

From: [NDESPA](#)
To: [Comments](#)
Subject: [EXTERNAL MESSAGE] Re: Comments on FDIC Notice of Proposed Rulemaking, Federal Interest Rate Authority, 12 CFR Part 331, RIN-3064-AF21
Date: Tuesday, January 21, 2020 2:49:48 PM

The Honorable Jelena McWilliams

Chairman
Federal Deposit Insurance Corporation
1776 F Street, NW
Washington, DC 20006

Delivered electronically to comments@fdic.gov

Re: Comments on FDIC Notice of Proposed Rulemaking, Federal Interest Rate Authority, 12 CFR Part 331, RIN-3064-AF21

Dear Chairman McWilliams,

The North Dakota Economic Security and Prosperity Alliance writes from North Dakota to strongly oppose the FDIC's "federal interest rate authority" proposal.

North Dakota has strong interest rate caps protecting our residents from predatory loans.

However, our rate caps are currently being evaded through rent-a-bank schemes. Despite North Dakota's lower rate caps:

- FDIC-supervised FinWise Bank (chartered in Utah) is currently renting its charter to enable OppLoans 28% APR; and
- FDIC-supervised Republic Bank (chartered in Kentucky) is currently renting its charter to enable Elevate's "Elastic" product.

The FDIC's proposal, particularly coupled with the FDIC's failure to stop its banks from facilitating rent-a-bank usury evasions happening now, threatens to open North Dakota's doors to more of these scams. Rent-a-bank schemes harm North Dakotans by subjecting them to predatory loans that exploit many of our most financially vulnerable residents.

Since the inception of this nation, regulation of interest rate limits has been a state function. Yet the FDIC seeks to change that now, by claiming that state-regulated non-bank lenders that buy loans from banks should be able to charge rates that exceed North Dakota law. The FDIC's proposal leaves far too much room for predatory lenders to pursue rent-a-bank schemes while burdening state regulators and private citizens with the impractical task of policing who is the "true lender." This task is a challenge already, but it will become far more challenging in a landscape where the FDIC's proposal has been finalized.

The FDIC lacks the authority to regulate the interest rates charged by state-regulated non-bank lenders. Moreover, the FDIC has demonstrated no need for this policy. Indeed, the residents of North Dakota are not being harmed by a shortage of loans that exceed the state's rate cap; rather, they are better off without high-cost loans.

We urge you to withdraw this unjustified and extremely harmful proposal.

Sincerely,

The North Dakota Economic Security and Prosperity Alliance

On behalf of NDESPA,

Scott Fry

He/Him/His

Consensus Council, Inc.