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June 9, 2021

Ms. Janet Rikincaid  
Deputy Regional Director  
Division of Depositor and Consumer Protection  
Federal Deposit Insurance Corporation  
25 Jessie Street at Ecker Square, Suite 2300  
San Francisco, CA 94105-2780

Dear Ms. Rikincaid,

The Center for Economic Integrity respectfully urges the FDIC to conduct an investigation of FDIC-supervised Capital Community Bank (CCBank), a Utah bank. The FDIC should invoke its still-in-effect Supervisory Policy on Predatory Lending to prohibit CCBank from participating in a scheme enabling payday and car title lenders to evade state usury laws passed specifically to protect consumers. In Arizona, which maintains interest rate caps on consumer loans, CCBank is named in the “CC Connect” loan program marketed by three Arizona licensed Consumer Lenders which offers loans at rates well above the rate cap. In addition, CCBank is nominally involved in high-cost installment loans offered by OppFi (Opportunity Financial LLC) at rates up to 160% APR and by other non-bank entities. These lending entities appear to have enlisted CCBank’s name to claim Arizona’s rate caps aren’t applicable because a bank is involved in the loan. (A roster of high-cost loan products naming CCBank that we have identified is attached.)

### **Reemergence of Rent-A-Bank Lending at FDIC Supervised Banks**

The Center for Economic Integrity tracks the invasion of Arizona’s small loan market by out-of-state online lenders that launder high-cost loans through a few rogue banks to evade our usury law and consumer protections. The current roster of Rent-A-Bank lenders, posted at our coalition website, identifies FDIC-supervised FinWise Bank, Capital Community Bank, and First Electronic Bank located in Utah.<sup>1</sup> When the first wave of rent-a-bank payday lending emerged about twenty years ago, the FDIC enacted guidelines revised in 2005 to assist examiners in supervising the dozen FDIC banks that partnered with payday lenders.<sup>2</sup> Enforcement of the FDIC payday loan guidance led to the exit in 2006 of third-party lenders using this tactic for evading state usury laws.

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<sup>1</sup> 2021 AZ Factsheet Rent-A-Bank Lenders viewed 05/05/21  
<https://nomoreloansharksaz.org/gallery/2021%20AZ%20Factsheet%20Rent-A-Bank%20lenders.pdf>

<sup>2</sup> “Guidelines for Payday Lending (Revised November 2015), FDIC Inactive Financial Institution Letters, <https://www.fdic.gov/news/financial-institution-letters/2005/fil1405a.htm> viewed 05/10/21

The FDIC's Guidelines for Payday Lending ("Guidelines") need to be reactivated and strengthened to address the current resurgence in rent-a-bank payday and title installment lending. In recent years a few banks have reentered the rent-a-bank market, permitting third-party companies to again "rent" FDIC banks' charters to make high-cost loans that would not be permitted under state laws and that to our knowledge are not being offered to and would not be offered to the banks' own customers. The FDIC so far has failed to take action to stop this abuse of bank charters and federal preemption rights.

If the Guidelines were in effect, the FDIC would examine Capital Community Bank and -- importantly -- its third-party loan partners to ensure these entities were in compliance with federal consumer protection laws, including Truth in Lending, the Electronic Fund Transfer Act, and the Fair Debt Collection Practices Act. FDIC examiners would test if effective risk controls are implemented at Capital Community Bank for the many third-party payday lenders, title lenders, retail merchants, and other entities selling credit in the name of the bank. The Guidelines conclude that "The existence of third-party arrangements may, when not properly managed, **significantly increase institutions' transaction, legal, and reputation risks**...institutions face increased **reputation risks** when they enter into certain arrangements with payday lenders, including arrangements to originate loans on **terms that could not be offered directly by the payday lender.**" (Emphasis added) Capital Community Bank appears currently to have exposure from these risks due to its rent-a-bank operations.

