January 13, 2017

Office of the Comptroller of the Currency (OCC)
The Honorable Thomas J. Curry
Comptroller of the Currency
400 7th Street SW
Washington, DC 20219

Via e-mail: specialpurposecharter@occ.treas.gov

Re: Exploring Special Purpose National Bank Charters for Fintech Companies

Dear Comptroller Curry,

The Center for Responsible Lending, along with the Leadership Conference on Civil and Human Rights and the NAACP, appreciate the opportunity to comment on the Office of the Comptroller of the Currency's (OCC's) white paper proposing the issuance of a special purpose national bank charter to financial technology (fintech) companies.[1] We understand that the OCC seeks to expand financial inclusion and lead innovation through issuing non-bank charters to fintech institutions. However, we believe that if the OCC proceeds with granting a federal charter to fintech companies, the Agency will undermine the responsible regulatory framework that it purports to advance and in fact will do harm to consumers, not serve the public interest. A federal non-bank special purpose charter will undoubtedly weaken state-level consumer safety measures, and the OCC's ability to uphold consumer protections—based on its previous actions—is questionable. Furthermore, it is far from clear that the OCC has the legal authority to grant a charter to non-depository institutions absent Congressional authorization. Rather, this special purpose charter looks like an unauthorized expansion of OCC powers and an encroachment on state authority. We also note that although the OCC is seemingly focused on chartering fintech companies, the Agency freely admits that "there is no legal limitation on the type of "special purpose" for which a national bank charter may be granted, so long as the entity engages in fiduciary activities."[2] This troublingly suggests that the OCC's proposal may reach far beyond regulating companies that use new technology to deliver financial services. In light of these issues, we urge the OCC to abstain from offering special purpose national bank charters to non-bank lenders.

I. A national bank charter for non-depository fintech institutions will facilitate consumer harm through preemption of strong state laws.

We thank the OCC for emphasizing that any non-bank institution that receives a charter would "be held to the same rigorous standards of safety and soundness, fair access, and fair treatment of

[1] Off. of the Comp. of the Currency, Exploring Special Purpose National Bank Charters for Fintech Companies (Dec. 2016) [hereinafter OCC White Paper], *available at* https://www.occ.treas.gov/topics/bank-operations/innovation/special-purpose-national-bank-charters-for-fintech.pdf.
[2] OCC White Paper at 3.

customers that apply to all national banks and federal savings associations" and be required to comply "with Section 5 of the Federal Trade Commission Act, the unfair, deceptive, or abusive acts or practices prohibitions of Dodd-Frank, and all other applicable consumer financial protection laws and regulations."[3] There is value in ensuring that these entities will receive close scrutiny from the OCC, but there are many gaps in federal laws that are currently filled by strong state regulations. These laws will undoubtedly be preempted if the OCC moves forward with chartering fintech institutions. We concur with the National Consumer Law Center (NCLC) in their remarks stating that safety and soundness supervision and enforcement of federal laws do not replace substantive state laws that do not have a federal counterpart.[4]

While the fintech industry has the potential to encourage innovation, it can also be a breeding ground for costly, and often predatory, lending practices that skirt robust state laws. For example, the Consumer Financial Protection Bureau (CFPB) recently brought enforcement action against LendUp, a fintech lender, for deceptive conduct.[5] LendUp charges rates as high as 300% APR on its loans.[6] Self-touted as financial innovator that was expanding access to credit, the California Department of Business Oversight found LendUp to be in violation of state laws, inappropriately charging fees on their loans.[7] If the OCC moves forward with issuing special purpose national bank charters, the Agency will enable near-complete preemption of state consumer protection and oversight for entities that are not in fact banks. In other words, these organizations will be able to avail themselves of federal preemption when they lack some of the constraints that compel banks to act responsibly towards their customers—e.g. obligation under federal insurance, supervision by multiple regulators, and reputational risk. This is an unavoidable consequence of creating a federal charter for non-bank entities. Additionally, if new non-bank entities were chartered as national banks under the National Bank Act (NBA), they would be covered by the NBA's interest rate exportation provisions, even if they are not insured deposit-taking institutions.[8]

