**Texas Fair Lending Alliance**

February 3, 2020

The Honorable Jelena McWilliams
Chairman
Federal Deposit Insurance Corporation
1776 F Street, NW
Washington, DC 20006
Delivered electronically

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

Dear Chairman McWilliams,

The Texas Fair Lending Alliance (TFLA), and its predecessor coalition, 500% Interest is Wrong, have been working since 2010 to build a market with fair and transparent payday, auto title, and installment loans that encourage both borrower and lender success. TFLA is a coalition of over 60 organizations and individuals. This letter is submitted by TFLA steering committee members.

We are deeply concerned by the FDIC proposal to effectively expand the national bank exemption from state interest rate caps to non-bank entities. The proposal would embolden "rent-a-bank" schemes, where the bank serves as a vehicle to make a loan in violation of state interest rate caps that is then purchased by a non-bank entity, allowing the non-bank entity to evade state consumer credit laws.

These schemes are used by predatory lenders to enable high-cost payday, auto title, and installment lending above state interest and fee caps. For example, in Texas, Elevate partners with Republic Bank & Trust to offer its Elastic product at 109% APR, far exceeding the state rate cap of 28 percent for a line of credit.

Texas already struggles under an onslaught of predatory lending, with payday and auto title lenders charging average APRs reaching over 500% for installment and single payment loan products. This rule, if adopted, could entrench yet another loophole to evade state interest and fee caps. It will be harmful to families, particularly the most financially vulnerable, by enabling new high-cost debt traps and undermining state-based reform efforts.

The proposed rule, if adopted, will also undermine a vast array of protections for consumer credit, which are grounded in state law. State consumer credit regulators currently play an important role in enforcing consumer protections. The FDIC proposal would hinder that beneficial role by incentivizing the market to move towards the "rent-a-bank" evasion.

The FDIC, over the past two decades, has been a leader in promoting financial inclusion and fair credit through documenting the impacts on families of high-cost credit and other high-cost financial services and piloting innovative low-cost financial solutions for underserved families. This proposed rule represents a dramatic shift in direction for the FDIC, favoring the profits of high-cost lenders searching for avenues to evade state usury caps over the financial well-being of families.

Fair credit standards, including interest and fee caps, benefit families. We urge the FDIC, in fulfilling its consumer protection mission, to rescind this proposed rule. Rather than expand and empower predatory markets, it should instead pursue policies that enhance affordable credit options in support of the financial stability and well-being of Texans and all Americans.

Sincerely,

Texas Fair Lending Alliance Steering Committee Members:

Ann Baddour
Director, Fair Financial Services Project
Texas Appleseed

Paul Turney
Executive Vice President
Brazos Valley Affordable Housing Corporation
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