The FDIC Supervisory Policy on Predatory Lending is still in effect. This policy makes clear that the FDIC is well aware that predatory lending "harms individuals and communities and raises risk management and consumer compliance concerns for financial institutions." The policy commits the FDIC to addressing "predatory lending through vigorous safety and soundness and compliance examinations and enforcement" and to taking "appropriate action" whenever the FDIC finds practices that violate consumer protection, fair lending and other laws, including **applicable state laws**" (emphasis added.)<sup>3</sup>

### **CC Connect Loan Scheme at Arizona-licensed lenders**

Capital Community Bank is named as the bank making CC Connect loans through third-party lenders. The Check Into Cash CC Connect loans are offered at its stores and on its website to Arizona consumers at rates of **224.99% APR**, far in excess of legal rates. (A photo of the CC Connect loan poster at the Check Into Cash store at 1046 Willow Creek Road in Prescott, AZ is attached.)

In addition to Check Into Cash, two additional online lenders are licensed as Consumer Lenders in Arizona but are only offering CC Connect loans to Arizona consumers.

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<sup>3</sup> FDIC, Financial Institution Letter, Predatory Lending, FIL-6-2007, <https://www.fdic.gov/news/financial-institution-letters/2007/fil07006.pdf> viewed 05/05/21

- **LoanMe, Inc**, 1900 S. State College Blvd, Suite 300, Anaheim, CA 92806-0101, CL #0927568, offers loans of \$600 to \$20,000 via <https://www.loanme.com/> but does not disclose loan cost on its website.
- **SunUp Financial, LLC d/b/a BalanceCredit.com**, 33 N. LaSalle Street, Suite 800, Chicago, IL 60102, CL-#1011822 offers loans of \$500 to \$3,000 in Arizona via the website <https://www.balancecredit.com>.

The CC Connect online payday installment loan program offered in Arizona has all the hallmarks of a rent-a-bank scheme used by lenders to make loans under terms not authorized by state law. Non-bank entities such as title lender Check Into Cash of Arizona and loan servicer Total Loan Services, LLC in Ohio, are offering, procuring, and likely making consumer loans at triple-digit interest rates in violation of Arizona’s law that caps rates for consumer loans up to \$3,000 at 36 percent annual interest plus a fee of five percent up to \$150.<sup>4</sup>

### **CC Connect Loans from Capital Community Bank**

The Check Into Cash website at <https://checkintocash.com/arizona/> advertises that it offers CC Connect loans in Arizona that are “provided by Capital Community Bank, Provo, Utah.” (FDIC Cert # 33823) While the CC Connect loan product is nominally offered by Capital Community Bank, these loans are not offered on the bank’s website (<https://ccbank.com/personal/loans/> to Utah customers in the bank’s service area. In fact, the bank goes by the name CC Bank in its branch service area in Utah but lists itself on rent-a-bank lender websites as Capital Community Bank. The bank’s FDIC supervision is prominently noted on loan websites.

It appears that the CC Connect loan operation is run out of Total Loan Services’ location in Ohio, not from the bank’s location in Utah. The contact address given for CC Connect is in Ohio, not Utah, at the address for Total Loan Services, LLC.<sup>5</sup> Capital Community Bank is also named by the Lendly, LLC website (<https://getlendly.com/>) on the Terms and Conditions page stating “Lenders’ website and service(s) are created and controlled in the State of Ohio,” not Utah where CCBank is located.<sup>6</sup>

Non-bank entity **Total Loan Services, LLC**, is listed as “CC Connect’s authorized servicer.”<sup>7</sup> The FAQ section for CC Connect loans on the Check Into Cash website states that Total Loan Services provides the portal through which customers maintain their accounts and can view payment schedules, loan summaries and balances, schedule ACH payments and update information.<sup>8</sup> Total Loan Service’s website states that it handles loan originations, complies with loan underwriting criteria set forth by lenders, generates loan documents and disburses a

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<sup>4</sup> Arizona Consumer Lender law, A.R.S. Title 6, Chapter 5

<sup>5</sup> <https://www.ccconnectonline.com> viewed 05/05/21

<sup>6</sup> <https://getlendly.com/terms-and-conditions> viewed 5/4/21 Loans are up to \$2,000 at 99% to 199% APR.