Given the general absence of federal usury caps,[9] chartered entities would have no functional limit on the interest rates and related fees they could charge by importing rates into states that do

[3] OCC White Paper at 11.
[4] National Consumer Law Center, Comment, Comments to the Comptroller of the Currency on "Exploring Special Purpose National Bank Charters for Fintech Companies" (forthcoming Jan. 2017).
[5] *In the Matter of Flurish, Inc., dba LendUp*, Consent Order (Sep. 27, 2016), *available at* http://files.consumerfinance.gov/f/documents/092016_cfpb_LendUpConsentOrder.pdf.
[6] *The Commissioner of Business Oversight v. Flurish, Inc. (dba LendUp)*, Settlement Agreement signed Sept. 23, 2016 (the state enforcement agency found that LendUp had committed a total of 385,050 individual violations of state laws protecting consumers), *available at* http://www.dbo.ca.gov/Press/press_releases/2016/LendUp-Settlement%20Agreement.pdf.
[7] Press Release, Consumer Fin. Prot. Bureau, CFPB Orders LendUp to Pay $3.63 Million for Failing to Deliver Promised Benefits: Online Lender Did Not Help Consumers Build Credit or Access Cheaper Loans, As It Claimed (Sept. 27, 2016), *available at* http://www.consumerfinance.gov/about-us/newsroom/lendup-enforcement-action/.
[8] 12 U.S.C. § 25b. We note that the Dodd–Frank Wall Street Reform and Consumer Protection Act specifically amended preemption powers because of prior OCC overreach, and the OCC must follow the "case-by-case" determination rules on preemption of state consumer protection laws for national banks.
[9] QM rules, the CARD Act, and TILA all contain ability to pay considerations; however they do not have outright interest rate caps. Ability to repay requirements often reign in interest rates and create interest rate limitations in function. *See* John A. E. Pottow, *Ability to Pay*, U of Michigan Law & Econ, Empirical Legal Studies Center Paper No. 11-006; U of Michigan Public Law Working Paper No. 237 (May 17, 2011), *available at* https://ssrn.com/abstract=1844570 or http://dx.doi.org/10.2139/ssrn.1844570.

have interest rate caps. This federal preemption for non-bank entities would effectively nullify critical interest rate caps that protect consumers and small businesses. Today, over 90 million people live in the 15 states plus the District of Columbia which enforce rate caps to prevent abusive high cost loans.[10] Collectively, these states save over $5 billion in fees that would otherwise be paid toward unaffordable loans.[11] Many of these states have never allowed high-cost loans in their state, aggressively enforcing their strict usury limits. Others used to authorize exemptions to their rate caps, but now do not because of the damage caused to consumers and their communities.[12] In both cases, states have worked tirelessly over many years to enact, enforce, and protect against the abuses of high-cost loans and withstood numerous attempts by rapacious lenders to circumvent these protections. Even though the OCC's intent in allowing fintech companies to receive a national charter may not be the explicit evasion of state consumer protection laws, the primary reason for a lender to seek a federal charter is to avoid state licensing regimes and, consequently, their accompanying laws and oversight. It is troublesome that the biggest proponents of the OCC charter have been lenders who frequently seek to flout states laws,[13] such as high-cost lender Elevate which charges more than 200% APR on its payday installment loans.[14] This type of industry support compounds concerns that the charter will serve as vehicle through which unaffordable, triple digit interest loans will be made throughout the country with a lower level of protection and oversight than that which exists today.

Additionally, the OCC's proposal has the potential to prevent state regulators and attorneys general from taking action against unscrupulous lenders that make loans in violation of their state

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[10] Center for Responsible Lending, *U.S. Payday Interest Rates Calculated on a Typical Loan* (May 2016), *available at* http://www.responsiblelending.org/sites/default/files/nodes/files/research-publication/crl_payday_rate_cap_map_2016.pdf.

