

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Attorney General

ATTORNEY GENERAL
KARL A. RACINE



January 13, 2017

Via Email (specialpurposecharter@occ.treas.gov)

The Honorable Thomas J. Curry
Comptroller
Office of the Comptroller of the Currency
U.S. Department of the Treasury
400 7th Street, SW
Washington, D.C. 20219

Re: Special Purpose Bank Charters for Fintech Companies

Dear Comptroller Curry:

Thank you for the opportunity to submit comments in response to the Office of the Comptroller of the Currency's ("OCC") whitepaper entitled *Exploring Special Purpose National Bank Charter's for Fintech Companies*.¹ The Office of the Attorney General ("OAG") supports efforts to promote innovation in the financial sector. However, we are concerned that granting special purpose bank charters to fintech companies may foster irresponsible lending practices that can harm consumers while, at the same time, preempting state and local laws that have been put into place to prevent abusive financial practices.

District of Columbia consumers have been subjected to predatory lending practices, including "payday loans" designed to trap consumers into a cycle of debt that they cannot escape. The District, like many other states, has enacted a usury cap that provides a generous interest rate limit of 24%. See D.C. Code § 28-3301(a). OAG, like other State Attorneys General, has relied on local laws such as the D.C. Usury Law to largely eradicate payday and other toxic type loans that have been demonstrated to be harmful to consumers. It is well-documented that usury caps are the single most effective way of ending the harms of payday and other high interest consumer

¹ See OCC, *Exploring Special Purpose National Bank Charters*, (Dec. 2016) available at <https://occ.gov/topics/bank-operations/innovation/special-purpose-national-bank-charters-for-fintech.pdf>; see also, *Remarks by Thomas J. Curry Regarding Special Purpose National Charters for Fintech Companies* (Dec. 2, 2016), available at <https://occ.gov/news-issuances/speeches/2016/pub-speech-2016-152.pdf>.

The Honorable Thomas J. Curry

January 13, 2017

Page Two

lending.² Just this week, OAG announced a settlement with CashCall, Inc., a California lender that sought to evade the District's Usury Law in order to charge District residents interest rates as high as 169%. See <http://oag.dc.gov/release/cashcall-agrees-provide-nearly-3-million-refunds-and-debt-forgiveness-district-consumers>. It is not insignificant that the Defendants in the *CashCall* case sought to avoid the impact of the District's Usury Law by using a fraudulent "rent-a-bank scheme," disguising its loans as having been made first by a Delaware chartered bank and later by a company affiliated with a member of a South Dakota Indian tribe.

The Consent Order entered in the *CashCall* case will return almost \$3 million of illegally charged interest to more than 1,300 mostly low-income District residents. Without the benefit of the District's Usury Law, these consumers would have been left largely unprotected. These District protections would be lost if these types of companies were allowed to obtain bank charters. Given my Office's experience with *CashCall* and other cases, I have concerns about any special purpose bank charters to fintech companies that would preempt laws in the District of Columbia and other states that protect our consumers.

Sincerely,


//S//

Karl A. Racine

Attorney General for the District of Columbia

² Center for Responsible Lending, *Springing the Debt Trap: Rate caps are only proven payday lending reform* (Dec. 13, 2007), available at <http://www.responsiblelending.org/sites/default/files/nodes/files/research-publication/springing-the-debt-trap.pdf>.