

STATEMENT
Of
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OFFICE OF THE COMPTROLLER OF THE CURRENCY
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SUBCOMMITTEE ON FINANCIAL INSTITUTIONS AND CONSUMER CREDIT
COMMITTEE ON FINANCIAL SERVICES
U.S. HOUSE OF REPRESENTATIVES
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Chairman Capito, Ranking Member Maloney, and members of the Subcommittee, I appreciate the opportunity to discuss “The Consumer Credit, Access, Innovation, and Modernization Act.” Providing responsible financial services to underserved consumers is an important goal, but this legislation would harm minority populations, low-income neighborhoods, and communities with concentrations of our military service members. In addition, it would encourage the development of businesses with unsafe and unsound concentrations in products that have serious consumer protection and safety and soundness concerns. My testimony provides a summary of our understanding of the bill and goes into greater detail about each of these risks. During my remarks this morning, I will highlight just a few of our concerns.

First, H.R. 6139 would adversely affect the consumers that it intends to help most. This bill would provide special status and federal benefits to companies and third-party vendors that would primarily offer credit products and services that carry greater risks or costs for consumers who lack access to more traditional bank products. We anticipate that such

companies will request approval to offer products that include payday loans, tax refund anticipation loans, and car title loans. Our experience with these products is that they depend on high fees, repetitive use, high defaults, and severely weak legal compliance. Consumer interest groups have voiced similar concerns that these products trap consumers in a cycle of debt and prevent their access to safer, more traditional credit and banking services that better meet their needs.

We also are concerned that H.R. 6139 would negate many actions that Congress, the OCC, and other regulators have taken to safeguard consumers from the risks of these types of products. For example, this bill prohibits establishing usury caps where otherwise appropriate. This prohibition could significantly reduce specific limits established by Congress and many states. For example, it could eliminate protections for members of America's armed forces that cap the annual percentage rate of payday loans, auto title loans, or tax refund loans extended to covered persons at 36 percent.

Second, H.R. 6139 would create a class of federally-chartered institutions with serious safety and soundness concerns. Our supervisory experience suggests that in addition to consumer protection issues, companies chartered under this bill will rely on products that pose serious compliance, BSA/AML, and other operational risks.

H.R. 6139 would direct the OCC to encourage joint ventures between credit corporations and third-party vendors to facilitate innovative products and services. Our experience teaches us that dependence on third-party providers to originate or deliver such products and services can create serious compliance risks. Such vendors often lack the requisite systems and procedures to comply with the myriad of BSA/AML and other regulations and risk management practices that

are essential to the safe and sound conduct of these activities. The Comptroller recently singled out weak third-party oversight as a significant contributor to operational risk.

Companies chartered under the bill also face significant BSA/AML exposure because of their dependence on products with remote deposit capture characteristics, the lack of long-term customer relationships, and the ability of money launderers to exploit weaker monitoring and reporting processes.

In addition, companies chartered under the bill face significant concentration risk because of their limited business models that can threaten their viability if underlying market conditions deteriorate. These risks are magnified for firms that lack stable funding and depend on non-deposit wholesale funding.

Because of these risks, these are products and services that the OCC has largely extinguished from the national banking system, and we would not support, license, nor charter an institution concentrating in these services today.

Finally, the OCC agrees that consistent and uniform standards provide benefits for both consumers and businesses. But, we believe authority exists to achieve this goal. The Dodd-Frank Wall Street Reform and Consumer Protection Act authorized the Consumer Financial Protection Bureau to adopt standards for financial consumer products and services, without regard to whether they are offered by banks, nonbanks, or state- or federally-supervised institutions. The CFPB has general authority to supervise and regulate nonbank lenders, including payday lenders and “large nonbank participants” in consumer credit and services, and will be conducting examinations of such companies.

In summary, the OCC is concerned that H.R. 6139 could have unintended and undesirable effects on the population that it is intended to benefit. H.R. 6139 raises serious

consumer protection, compliance, and safety and soundness concerns by creating a national charter for companies concentrating on products most prone to abuse and that are most often targeted to minority populations, low-income neighborhoods, and communities with high concentrations of our military service members. Furthermore, where these services are offered, state officials and the CFPB already have adequate authority to regulate these products and the companies that provide them. The OCC shares the authors' goal of providing financial services to underserved communities and unbanked populations, and looks forward to working with members of the Subcommittee to achieve that goal.