[11] Delvin Davis & Susan Lupton, *States without Payday and Car-title Lending Save Over $5 Billion in Fees Annually*, Center for Responsible Lending (Updated Jan. 2017), *available at* http://www.responsiblelending.org/sites/default/files/nodes/files/research-publication/crl_payday_fee_savings_jun2016.pdf.

[12] Robin Howarth, Delvin Davis, & Sarah Wolff, *Shark-Free Waters: States are Better Off without Payday Lending*, Center for Responsible Lending (Aug. 2016), *available at* http://www.responsiblelending.org/sites/default/files/nodes/files/research-publication/crl_shark_free_waters_aug2016.pdf.

[13] *See, e.g.* Paul Smith, *Attorney General Kane files lawsuit over alleged illegal payday loan scheme* (updated Nov. 13, 2014, 01:24 PM), http://fox43.com/2014/11/13/attorney-general-kane-files-lawsuit-over-alleged-illegal-payday-loan-scheme/.; *See also* National Consumer Law Center, Comment, *Comments on Proposed Financial Institutions Letter (FIL) 50-2106* (Oct. 2016) (comment on third-party lending, noting Elevate's loans made through a rent-a-bank scheme: "The payday lender Elevate—a spin-off of Think Finance, which had a partnership with First Bank of Delaware—now uses Republic Bank & Trust Co. to originate high-cost, open-end lines of credit in order to circumvent state usury caps. Through its Elastic brand, Elevate offers purportedly open-end loans in 40 states. As just one example, Elevate is available in Oregon, which caps open end credit at an annual percentage rate (APR) of 36%. Elevate does not disclose an APR, but a $380 advance repaid with monthly minimum payments would cost $480 to repay over four months. The fee-inclusive APR for this extension of credit is about 120%, which is over three times the legal interest rate for this credit in Oregon... Elevate depends on Republic Bank to be able to make these usurious loans.") *available at* https://www.fdic.gov/regulations/laws/publiccomments/Third-PartyLending/national-consumer-law-center_25-advisory-orgs.pdf

[14] Patrick Rucker and Anna Irrera, U.S. regulator clears way for online lenders to have national charter (Dec. 2, 2016, 04:55 PM), http://www.reuters.com/article/us-usa-banks-fintech-idUSKBN13R1TQ ("Ken Rees, chief executive of subprime online lender Elevate, said his firm supported the OCC's efforts. "Given that so much fintech innovation has gone to help give credit to people who already have it, it's important that the needs of the truly underserved are taken into account," he said.).

laws. On the same note, states are often quicker to react to emerging problems in new industries than federal agencies. CRL has thoroughly documented state enforcement actions related to lenders originating unlawful loans.[15] In one recent example, the California Supreme Court ruled against online lenders that tried to use tribal sovereignty to avoid state licensing and consumer protection laws.[16] The OCC's charter proposal not only dismisses the value of this type work; it makes it harder for it to continue in the future. States could still potentially bring enforcement actions based on federal law or on non-preempted state laws, but they would not have the legal authority to investigate potential violations.[17] Given the pernicious and devastating consequences of predatory lending, the OCC should not take any action that will limit states' ability to crack down on usurious behavior. We note that this is not just a problem for consumers. The line between small businesses owners and individual consumers is continually blurred because many small business owners use personal funds to guarantee business loans. This results in many consumers losing Unfair, Deceptive or Abusive Acts and Practices (UDAP) protections simply by starting a small business, and the consequences are devastating. We concur with NCLC's assessment that a federal non-bank charter could facilitate dangerous credit that will be exempt from state interest rate caps and privately enforceable state UDAP laws, along with other protections, leaving the businesses themselves with no state tools to fight abusive terms.[18]

Moreover, because the charter is optional, we believe that the OCC risks creating a "race to the bottom" by displacing state protections and hindering oversight at a local level. As Comptroller Curry stated in his December 2 press conference announcing the creating of a special charter, "[m]erely making a charter available does not create a *requirement* to seek one, nor does it displace the other choices a fintech company may have — for example, seeking a state bank charter in a state that makes one available or to continue operating outside the banking system."[19] If fintech companies perceive federal regulation to be more stringent than state regulation, presumably they would no longer seek a federal charter. Because of this, we doubt that it is possible to create a functioning federal charter system that will not result in the significant preemption of state consumer protection laws, regardless of regulatory intent. The charter could also have the consequence of creating an incentive for state regulators to loosen regulation of similar lenders in order to compete.