<sup>7</sup> <https://checkintocash.com/arizona/cc-connect-loans-in-arizona/> viewed 05/05/21

<sup>8</sup> <https://checkintocash.com/faqs/?faq-tpe=cc-connect#faw\qs> viewed 04/12/21

lender's loan funds.<sup>9</sup> All of the marketing, loan servicing, and collections appear to be handled by the named lender and Total Loan Services, not by Capital Community Bank named as the nominal lender.

CC Bank's rent-a-bank loan program is heavily connected to payday and title lenders. Total Loan Services (TLS) is an affiliate of **NCP Finance Ohio, LLC** and **NCP Finance Limited Partnership**, also located at 205 Sugar Camp Cir., Dayton, Ohio 45409.<sup>10</sup> NCP Finance lists Check Into Cash as a client and operates in Ohio and Texas.<sup>11</sup> Check Into Cash of Texas, LLC d/b/a Check into Cash, is a Texas-licensed Credit Access Business that makes payday and title loans in Texas.<sup>12</sup>

For other payday and title loan programs between Capital Community Bank and third-party lenders, see the attached roster.

In sum, the online payday installment loans at rates up to 224% APR offered by nonbank entities who use the Capital Community Bank name to shield themselves from state usury laws are predatory and harmful to our communities and consumers. This behavior more than justifies an FDIC investigation concerning FDIC-supervised banks. A close examination by the FDIC of the involvement of Capital Community Bank with Check Into Cash and other payday and car title lenders offering CC Connect loans in states with strong usury laws is quite likely to reveal safety and soundness risks, including reputational risk to the Utah bank and to the FDIC for standing by while state usury laws are evaded.

Please let us know if we can provide further information.

Sincerely,

Kelly Griffith, Executive Director  
Jean Ann Fox, Advisor

Attachments:

- Photo of CC Connect poster at Check Into Cash store
- Roster of Capital Community Bank Payday and Title Loan Products

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<sup>9</sup> <https://www.gettotal.com> viewed 03/25/21

<sup>10</sup> <https://www.gettotal.com> posted on the wall at Check Into Cash store. See Privacy Policies.

<sup>11</sup> NCPFinance.com | CSO Lending at <http://ncpfinance.com/>

<sup>12</sup> <https://ncpfinance.com/clients/index.htm> viewed 03/25/2021

See also, Check Into Cash of Texas, LLC Fee Schedule at <https://151lku42902y2tgv6d1wxl8a-wpengine.netdna-ssl.com/wp-content/uploads/TX-Fee-Schedule-010121365-payday-and-title-FINAL.pdf>

# Ask About a CC Connect Installment Loan

## Up to \$2,450

CC CONNECT



A **great loan option**  
is available in your area



Borrow **more money** with an  
Installment Loan



Lower scheduled payments  
with **more time** to repay

## Ask How to Apply Today

### Who is CC Connect?

CC Connect is a division of Capital Community Bank and has paired with Check Into Cash to offer Installment Loans. These larger loans allow more money, more time to repay, and lower payments.

### LOAN EXAMPLE

BORROW	TERM	ANNUAL PERCENTAGE RATE*	MONTHLY PAYMENT
\$1,100	12 Months	224.99%	\$236.00

\*Annual Percentage Rate is illustrative only. The APR on your transaction may vary based upon the details of your transaction.



This document is provided for illustrative purposes only. Loans provided by CC Connect, a division of Capital Community Bank, a Utah Chartered Bank, located in Provo, Utah, Member FDIC. Approved loan accounts are serviced by Total Loan Services, LLC, an authorized servicer of CC Connect.