

CHAMBER OF COMMERCE
OF THE
UNITED STATES OF AMERICA

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TO THE MEMBERS OF THE U.S. HOUSE OF REPRESENTATIVES:

The U.S. Chamber of Commerce strongly supports the Office of the Comptroller of the Currency's (OCC) rule on "National Banks and Federal Savings Associations as Lenders," also known as the "True Lender" Rule, and strongly opposes S.J.Res.15, which would effectively overturn it.

The True Lender Rule provides important legal certainty for national banks and federal savings associations regarding loans they may issue in conjunction with third-parties. Various judicial rulings have created legal uncertainty as to who is the "True Lender" of a loan when a bank works with a third party, thus calling into question the laws that apply to these loans. This legal uncertainty discourages financial institutions from partnering to provide credit to consumers and small businesses.

Partnerships between banks and third parties have become a critical avenue for making credit available to both consumers and small businesses. In fact, FinTech partnerships represented 15% of Paycheck Protection Program (PPP) loans to small businesses last year. More importantly, the median value of FinTech partnership-enabled PPP loans was \$15,000. That median value amount was the smallest of all lending providers including Minority Development Institutions and Nonprofits.¹ That means FinTech partnerships provided funding for many of America's smallest businesses which, according to McKinsey & Company, are disproportionately minority-owned.²

The OCC's rule establishes a clear test for determining the "True Lender" when a bank makes a loan, which clarifies what legal frameworks are applicable to a loan. The rule provides that a bank is the "True Lender" when it, as of the date of origination, (1) is named as the lender in the loan agreement or (2) funds the loan.³ This clarification is critical for banks to partner with third parties and does not undermine the myriad consumer protection laws enforced by state and federal regulators.

The Chamber opposes S.J.Res.15.

Sincerely,



Neil L. Bradley

¹ Sabrina T. Howell, Theresa Kuchler, Johannes Stroebel, "Which lenders had the highest minority share among their Payment Protection Program (PPP) loans?," NYU Stern, (December 10, 2020), available at: http://pages.stern.nyu.edu/~jstroebe/PDF/HKS_PPP_Minority.pdf

² Andre Dua, Deepa Mahajan, Ingrid Millan, Shelley Stewart, "COVID-19's effect on minority-owned small businesses in the United States," McKinsey & Company, (May, 2020), available at: <https://www.mckinsey.com/industries/public-and-social-sector/our-insights/covid-19s-effect-on-minority-owned-small-businesses-in-the-united-states>

³ The Office of the Comptroller of the Currency. National Banks and Federal Savings Associations as Lenders (October 27, 2020), available at <https://www.occ.gov/news-issuances/news-releases/2020/nr-occ-2020-139.html>