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[15] Diane Standaert & Brandon Coleman, *Ending the Cycle of Evasion: Effective State and Federal Payday Lending Enforcement*, Center for Responsible Lending (Nov. 2015), *available at* http://www.responsiblelending.org/payday-lending/research-analysis/crl_payday_enforcement_brief_nov2015.pdf.

[16] Press Release, Center for Responsible Lending, California Supreme Court Is Right To Rule Against Payday Lenders Claiming Tribal Sovereignty (Jan. 3, 2017), *available at* http://www.responsiblelending.org/media/california-supreme-court-right-rule-against-payday-lenders-claiming-tribal-sovereignty.

[17] *Cuomo v. Clearing House Association*, 129 S. Ct. 2710 (2009) (state attorneys general can enforce non-preempted laws against national banks, but they cannot exercise "visitorial" powers. The Court held that the New York Attorney General's letters to banks requesting information about potential fair lending violations were visitorial in nature, not an exercise of law enforcement power, and therefore the letters violated the National Bank Act and the OCC's preemption regulations).

[18] National Consumer Law Center, Comment, Comments to the Comptroller of the Currency on "Exploring Special Purpose National Bank Charters for Fintech Companies" (forthcoming Jan. 2017).

[19] Thomas J. Curry, Comp. of the Currency, *OCC To Consider Fintech Charter Applications, Seeks Comment*, Address At Georgetown University Law Center (Dec. 2, 2016), *available at* https://www.occ.treas.gov/news-issuances/speeches/2016/pub-speech-2016-152.pdf.

II. The OCC's ability to uphold consumer protection standards is questionable.

The OCC charters, regulates, and supervises all national banks and federal savings associations as well as federal branches and agencies of foreign banks, and its mission is "to ensure that national banks and federal savings associations operate in a safe and sound manner, provide fair access to financial services, treat customers fairly, and comply with applicable laws and regulations."[20] Put differently, the OCC's primary focus as a regulator is not consumer protection. Its culture, funding streams,[21] and organizational structure makes it so the Agency tends to side with the institutions it oversees rather than with average consumers, or the Agency focuses on issues it views as a higher priority than consumer protection. In the past, the OCC's commitment to addressing unsafe or unsound consumer practices and exercising its enforcement authorities have been secondary to its allegiance to banks. This type of behavior is negligent at best and harmful at worst, and we are not confident in the ability of the OCC to adequately oversee the consumer protection issues that will inevitably arise from its decision to unilaterally issue a charter to fintech institutions.

Research from the Center for Responsible Lending and other organizations shows that the OCC's past aggressive preemption of state laws has been a significant factor in contributing to national consumer harm. These results have played out over a multitude of industries, including mortgage lending, credit card lending, and bank overdrafts. In 2006, in the midst of the financial crisis, national banks, federal thrifts, and their subsidiaries made 32% of subprime loans, 40% of Alt-A loans, and 51% of interest-only and option ARM loans.[22] A total of over $700 billion in risky loans were made by entities (bank or non-bank) that states could not regulate due to OCC preemption.[23] Even when states retained some authority over non-bank mortgage lenders, they were reluctant to create an uneven playing field and to disadvantage their home state industries with rules that did not apply to national banks. Similarly, the credit card abuses that eventually led to a federal crackdown (such as bait and switch rate increases, abusive fees, and payment manipulations) were allowed to take off and grow due to preemption.[24] States were powerless to address these credit card problems. Furthermore, the preemption of state laws governing bank

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[20] *About the OCC*, Off. of the Comp. of the Currency, https://www.occ.gov/about/what-we-do/mission/index-about.html (last visited Jan. 13, 2017).

