

OCC Proposes New Rule Defining “True Lender”

July 20, 2020

On July 20, the Office of the Comptroller of the Currency proposed a rule which, if finalized as a rule, would establish a new standard for when a national bank or Federal savings association (“bank”) is the “true lender” in a lending arrangement with a third party. Under the proposed rule, the bank is the lender in a loan transaction if either (1) the bank is the named lender in the loan documents at origination, or (2) the bank funds the loan at origination. The proposal states that if one of these occurs, the bank is the true lender even if the loan is subsequently transferred. Further, the proposal states that under the OCC’s recent rule regarding interest rate exportation for transferred loans, if the bank is the true lender, its interest rate exportation authority would continue to apply to the loan even after a transfer.

The proposal noted specifically that a bank must still comply with other applicable laws, including Federal consumer protection laws.

Comments on the proposal must be submitted by September 3.

A copy of the OCC’s proposal can be found here:

http://www.lexissecuritiesmosaic.com/gateway/OCC/News_releases/2020_nr-occ-2020-97a.pdf

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