainstream banking, homeownership and small business ownership further out of reach of the low-income consumers and communities that are meant to benefit from the CRA. Given that Oportun targets the Latino community for these high cost products, the OCC should ensure that an independent fair lending audit is conducted of Oportun's operations and products, and that Oportun enables its customers to graduate to lower cost products, before any charter approval is granted.

We urge the OCC and Oportun to take further steps to address these serious issues that are causing harm to Latino and low-to-moderate income borrowers before they are able to become a national bank.

Sincerely,

National organizations
Americans for Financial Reform Education Fund
Center for Responsible Lending (CRL)
Consumer Action
Consumers for Auto Reliability and Safety
Consumer Federation of America
Consumer Reports
League of United Latin American Citizens (LULAC)
Mission Asset Fund
MyPath
National Consumer Law Center (on behalf of its low income clients)
Public Good Law Center
UnidosUS
U.S. PIRG
Woodstock Institute

State/local organizations
Alaska PIRG
Anti-Eviction Mapping Project (California)
Arkansans Against Abusive Payday Lending
Bankers Small Business CDC of California
Bay Area Development Company (California)
California League of United Latin American Citizens
California Housing Partnership
California Reinvestment Coalition
CASA of Oregon
CDC Small Business Finance (California)
Consumer Federation of California
East LA Community Corporation (California)
Faith Voices of Southwest Missouri
Fair Housing Advocates of Northern California
Haven Neighborhood Services (California)
Hope Policy Institute (Mississippi)
Jacksonville Area Legal Aid, Inc. (Florida)
New Economics for Women (NEW) (California)
New Jersey Citizen Action
THE ONE LESS FOUNDATION (Pennsylvania)
Public Counsel (California)
Public Good Law Center (California)

SC Appleseed Legal Justice Center (South Carolina)
Statewide Poverty Action Network (Washington)
Tzedek DC
Urban Strategies Council (California)
Virginia Poverty Law Center
VOICE-OKC (Oklahoma)
Wildfire: Igniting Community Action to End Poverty in Arizona

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[i] K. Collier, R. Larson, and P. Trevizo. August 2020. "The Loan Company That Sued Thousands of Low-Income Latinos During the Pandemic," *ProPublica*. Available at https://www.propublica.org/article/the-loan-company-that-sued-thousands-of-low-income-latinos-during-the-pandemic#:~:text=A%20monthslong%20investigation%20revealed%20that,%E2%80%94%20even%20amid%20COVID%2D19.

[ii] See Collier et. al. (2020) and Hosseini (2020) for in-depth descriptions of Oportun's practices, including accounts of the impact of these practices on the financially distressed Latino borrowers featured.

[iii] Hosseini, R. August 2020. "Exclusive: The Litigious Debt Collectors Targeting Latinos During a Pandemic." *The Guardian.* Available at https://www.theguardian.com/us-news/2020/aug/02/oportun-loans-lawsuits-latino-small-claims-californi.

[iv] K. Collier, R. Larson, and P. Trevizo. August 2020. "The Loan Company That Sued Thousands of Low-Income Latinos During the Pandemic," *ProPublica*. Available at https://www.propublica.org/article/the-loan-company-that-sued-thousands-of-low-income-latinos-during-the-pandemic#:~:text=A%20monthslong%20investigation%20revealed%20that,%E2%80%94%20even%20amid%20COVID%2D19.

[v] Collier et. al. 2020; Hosseini 2020.

[vi] Collier et. al. 2020.

[vii] CRL analysis of cases filed in Los Angeles County Superior Courts. Cases filed in 2019 were filed within the calendar year, and cases filed in 2020 reflect cases filed from January 1 through December 11, 2020. Companies included in the analysis were the top ten most-filing debt collectors in California from 2012 to 2017, according to a 2020 CRL analysis. For more information, see Barnard, J.; Sidhu, K.; Smith, P.; & Stifler, L. October 2020. "Court System Overload: The State of Debt Collection in California after the Fair Debt Buyer Protection Act." *Center for Responsible Lending*. Available at https://www.responsiblelending.org/sites/default/files/nodes/files/research-publication/crl-california-debt-oct2020.pdf.

[viii] CRL analysis of cases filed in the top-ten most populous California (including Los Angeles, Orange, San Diego, Riverside, San Bernardino, Sacramento, Contra Costa, Santa Clara, Fresno, and Alameda). 2019 totals are from reporting by R. Hosseini in *The Guardian* (missing data from Riverside, San Bernardino, and Contra Costa), 2020 totals were gathered by searching online court records databases in each county (missing data from San Bernardino and incomplete data from San Diego).

[ix] Oportun. 2020, July 28. *Oportun to cap new loan originations at an "all-in" 36% APR*. Available at https://oportun.com/about/press/oportun-to-cap-new-loan-originations-at-an-all-in-36-apr/.

[x] Collier et. al. 2020; CRL analysis.