[21] *Id*. ("The OCC does not receive appropriations from Congress. Instead, the OCC's operations are funded primarily by assessments on national banks and federal savings associations. National banks and federal savings associations pay for their examinations, and they pay for the OCC's processing of their corporate applications. The OCC also receives revenue from its investment income, primarily from U.S. Treasury securities.").

[22] Center for Responsible Lending, *Neglect and Inaction: An Analysis of Federal Banking Regulators' Failure to Enforce Consumer Protections*, (July 13, 2009), *available at* http://responsiblelending.org/sites/default/files/nodes/files/research-publication/neglect-and-inaction-7-10-09-final.pdf.

[23] *Id.*

[24] *Smiley v. Citibank (S.D.), N. A.*, 517 U.S. 735 (1996); 12 C.F.R. § 7.4001; Center for Responsible Lending, *National Bank Regulator Enabled Overdraft Abuses* (Feb. 2010), *available at* http://www.responsiblelending.org/payday-lending/policy-legislation/regulators/national-bank-regulator-enabled-overdraft-abuses.pdf.

practices designed to induce overdraft fees permitted the banking industry to develop abusive overdraft "protection" practices that ended up costing consumers over $28 billion dollars.[25]

Even if the OCC vows to vigorously exercise its ability to supervise fintech institutions' compliance with state laws, it is ultimately funded by fees from the banks it charters and regulates and has strong incentives to favor the institutions it charters. The OCC, along with other federal banking agencies, have been reluctant to take actions that could cause an institution to switch to another charter and regulator.[26] This has caused regulators to not only defend practices that hurt consumers, but also intervene to prevent state authorities from acting to stop such practices. Tellingly, the OCC did not exercise its unfair, deceptive, or abusive acts and practices consumer protection authority under the Federal Trade Commission Act for over twenty-five years.[27] Even then, the OCC's first action using its power to go after banks' unfair and deceptive practices came only after a decade in which the target bank "had been well known in the … industry as the poster child of abusive consumer practices" and after the OCC was "embarrassed … into taking action" by a California prosecutor.[28] For the aforementioned reasons, we are gravely concerned that the OCC will not adequately protect consumers from abusive conduct if it moves forward with issuing a non-bank charter to fintech institutions.

III. The OCC does not have the legal authority to issue charters to non-depository institutions, and the Agency will exceed the scope of its Congressional authority if it chooses to issue special purpose charters.

In its fintech white paper, the OCC cites its own chartering regulations[29] as its purported authority to issue special purpose non-bank charters to fintech companies.[30] The OCC also believes that the NBA is "sufficiently adaptable to permit national banks – full-service or special

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[25] Leslie Parrish, *Overdraft Explosion: Bank fees for overdrafts increase 35% in two years*, Center for Responsible Lending (Oct. 6, 2009), *available at* http://www.responsiblelending.org/overdraft-loans/research-analysis/crl-overdraft-explosion.pdf.

[26] The Federal Deposit Insurance Corporation alludes to this issue in its research and analysis. *See* Rose Marie Kushmeider, *The U.S. Federal Financial Regulatory System: Restructuring Federal Bank Regulation*, FDIC (Jan. 2006), *available at* https://www.fdic.gov/bank/analytical/banking/2006jan/article1/. ("As financial institutions and the products they offer have become more similar and increasingly compete with one another, differences in regulatory controls are much more likely to artificially influence the behavior of financial institutions and their customers. This may occur, for example, when banks, insurance companies, securities firms, or others compete in the same product arena, but are not subject to a common set of regulatory requirements or when those requirements are subject to interpretation and are, therefore, applied differently by various regulatory agencies. The conflicting decisions that are possible when there is overlap and duplication of regulatory authority may also reflect a deliberate attempt by one regulator to benefit its constituents or gain converts by adopting a permissive regulatory policy—what has been termed a "competition in laxity."").

