

From: [Robert E. Rutkowski](#)
To: [Regs.Comments](#)
Subject: [EXTERNAL] Innovation Should Not Come at the Expense of Consumer Protection, Evade State Anti-Predatory Lending Laws
Date: Friday, December 02, 2016 2:06:21 PM

Thomas J. Curry, Comptroller of the Currency
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Re: Innovation Should Not Come at the Expense of Consumer Protection, Evade State Anti-Predatory Lending Laws

Dear Mr. Curry:

Today, the Office of the Comptroller of the Currency (OCC) announced its intention to offer national charters to financial technology firms, which could severely undermine state oversight and state consumer protection laws that protect consumers and small business owners from abusive financial products and practices. The OCC is accepting comments on its framework until January 15, 2017.

Before the OCC's announcement, 49 organizations sent a letter to you expressing "strong opposition to new federal nonbank lending charters that would enable chartered entities to avoid state interest rate caps, other state consumer protection laws, and state oversight, putting consumers and small businesses at risk."

Several leading national advocacy organizations released the following statements after the OCC made today's announcement:

The most effective consumer protection laws at the state level should not be undermined by bad new financial products that could open the doors for predatory lending. A federally-chartered fintech lender would avoid state interest rate caps, leaving people vulnerable to financial services abuse.

At a time when the federal commitment to consumer protection is in uncertain, taking state authorities off the consumer protection beat for fintech companies is especially dangerous. The State of California uncovered violations by the fintech lender LendUp through its supervisory process, but states are blocked from investigating potential violations by national banks.

The last time the OCC sought to charter nondepository institutions without specific statutory authority, it was blocked by the courts from doing so. The National Bank Act of 1864 does not provide an adequate, modern statutory framework to address chartering, regulation, and resolution of nondepository institutions.

While the fintech industry has the potential to expand lending for small business owners, it is also a breeding ground for costly, and often predatory, lending practices. Small business owners often face triple-digit interest rates, questionable underwriting practices, and opaque payment terms. We know that current federal finance laws are woefully inadequate in protecting small business lenders. State financial protection laws often operate as the primary line of defense for small business borrowers. By allowing fintech companies to preempt state laws, an OCC charter would decimate vital safeguards for business owners and further encourage exploitative lending practices.

The mortgage meltdown was caused in part by federal banking regulators pre-empting stronger state

laws that would have protected homeowners from predatory home loans. We know what the ultimate result was from that. We also know that now certain some fintech companies are originating high-cost, predatory loans to California's small businesses and consumers. An OCC charter will not provide the across-the-board protection against abuses that is needed.

Thank you for the opportunity to bring these remarks to your attention.

Yours sincerely,
Robert E. Rutkowski

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