

[Banking and Finance Law Daily Wrap Up, INTEREST-USURY—State AGs allege new OCC rule enables predatory lending schemes, \(Jul. 30, 2020\)](#)

Banking and Finance Law Daily Wrap Up

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According to the state AGs, the rule creates a loophole for predatory lenders to take advantage of consumers and allow them to charge interest rates that exceed state limits.

[California Attorney General Xavier Becerra](#), [Illinois Attorney General Kwame Raoul](#), and [New York Attorney General Letitia James](#) are challenging the Office of the Comptroller of the Currency's recently announced final rule that exempts buyers of high-interest loans from state interest-rate caps. According to the state officials, the rule takes aim at state laws that protect consumers from predatory lenders. The Attorney Generals previously joined 19 other state AGs in a letter urging the OCC to withdraw the rule (see [Banking and Finance Law Daily](#), Jan. 23, 2020).

Under existing federal law, federally regulated banks are exempt from state interest-rate caps. The OCC's final rule extends these exemptions to any lender that buys loans that are originated by an exempt federal bank (see [Banking and Finance Law Daily](#), June 1, 2020). According to the state AGs, the rule would facilitate arrangements known as "rent-a-bank" schemes, in which heavily regulated state-chartered banks and national banking and savings associations enter into relationships with largely unregulated non-bank entities that allow the non-banks to evade state usury laws. This would allow predatory lenders that would otherwise be subject to state interest-rate caps to charge consumers interest that far exceeds the rates permissible under state law.

In the [complaint](#), the state officials argue that the OCC's decision to extend National Bank Act preemption to non-banks violates the Administrative Procedure Act because, among other things, it conflicts with the National Bank Act, fails to comply with requirements established by the Dodd-Frank Act, and exceeds the OCC's statutory authority.

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