[27] *See* Julie L. Williams & Michael L. Bylsma, *On the Same Page: Federal Banking Agency Enforcement of the FTC Act to Address Unfair and Deceptive Practices by Banks*, 58 Bus. Law. 1243, 1244, 1246 & n.25, 1253 (2003) (conceding that "[a]n obvious question is why it took the federal banking agencies more than twenty-five years to reach consensus on their authority to enforce the FTC Act").

[28] Center for Responsible Lending, *Neglect and Inaction: An Analysis of Federal Banking Regulators' Failure to Enforce Consumer Protections*, (July 13, 2009), *available at* http://responsiblelending.org/sites/default/files/nodes/files/research-publication/neglect-and-inaction-7-10-09-final.pdf.

[29] 12 CFR § 5.20(e)(1)(i) (stating that "[t]he OCC has the authority to charter and supervise special purpose banks with operations limited solely to providing fiduciary services).

[30] OCC White Paper at 3.

purpose – to engage in new activities as part of the business of banking or to engage in traditional activities in new ways."[31] We disagree.

The OCC's authority to issue special purpose charters was limited to a few enumerated instances.[32] While the OCC has declared that it may grant charters to entities that conduct at least one of the "core banking functions" (receiving deposits, paying checks, or lending money),[33] legal precedent shows that entities which engage in one of the "core banking functions" in and of themselves are not necessarily conducting the "business of banking" under the NBA.[34] Rather, the NBA mandates that any business seeking a charter must take deposits,[35] and the OCC has previously acknowledged the same.[36]

In allowing the OCC to issue charters to national banks in the form of general charters for full-service traditional banks and special purpose charters for certain banks under specific statutorily defined terms,[37] the NBA was purposefully limited in scope. Congress explicitly chose to enact a system that preserved state lenders and the authority of states to regulate them. As noted by the Conference of State Bank Supervisors (CSBS), this proposal would severely restrict if not eliminate the ability of state regulators to do their jobs and protect consumers.[38] Further, in creating the federal banking system, Congress essentially created a system of checks and balances in which federal institutions are subject to the oversight and regulation of multiple agencies. By providing for charters without federal insurance and other protections, this unprecedented expansion of power undermines that express intent.

The OCC can point to no policy or statute other than its own regulations as basis for the authority it claims in this proposal. Instead, this appears to be a significant overreach by the OCC that greatly expands its scope of authority and the number of entities under its supervision. Put simply, the OCC is charged with chartering and regulating national banks and fintech companies are not banks.

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[31] *Id*. at 4.
[32] *See* 12 U.S.C. § 27(a) (2014).
[33] OCC White Paper at 3.
[34] *See National State Bank of Elizabeth, NJ v. Smith*, No. 76-1479 (D.N.J. Sept. 16, 1977), *rev'd as superseded by statute* 591 F.2d 223 (3d Cir. 1979); *cf. Independent Bankers Ass'n of Am. v. Conover*, Fed. Banking L. Rep. (CCH) (M.D. Fla. 1985) ("The case law takes for granted that the core of the business of banking as defined by law and custom is accepting demand deposits and making commercial loans.").
[35] 12 U.S.C. §21; *See Independent Bankers Ass'n of America v. Conover*, 1985 U.S. Dist. LEXIS 22529, at *34 -*36 (M.D. Fla. Feb. 15, 1985) (IBAA v. Conover) (holding that an institution which does not engage in both accepting deposits and making loans cannot be chartered as a national bank because it would not be engaged in the "business of banking" within the meaning of the NBA).
[36] *See Off. of the Comp. of the Currency Interpretations - Corporate Decision #96-41* (1996) (the OCC approved a charter for under the assumption that they would eventually receive deposits, thus "generally carrying on the business of banking.", *available at* https://www.occ.gov/static/interpretations-and-precedents/august/corpde41.pdf.
[37] *See* 12 U.S.C. § 27(a) (national trust companies); 12 U.S.C. § 24 (community development banks); 12 U.S.C. § 1841(c)(2)(F) (credit card banks).
[38] Conference of State Bank Supervisors, Comment, *Receiverships for Uninsured National Banks, Proposed Rule; Docket ID OCC-2016-0017* (Nov. 14, 2016) *available at* https://www.csbs.org/regulatory/policy/Documents/2016/CSBS%20Comment%20Letter%20on%20OCC%20Receiverships%20for%20Uninsured%20National%20Banks%20NPRM.pdf.

