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September 3, 2020

To: Acting Comptroller of the Currency
Brian Brooks
400 7th St SW
Washington, DC 20219

Re: **Comments on Proposal “National Banks and Federal Savings Associations as Lenders”**
Docket ID: OCC-2020-0026 RIN 1557-AE97

Dear Acting Comptroller Brooks:

The undersigned Arizona community, consumer, civil rights, faith and nonprofit organizations write to strongly oppose the OCC’s proposed rule “National Banks and Federal Savings Associations as Lenders.” This rule, if enacted, would nullify Arizona’s usury law which protects consumers from predatory lending at usurious rates.

The OCC proposes to define the “true lender” for loans made by nonbank entities laundered through a few rogue banks on the shakiest of grounds. As long as the bank’s name is on the loan agreement or the bank funds the loans, the OCC would deem the bank to be the “true lender” and free from state usury laws, regardless of which entity has the predominant economic interest in the loan. **Adopting this rule will throw the doors open to rent-a-bank lending in Arizona at interest rates that far exceed our Consumer Lender law usury cap.**

Arizona voters rejected triple-digit rate payday lending when we voted no on Prop 200 in 2008 by a 60 to 40% margin, leading to the 2010 sunset of Arizona’s ten-year experiment with predatory payday lending. Payday lenders as well as lenders offering installment loans or lines of credit are all subject to the Consumer Lender law that caps rates for loans up to \$3,000 at 36% annual interest and for loans over \$3,000 to \$10,00 capped at 24% annual interest. Lenders can add a 5 percent administrative fee, making the usury cap in Arizona higher than the national average. While car title lenders are permitted to make vehicle-secured loans at rates higher than the Consumer Lender usury cap, Arizona law does provide an outside limit on the cost of these loans. We continue to advocate repeal of the title loan exemption for Arizona’s usury law.

Arizona is already bombarded with five rent-a-bank online lenders that extend credit here without obtaining a Consumer Lender license and at rates that far exceed our rate caps.

For example, OppLoans.com uses FinWise Bank in Utah to make \$500 to \$4,000 loans for terms of 9 to 18 months at 160%APR.¹ Personify Financial uses First Electronic Bank, an industrial bank in Utah, to make installment loans at up to 179.99% APR. A \$2,500 36-month installment loan at 176.84% APR and a \$125 fee costs \$10,586.36 finance charge for a total payment of \$13,086.36, according to the loan website.² Verge Credit uses Stride Bank, NA in Utah to make

¹ <https://www.opploans.com/rates-and-terms/#arizona> viewed 8/13/2020

² <https://www.personifyfinancial.com/rates-terms-and-licensing-information> viewed 8/18/2020

loans of \$500 to \$5,00 for 6 to 60 months at 37% to 179% APR interest.³ None of these nonbank lenders are licensed as Consumer Lenders in Arizona.

The OCC's proposed "true lender" rule would throw open the doors to this type of rate-gouging predatory lending. Lenders would either rent a bank to launder their loans or go to the legislature to demand relief from our usury law and other credit protections to compete. Arizonans oppose exorbitant interest on consumer loans as well as tactics used to evade rate caps. A recent poll found that 70% of Arizona voters support a 36% interest cap on payday loans. Almost as many voters (65%) are concerned about rate cap evasion, such as rent-a-bank lending.⁴

We oppose any action by an unelected federal bank regulator to nullify our state laws, evade supervision and enforcement by the Department of Insurance and Financial Institutions, and escape the jurisdiction of the Arizona Attorney General to protect Arizona consumers. Enabling predatory lending while Arizona families are especially hard hit by the Covid-19 pandemic, high unemployment, and family hardships is especially harmful.

We reject the idea that nullifying state usury laws leads to financial inclusion. High interest loans are a debt trap and never "make poor people rich" as you claimed in remarks June 11, 2020⁵. Responsible credit alternatives and other programs that benefit vulnerable families are available in Arizona. We do not want rent-a-bank lenders with predatory credit products in our state.

We urge you to withdraw the OCC proposed rule, "National Banks and Federal Savings Associations as Lender."

Sincerely,



Kelly Griffith, Executive Director, **Center for Economic Integrity**

Katie Ares, Public Policy Specialist, **Arizona Coalition to End Sexual and Domestic Violence**

Maurice Bois, President, **Society of St. Vincent de Paul, Tucson Diocesan Council**

Diane Brown, Executive Director, **Arizona Public Interest Research Group** (Arizona PIRG)

Petra Falcon, Executive Director, **Promise Arizona**

Alejandra Gomez and Tomas Robles, Co-Executive Directors, **Living United for Change in Arizona** (LUCHA)

Ellen Sue Katz, Executive Director, **William J. Morris Institute for Justice**

Molly McGovern, Legislative Director, **United Food & Commercial Workers Local 99**

Thomas Sheets, Executive Director, **Southwest Veteran Chamber of Commerce**

Jay Young, Executive Director, **Southwest Fair Housing Council**

Cynthia Zwick, Executive Director, **Wildfire: Igniting Community Action to End Poverty in Arizona**

Clarice Healy, Local non-profit employee

Dr. Rob Stansfield, Local non-profit employee

Mr. Bob White

³ <https://www.vergecredit.com/rates-and-terms> viewed 8/18/2020

⁴ <https://economicintegrity.org/wp-content/uploads/2020/02/2020-02-26-CRL-CEI-Polling-on-AZ-Rate-Cap.pdf>

⁵ <https://www.youtube.com/watch?v=AeSoZeRbxM> at 33:00 viewed 8/20/2020