

BY EMAIL: regs.comments@occ.treas.gov

Brian P. Brooks
Acting Comptroller of the Currency
Office of the Comptroller of the Currency
400 7th Street, SW
Washington, DC 20219

Re: Proposed rule concerning “National Banks and Federal Savings Associations as Lenders” (Docket ID OCC-2020-0026)

Dear Acting Comptroller Brooks:

On behalf of the Maryland Consumer Rights Coalition (MCRC) and the undersigned economic rights, public justice, civil rights, workers rights, housing, and asset-building organizations, we write with utmost urgency to oppose the Office of the Comptroller of the Currency’s (“OCC”) above-referenced proposed rule (the “proposed rule”).

If passed, this rule would overturn more than a decade of work by Maryland legislators, regulators, and advocates to close loopholes to prohibit high-cost payday loans and undermine more than 30 years of legislative decisions by Maryland’s General Assembly to maintain our 33% rate cap. Moreover, it would enable predatory lenders to offer debt-trap loans to financially fragile consumers by partnering with banks to lend these unaffordable loans a gloss of respectability.

In 2017, MCRC and the CASH Campaign of Maryland, along with many of the undersigned organizations worked to close a loophole in our state regulations that allowed predatory, high-cost loans through open-lines of credit. In 2017, the Maryland General Assembly passed legislation affirming Maryland’s rate cap of 33% interest rate on consumer loans. Maryland has, for more than 30 years, capped consumer loans at 33 percent.

Time and time again, Maryland advocates and legislators have had to fight predatory lenders who have exploited loopholes to offer high-cost, usurious loans to Maryland families *despite the state’s express prohibition against such loans*. In addition to the 2017 legislation, Maryland has fended off these other attempts in the past decade:

- In 2010, payday lenders used a ‘rent-a-bank’ scheme to circumvent Maryland’s usury rate caps by providing online loans that met the usury rate caps but also charged a

broker's fee of \$20 per \$100 borrowed. Factoring in the fees, Marylanders were paying an average of 640 percent per loan;

- In 2013, Maryland's Commissioner of Financial Regulation pursued banks that are helping process payday loans in Maryland despite the rate cap ; and, ¹
- In 2014, Maryland's Commissioner of Financial Regulation reached a \$2 million settlement from Western Sky and Cash Call for usurious payday loans with 1825 percent interest rates to more than 1,200 Maryland consumers. Western Sky, which is based on the Cheyenne Sioux Reservation, claimed tribal sovereignty and argued that state usury rates would not apply to them . In 2014, Commissioner Kaufman noted that "They ² (Western Sky) sought to structure around long-standing statutory prohibitions and to deny borrowers' protections to which they are legally entitled". ³

Thanks to Maryland's strong state interest rate caps, Maryland saves \$252,983,675 a year in fees in that payday lenders would siphon from consumers . Maryland is one of 16 states, plus ⁴ D.C., where high-cost payday lending is categorically illegal.

Yet, this proposed rule would usurp Maryland's sovereign authority to enact and enforce its own strong consumer protection laws.

COVID-19 has created a health and economic crisis in Maryland. These crises have fallen hardest on Black and Latinx workers and their families throughout Maryland. On one hand, Black and Latinx workers are concentrated in 'essential jobs' meaning that they will go to work in low-wage jobs throughout the pandemic increasing their health risks, and subsequent medical debt. At the same time, Black and Latinx workers were also concentrated in service jobs that have been. During this crisis, Maryland families need access to affordable, sustainable credit not predatory, debt-trap loans.

Maryland has repeatedly banned payday lenders by consistently supporting and reaffirming of our 33% interest rate cap. If the proposed rule were to pass, predatory payday loans could be offered by banks, providing a veneer of legitimacy to wealth-stripping products targeted at cash-strapped, vulnerable Maryland families.

¹Ambrose, Eileen "Payday Lenders Face Tougher Restrictions," *Baltimore Sun*; April 12, 2010

²Sherman, Natalie "State Announces \$2 Million Lending Settlement," *Baltimore Sun*, June 23, 2014

³ ibid

⁴ <https://www.responsiblelending.org/sites/default/files/nodes/files/research-publication/crl-shark-free-waters-sep2017.pdf>

The OCC has flagged these 'rent-a-bank' as proposed in the rule as posing increased strategic, reputation, compliance, and transaction risks to banks, and the OCC and Federal Deposit Insurance Corporation have clamped down on the kinds of "rent-a-bank" schemes now proposed.

We object to the process surrounding this proposed rule, particularly the 30-day public comment period –during a national pandemic in August. We oppose this attempt to subvert our strong state consumer protections and urge you to withdraw the proposed rule immediately.

Sincerely,

AFSCME Council 3

AFTMD

Allegany County HRDC, Inc.

Baltimore Green Party

CASH Campaign of Maryland

CCCSMD

Civil Justice, Inc.

Community Development Network of MD

Consumer Auto

End Hunger In Calvert County

GVE Media/Public Relations, LLC

Housing Initiative Partnership, Inc

Job Opportunities Task Force

LifeStyles of Maryland Foundation, Inc.

Maryland Center on Economic Policy

Maryland Green Party

Maryland PIRG (Public Interest Research Group)

Montgomery County Community Action Board

Neighborhood Housing Services of Baltimore

Prince George's CASH Campaign

Project PLASE

SEIU Local 500

Turner Station Conservation Teams. Inc.

United Way of Frederick County