September 3, 2020

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:

New Economy Project writes to register its vehement opposition to the Office of the Comptroller of the Currency's proposed "true lender" rule. In one fell swoop, the proposal would effectively obliterate New York's longstanding usury laws and legalize, for the first time in our state's history, predatory payday lending. The proposed rule is consistent with the Trump administration's broader efforts to dismantle critical protections and benefit corporate interests–in this instance, facilitating the systematic extraction of wealth from people and communities.

New Economy Project's mission is to build a just economy, rooted in racial and economic justice, cooperation, and ecological sustainability. Since our organization's founding in 1995, we have worked with hundreds of organizations from throughout our state to ensure that New York's strong usury laws remain effective and that we keep predatory payday lending out of our state–as a matter of economic and racial justice.

The proposed rule is a dangerous step in exactly the wrong direction, enabling sham "rent-a-bank" schemes that would wreak havoc on financially-struggling New Yorkers, small businesses, and entire communities, exacerbating existing racial and economic inequities in our financial system and economy. The resulting harm to New Yorkers, small businesses, and communities would be astronomical. According to the Center for Responsible Lending, New Yorkers saved nearly $790 million in a single year in fees that high-cost payday and car title lenders would

121 W. 27th Street, Suite 804 | New York, NY 10001 | 212-680-5100 | www.neweconomynyc.org

have otherwise siphoned. At great risk are low-income seniors of color and other New Yorkers struggling to get from check to check.

The proposed rule would trample on our state's fundamental public policies and usurp our state's sovereign authority to enact and enforce its own strong consumer protection laws. Charging more than 25% interest is a felony in New York; this long-established criminal usury cap has enabled New York to keep abusive payday loans, which typically carry triple-digit interest rates, out of our state. For years, New York has successfully fought off industry efforts to evade our state's centuries-old usury laws and usher in predatory payday, installment, and car title lending.

In New York, we know that payday loans are categorically not a solution to people's financial distress. Rather, payday lenders profit from people's poverty and income shortfalls, trapping people and small businesses in long-term cycles of debt and extracting wealth from low-income and immigrant communities, and communities of color, in particular. That's why New York regulators have effectively enforced our state usury law, directing payday lenders to stop making illegal payday loans to New Yorkers; warning debt collectors that collecting on payday loans is illegal in New York; calling on banks and payments processors to block payday lenders from accessing New Yorkers' bank accounts; and more. They have shut down "rent-a-bank" schemes that the OCC's proposed rule would allow.

The OCC's proposed rule would directly undermine these efforts and unleash destabilizing financial products that exploit people without enough money to get by. What's more, the OCC itself previously flagged "rent-a-bank" arrangements as posing increased strategic, reputation, compliance, and transaction risks to banks, and both the OCC and Federal Deposit Insurance Corporation clamped down on the very kinds of payday lending schemes now proposed.

The OCC's actions are made all the more objectionable by the short timeframe that the agency provided for public comments on this sweeping proposal – in the throes of the pandemic, no less. It is clear that the Trump administration and OCC seek to push through a patently detrimental change to our banking system, in order to benefit the financial technology industry, irrespective of the manifest harms it will cause to people and communities.

We object to the OCC's "true lender" proposal and urge you to withdraw it immediately.

Sincerely,

Sarah Ludwig
Founder & Co-Director