

RESCINDED

OCC Bulletin 2020-70 | July 20, 2020

Replaced - See OCC 2020-92

National Banks and Federal Savings Associations as Lenders: Notice of Proposed Rulemaking

Summary

On July 20, 2020, the Office of the Comptroller of the Currency (OCC) signed a proposed rule to determine when, in the context of a partnership between a national bank or federal savings association (bank) and a third party, the bank makes a loan and is the "true lender." Under this proposal, a bank makes a loan and is the "true lender" if, as of the date of origination, the bank (1) is named as the lender in the loan agreement or (2) funds the loan. The proposed rule would provide certainty about key aspects of the legal framework that applies to loans made as part of banks' relationships with third parties. The deadline for comments on the proposed rule is September 3, 2020.

To

Chief Executive Officers of All
National Banks and Federal
Savings Associations,
Department and Division Heads,
All Examining Personnel, and
Other Interested Parties

Note for Community Banks

The proposed rule would apply to community banks.

Highlights

Banks' lending relationships with third parties, such as marketplace lenders, can be effective tools to facilitate access to affordable credit. However, these relationships have been subject to increasing uncertainty about the legal framework that applies to loans made as part of these relationships. This uncertainty may make banks and third parties less willing to enter into relationships, limit competition, and chill the innovation that these partnerships enable—all of which may restrict access to affordable credit.

The proposed rule would resolve this uncertainty by specifying that a bank makes a loan when, as of the date of origination, the bank (1) is named as the lender in the loan agreement or (2) funds the loan.

Further Information

Please contact Andra Shuster, Senior Counsel, Karen McSweeney, Special Counsel, Alison MacDonald, Special Counsel, or Priscilla Benner, Senior Attorney, Chief Counsel's Office, (202) 649-5490.

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[Related Link](#)

- ["National Banks and Federal Savings Associations as Lenders: Notice of Proposed Rulemaking" \(PDF\)](#)

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