Statement on State regulator support of CRA challenge to the OCC’s true lender rule

STATEMENT ON STATE REGULATOR SUPPORT OF CRA CHALLENGE TO THE OCC’S TRUE LENDER RULE

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Statement from John W. Ryan, CSBS president and CEO, on striking down the OCC true lender rule:

"State regulators support the CRA challenge to the OCC’s true lender rule, which if it stands, will eviscerate the power of state interest rate caps and deny state regulators their most effective tool to protect consumers from such predatory lending. We encourage members to vote in favor of S.J. Res. 15 to strike down the OCC true lender rule.

"The state law true lender doctrine looks at all the facts and circumstances of a transaction to determine what entity is truly the lender. The doctrine has been invoked by consumers and state officials and applied by courts in challenges to rent-a-bank arrangements in which nonbanks partner with a bank to use federal preemption so that the nonbank can charge interest rates above that permitted by state law.

"State regulators have long maintained that the true lender doctrine is and should remain a matter of state law as issues of credit affordability and access are inherently matters of local concern."

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Background:

- Statement on Senate passage of the CRA joint resolution to strike down OCC true lender rule (May 2021)
- Letter?to Senate Banking Committee Chairman Brown and Ranking Member Toomey supporting S.J. Res.15 to strike down the OCC’s true lender rule (April 2021)
- Open letter to President Biden including actions taken by the OCC that disrupt the partnership between states and the federal government to strengthen financial regulation (March 2021)
- Opposition to the OCC notice of proposed rulemaking titled “Permissible Interest on Loans That Are Sold, Assigned, or Otherwise Transferred” (Jan 2020)
- Comment letter urging the OCC to withdraw the proposed true lender rule (Sep 2020)

The Conference of State Bank Supervisors (CSBS) is the national organization of bank regulators from all 50 states, American Samoa, District of Columbia, Guam, Puerto Rico and U.S. Virgin Islands. State regulators

supervise roughly three-quarters of all U.S. banks and a variety of non-depository financial services. CSBS, on behalf of state regulators, also operates the Nationwide Multistate Licensing System to license and register non-depository financial service providers in the mortgage, money services businesses, consumer finance and debt industries.

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