For these reasons, the OCC's legal authority to charter non-depository lenders unilaterally and without Congressional agreement is doubtful.[39] There is no evidence that Congress has authorized the OCC to charter non-bank fintech companies under the National Bank Act.[40] Because of this lack of regulatory power, the OCC is not only unauthorized to provide such charters, history shows that they are also ill-equipped to adequately regulate and monitor such an evolving entity. CRL also agrees with the comments of Americans for Financial Reform (AFR)[41] and NCLC, which describe the OCC's lack of authority in specific detail.

IV. Conclusion

The OCC is moving forward with its proposal at the expense of consumers, small business owners, the sovereignty of states, and the intent of Congress. We urge the OCC to withdraw its consideration of special purpose non-bank charters.

Sincerely,

Center for Responsible Lending
The Leadership Conference on Civil and Human Rights
NAACP

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The **Center for Responsible Lending (CRL)** is a nonprofit, non-partisan research and policy organization dedicated to protecting homeownership and family wealth by working to eliminate abusive financial practices. CRL is an affiliate of Self-Help, one of the nation's largest nonprofit community development financial institutions. Self-Help has provided over $6 billion in financing to 70,000 homebuyers, small businesses, and nonprofits. It serves more than 80,000 mostly low-income families through 30 retail credit union branches in North Carolina, California, and Chicago.

The **Leadership Conference on Civil and Human Rights** is the nation's oldest and most diverse coalition of civil and human rights organizations. Founded in 1950 by Arnold Aronson,

[39] *See Independent Bankers Ass'n of America v. Conover*, 1985 U.S. Dist. LEXIS 22529, at *34 -*36 (M.D. Fla. Feb. 15, 1985) (IBAA v. Conover) (holding that an institution which does not engage in both accepting deposits and making loans cannot be chartered as a national bank because it would not be engaged in the "business of banking" within the meaning of the NBA). *See also National State Bank of Elizabeth v. Smith*, No. 76-1479 (D.N.J. September 16, 1977) (holding that the Comptroller lacked the authority to charter a trust company which did not also engage in the "business of banking") rev'd on other grounds, 591 F.2d 223 (3d Cir. 1979)

[40] *See* Conference of State Bank Supervisors, Comment, *Receiverships for Uninsured National Banks, Proposed Rule; Docket ID OCC-2016-0017* (Nov. 14, 2016) *available at* https://www.csbs.org/regulatory/policy/Documents/2016/CSBS%20Comment%20Letter%20on%20OCC%20Receiverships%20for%20Uninsured%20National%20Banks%20NPRM.pdf.

[41] Americans for Financial Reform, Comment, Re: Exploring Special Purpose National Bank Charters for Fintech Companies (forthcoming Jan. 2017).

A. Philip Randolph, and Roy Wilkins, The Leadership Conference seeks to further the goal of equality under law through legislative advocacy and public education. The Leadership Conference consists of more than 200 national organizations representing persons of color, women, children, organized labor, persons with disabilities, the elderly, gays and lesbians, and major religious groups.

Founded in 1909, the **National Association for the Advancement of Colored People (NAACP)** is our nation's oldest, largest and most widely known grassroots civil rights organization. The principal objectives of NAACP are to ensure the political, educational, social and economic equality of all citizens; to achieve equality of rights and eliminate racial prejudice among the citizens of the United States; to remove all barriers of racial discrimination through democratic processes; to seek enactment and enforcement of federal, state and local laws securing civil rights; to inform the public of the adverse effects of racial discrimination and to seek its elimination; to educate persons as to their constitutional rights and to take all lawful action to secure the exercise thereof.