

Advocates Call for FDIC, under New Leadership, to Stop Banks from Fronting for Predatory Lenders

February 04, 2022

Today's departure of FDIC Chair appointed by former President Trump presents a new opportunity for the agency to stop illegal loans with 100%+ APR that are exploiting financially vulnerable families

WASHINGTON - With a new chairman taking the helm of the Federal Deposit Insurance Corporation (FDIC), the National Consumer Law Center joined with more than a dozen other organizations in calling for the FDIC to "stop permitting its supervised institutions to front for predatory lenders evading state interest rate limits." The letter, **linked here**, is addressed to the FDIC's Board of Directors: Acting FDIC Chairman Martin Gruenberg, Consumer Financial Protection Bureau Director Rohit Chopra, and Acting Comptroller of the Currency Michael Hsu.

The letter, in part, states: "FDIC-supervised banks are helping predatory lenders make loans up to 225% APR that are illegal in almost every state. These rent-a-bank schemes often operate under the guise of innovative 'fintech' products, even as their high-cost, high-default business model inflicts harms similar to those inflicted by traditional payday lenders.... Rent-a-bank schemes have flourished at FDIC banks in the past few years and it is time for that to come to an end."

In a rent-a-bank lending scheme, a company that is not a bank runs a lending program and takes most of the profit, but a bank nominally approves, initially funds, and puts its name on the loans. This arrangement helps the true lender - the nonbank company - to evade state interest rate limits, which don't apply to banks.

The advocates' letter points to President Biden's pledge to no longer allow the schemes, a bipartisan vote in Congress disapproving them, broad bipartisan opposition to evasion of state rate caps including a letter from 413 groups representing all 50 states, recent action from the Office of the Comptroller of the Currency to stop these predatory loans, and numerous reasons why the FDIC as a bank watchdog has a responsibility to shut down these illegal operations.

"The FDIC appears to have done nothing to curtail the predatory lending that has exploded on its watch. The OCC, in contrast, appears to have stopped the two OCC-supervised banks that were enabling high-cost installment loans even before Congress overturned the OCC rule. Unfortunately, the end to the OCC fake lender rule did not end rent-a-bank schemes, which are continuing using FDIC-supervised banks," the letter states.

Consumer advocates are aware of "six rogue banks fronting for high-cost non-bank consumer lenders, enabling loans up to 225% APR that are illegal for the non-bank lender to make directly." Four of the banks are chartered in Utah: FinWise Bank, Capital Community Bank, First Electronic Bank and Transportation Alliance Bank (TAB Bank). The letter also cites Republic Bank & Trust of Kentucky and Lead Bank of Missouri. The high-cost lenders using banks to launder their loans include EasyPay Finance, Elevate Credit, OppLoans, the installment loan brand of the payday lender CashNetUSA, and the auto title lender LoanMart, among others.