

**From:** [REDACTED]  
**To:** [Public Information: Comments](#)  
**Subject:** [EXTERNAL MESSAGE] Oppose Rent-a-Bank Payday Proposal that Would Sidestep State Interest Rate Caps/RIN 3064-AF21  
**Date:** Friday, February 07, 2020 1:54:32 PM

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Jelena McWilliams, Chair  
Federal Deposit Insurance Corporation  
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Re: Oppose Rent-a-Bank Payday Proposal that Would Sidestep State Interest Rate Caps/RIN 3064-AF21

Dear Chair:

Eleven national consumer and civil-rights groups submitted a comment letter, [https://www.nclc.org/images/FDIC-Madden-Comment\\_FINAL-with-Appendices020420.pdf](https://www.nclc.org/images/FDIC-Madden-Comment_FINAL-with-Appendices020420.pdf), this week strongly opposing the federal banking regulator's proposal, which risks green lighting triple-digit rent-a-bank schemes. High-cost lenders use these schemes to funnel their loans through rogue banks to try to avoid state limits on predatory loans.

The proposal would encourage high-cost lenders to use banks as a fig leaf to create a tsunami of predatory and usurious loans up to 160% APR interest. These longer-term high-cost loans put struggling families in an even bigger, deeper, and harder to escape debt trap than short-term payday loans, and the FDIC must stop them.

The FDIC should rescind this misguided proposed rule. If the rule is finalized, it would pull more people into debt trap loans and erode confidence in the banking system.

Nonbank predatory lenders are brazenly and publicly discussing plans to roll out unlawful rent-a-bank arrangements. The proposal fails to consider that rent-a-bank schemes are already underway with several FDIC-supervised banks. With respect to consumer loans, five FDIC-regulated banks, Republic Bank & Trust (chartered in Kentucky) and FinWise Bank (chartered in Utah) are helping three high-cost lenders, OppLoans, Elevate, and Enova, make installment loans or lines of credit in excess of 100% APR in a total of at least 30 states and the District of Columbia (DC) that do not allow such high rates.

If these bold efforts to flout the law succeed, rent-a-banking could explode, with every state seeing high-cost lenders to evade state usury laws. Rent-a-bank schemes jeopardize the states' role under our federalist system in protecting consumers, and the FDIC's proposed rules are unlawful, unnecessary, and harmful.

The proposal also fails to consider payday lenders' explicit plans in California to broadly expand rent-a-bank schemes to dodge California's

new law, which came into effect on January 1, 2020, as noted in the comments:

Three high-cost lenders [Elevate, Enova, and Curo Group], which were charging from 135% up to 199% APR on high-cost installment loans—rates illegal under the new law—indicated their plans to start or expand rent-a-bank arrangements into California, with the clear intent to evade the new interest rate cap.

Yours sincerely,  
Robert E. Rutkowski

cc:  
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