

Advocates Urge FDIC, OCC, Federal Reserve to Stop Banks from Helping Payday Lenders Evade State Interest Rate Limits

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Washington, D.C. - A coalition of 61 consumer, civil rights, and community groups today sent letters to three federal bank regulators urging them *not* to allow their banks to help payday lenders evade state interest rate limits. The groups sent separate letters to the Federal Deposit Insurance Corp. (FDIC), which regulates the only banks currently involved in rent-a-bank schemes; the Office of the Comptroller of the Currency, which regulates a national bank that has been in talks with a payday lender; and the Board of Governors of the Federal Reserve System, whose banks so far do not appear to be engaged in rent-a-bank schemes.

The letter to FDIC Chairman Jelena McWilliams said:

“We write with urgency to express our deep concern about FDIC-supervised banks’ involvement in rent-a-bank schemes used to help high-cost lenders evade state interest rate caps, and predatory lenders’ expressed intent to expand those schemes to evade the new California interest rate cap that goes into effect January 1, 2020.... [A]t least three large predatory lenders, which currently charge from 135% to 199% APR on high-cost installment loans that will be illegal under the new California law, have already indicated their plans to start or expand rent-a-bank arrangements into California, with the clear intent to evade the new interest rate cap. We urge you to stop FDIC-supervisee banks from engaging in these shams before they start and to cease the rent-a-bank operations in other states.”

On October 10, 2019, California Governor Gavin Newsom signed into law AB 539, limiting the interest rates on loans of \$2,500 to \$10,000 to 36% plus the federal funds rate, currently 2.5%. On investor calls, three publicly traded payday lenders have announced plans to use banks, which are not subject to state interest rate limits, as a fig leaf to try to avoid the new California law: Elevate Credit (which offers Rise installment loans and the Elastic line of credit); Enova International (which uses the brands NetCredit and CashNet USA), and Curo Group Holdings (which uses SpeedyCash among other brands).

Currently, two FDIC-regulated banks, FinWise Bank (chartered in Utah) and Republic Bank & Trust (chartered in Kentucky) are helping Elevate and/or OppLoans, a payday lender that is not publicly traded, to evade state interest rate caps in several states.

Curo has also told investors that it is in discussions with OCC-supervised MetaBank on a rent-a-bank scheme. The letter to OCC Comptroller Joseph Otting says that the group appreciates the OCC’s recent statement that the agency “views unfavorably an entity that partners with a bank with the sole goal of evading a lower interest rate established under the law of the entity’s licensing state(s).” However, the letter notes: “MetaBank has a history of working with payday lenders and helping third parties offer predatory products and evade the law,” and the groups urged the OCC “to stop national banks from engaging in these shams before they start” and “to take immediate action to uphold the OCC’s longstanding tradition of preserving the integrity of the national bank charter against predatory rent-a-bank shams.”

The letter to Federal Reserve Board Chairman Jerome Powell thanks the Federal Reserve Board (Board) for keeping its supervisee banks out of rent-a-bank schemes with high-cost lenders and urges the Board to ensure that none of its member banks enter into such arrangements.

For more information

Issue Brief: Payday Lenders Plan to Evade California's New Interest Rate Cap Law through Rent-A-Bank Partnership, October 2019

Issue Brief: Stop Payday Lenders' Rent-a-Bank Schemes!, November 2019

Press Release: "Groups: FDIC & OCC Are Wrong to Support Predatory Small Business Lender" (Oct. 24, 2019)