June 10, 2022

The Honorable Martin Gruenberg
Acting Chairman
Federal Deposit Insurance Corporation
1776 F Street, NW
Washington, DC 22206

Rohit Chopra, Director
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20220

Michael Hsu, Acting Comptroller
Office of the Comptroller of the Currency
400 7th St, SW
Washington, DC 20219

RE: Activist Claims About Regulated Banks Renting Charters Not Backed up by Data

Dear Acting Chairman Gruenberg, Director Chopra, and Acting Comptroller Hsu:

As leaders of free-market and consumer groups who stand firm against regulatory barriers that increase hardships on consumers and small businesses, we are concerned about the efforts by some activist groups to influence the dedicated purpose and processes of the FDIC through public campaigns based on false claims.

A recent letter addressed to the FDIC (which seems to have been shared directly with media) on the subject of fintech bank partnerships is the latest example. In an attempt to undermine this industry, the letter mischaracterizes state and federal regulations that restrict certain loan offerings as well as the impact that recently passed laws might have on consumers. Yet, it does not contain any analysis of the costs of maintaining lending programs, the viability of those lending programs at rate caps at 36%, or offer any details on how highly regulated these relationships are. This letter appears to be nothing more than an effort to promote the politicized positions of its signatories at the expense of American consumers.

Through partnerships with fintechs, banks can offer more financial services and products to a wider variety of consumers than originally possible. Many community and minority-owned banks lack the technology and infrastructure to reach underserved populations. Partnerships between banks and financial technology companies create efficiencies that enable expanded access to diverse credit options. Given the crushing pressure that current inflation poses and as the country recovers from the pandemic, these products are needed now more than ever to best serve consumer and small business needs.

Despite the demonstrated benefits and consumer protections associated with bank-fintech third-party relationships, there continues to be a concerted effort rooted in misinformation to restrict responsible innovation in financial services. Let us provide facts to address some of the falsehoods:

Bank-Fintech Partnerships are highly regulated and supervised contrary to what some consumer groups contend. Last year, Congress overturned the OCC's True Lender rule, which created significant legal impediments to promoting a more robust framework for providing safe and affordable credit to consumers.[1]

The OCC's True Lender rule held banks accountable for the loans within these partnerships and for the consumer protection aspects of the loans and other compliance obligations.[2] Even with the OCC's rule now rolled back, nothing has changed and banks still retain the compliance obligations associated with making loans in bank-fintech partnerships. As heavily regulated entities, banks have no choice but to take on elevated risk if they enter into these relationships. The concern now is that additional legal and compliance burdens may be on the rise for both banks and fintechs as the laws guiding these partnerships are once again unclear.[3]

Interest rate caps negatively impact borrowers' financial well-being contrary to the letter's claims that 'state interest rates are the most effective way to protect consumers…' Critics offered no supporting data or research to back up this claim. None of these states have actually enacted an interest rate cap for consumer credit across the board. These restrictive laws target specific products in the marketplace that consumers with non-prime credit scores most often use to help them meet emergency expenses and move forward. They still allow for credit products in excess of 36%, including credit cards, bank small-dollar loans, and overdrafts.

Limiting interest rates is viewed as a means of combating high-interest loans targeted at the poor and vulnerable, but they end up hurting the people meant to be helped. People in states that enacted similar rate caps experienced devastating impacts, as more consumers turned to costly alternatives that left them worse off financially such as bouncing checks, dealing with loan sharks, and filing for Chapter 7 bankruptcy.

Bank-Fintech partnerships encourage lending to underserved populations. Banks are encouraged by the Community Reinvestment Act (CRA) to engage with underserved populations, many of whom have poor credit histories. Traditional banks and financial institutions often do not want to enter into agreements with underserved populations because the nature of that relationship is too risky. An academic research study published by the Federal Reserve found that banks cannot afford to offer small personal loans to consumers with poor credit histories at an interest rate of 36%.[4]

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[1] Joint Banking Trade Association Letter to U.S. House of Representatives. Source.
[2] https://www.occ.gov/news-issuances/federal-register/2020/85fr68742.pdf
[3] https://thehill.com/opinion/finance/561793-rescinding-true-lender-banking-rule-limits-credit-to-those-who-need-it?rl=1
[4] https://www.federalreserve.gov/econres/notes/feds-notes/the-cost-structure-of-consumer-finance-companies-and-its-implications-for-interest-rates-20200812.htm

Borrowers with non-prime credit scores benefit from the algorithms and greater use of non-traditional credit information employed by fintechs, as well as the convenience of applying online. According to a recent Morning Consult Survey,[5] 33% of customers who took out a loan from a fintech company saw their credit scores increase 12-months after taking out the loan. In the same survey, Black and Hispanic consumers said their credit scores improved the most.

The solution to this problem of banks not wanting to take on the risk of a borrower with poor credit is to partner with fintechs to streamline technology and lessen the impact of riskier borrowers through risk-based pricing models. We believe that good regulation should be data-driven and take into account all of the facts.

Bank-Fintech partnerships supported American businesses, especially during the pandemic.

During the rollout of the Paycheck Protection Program (PPP), fintech lenders aided small business economic recovery efforts by partnering with banks to deliver necessary relief. Fintechs are uniquely equipped to help small businesses without prior banking relationships access PPP loans. Studies have shown that (1) fintech lenders who participated in the PPP program were crucial in supporting minority businesses who were underserved by traditional banking institutions[6]and (2) black-owned businesses were more likely to obtain their PPP loans from a fintech lender than a traditional bank.[7]

In general, community and minority-owned banks, in particular, need to be able to partner with fintech companies to issue loans, reach broader audiences, and help manage balance sheet risk.[8] Customers outside of a bank's immediate geographic area help the bank to diversify its business, improve the management of its balance sheet, and enhance servicing capacity.[9]

As our country works to recover from the Covid-19 pandemic and as we grapple with 40-year-high inflation, access to capital is critical to economic growth, job creation, and financial stability. Bank fintech relationships will continue to play a major role in this effort. We urge you to preserve equal access to credit opportunities for consumers and small businesses.

Sincerely,

Heather R. Higgins
CEO
Independent Women's Voice

Karen Kerrigan
President
Small Business Council

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[5] https://morningconsult.com/fintech-special-report/
[6] https://libertystreeteconomics.newyorkfed.org/2021/05/who-received-ppp-loans-by-fintech-lenders/
[7] https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3939384
[8] https://www.bankingdive.com/news/fintechs-are-friends-not-foes-of-traditional-financial-institutions/609312/
[9] https://www.americanbanker.com/news/widening-digital-divide-forcing-more-community-banks-to-find-buyers

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