

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

December 24, 2019

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

RIN-3064-AF21

Dear Chairman McWilliams:

Consumer Action<sup>1</sup> writes to strongly oppose the FDIC's "federal interest rate authority" proposal. Rent-a-bank schemes that the FDIC proposal encourages harm consumers and exploit the most financially vulnerable among us.

The FDIC proposal threatens to roll out the red carpet for predatory payday, high-cost installment and car title lenders via national banks. High-cost non-bank lenders would be permitted to hide behind national banks to originate loans at rates well in excess of what the non-bank lender could charge on its own under state law. These high-cost loans often carry annual interest rates of 300% or more.

Already, FDIC-supervised Republic Bank & Trust and FinWise Bank are renting their bank charters (to Elevate and Opploans) at rates ranging from 99% to 160% APR. FDIC-supervised Capital Community Bank appears to be helping car title lender LoanMart evade state law in a number of states. LoanMart's loans range from 60-222%.

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."

The Commission's proposal would jeopardize a state's primary tool—to prevent predatory lending through limits on interest rates—for its citizens. The proposal would replace the clear and simple rule that interest charged by state-regulated entities must comply with state law. Predatory lenders have publicly announced that they plan to evade California's new

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<sup>1</sup> Consumer Action has been a champion of underrepresented consumers since 1971. A national, nonprofit 501(c)3 organization, Consumer Action focuses on financial education that empowers low to moderate income and limited-English-speaking consumers to financially prosper. It also advocates for consumers in the media and before lawmakers and regulators to advance consumer rights and promote industry-wide change particularly in the fields of consumer protection, credit, banking, housing, privacy, insurance and utilities. [www.consumer-action.org](http://www.consumer-action.org)

interest rate cap using rent-a-bank schemes. Reports are that at least one deal has already been struck with Republic Bank & Trust.

Additionally, there is no need that this proposal is addressing. Quite to the contrary, should rent-a-bank-schemes become the preferred lending method for non-bank lenders, in violation of state rate caps, those consumers most in need would be most at risk of financial ruin.

We urge you to withdraw this unsafe and detrimental proposal.

Sincerely,

Ruth Susswein

Consumer Action