

113TH CONGRESS
1ST SESSION

H. R. 1566

To create a Federal charter for Internet consumer credit corporations, and
for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 15, 2013

Mr. LUETKEMEYER (for himself and Mr. MEEKS) introduced the following bill;
which was referred to the Committee on Financial Services

A BILL

To create a Federal charter for Internet consumer credit
corporations, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Consumer Credit Ac-
5 cess, Innovation, and Modernization Act”.

6 **SEC. 2. FINDINGS; PURPOSE; AND INTENT.**

7 (a) FINDINGS.—Congress finds the following:

8 (1) Studies by the Federal Deposit Insurance
9 Corporation (FDIC), National Bureau of Economic
10 Research, FINRA Investor Education Foundation,

1 and other credible parties have shown that roughly
2 half of all American families, including not only
3 lower and moderate income families but also a large
4 segment of middle and higher income families who
5 have poor credit scores and limited disposable in-
6 comes, are literally living paycheck-to-paycheck,
7 lacking adequate savings and other resources to
8 cover unplanned expenses that frequently arise in
9 every household.

10 (2) These consumers (in this Act referred to as
11 “underserved consumers”) include those who are
12 “unbanked”, having neither a checking or savings
13 account at a depository institution, and those who
14 are “underbanked”, having such an account and fre-
15 quently having higher incomes but credit impair-
16 ments, while nonetheless needing to rely on non-
17 depository financial institutions for short-term, small
18 loans and other credit products and financial serv-
19 ices they desperately need, but generally cannot ob-
20 tain from traditional banking institutions.

21 (3) Credit alternatives for underserved con-
22 sumers generally are limited and often not well suit-
23 ed to their particular needs and in some instances
24 lack any statutory consumer protections.

1 (4) Programs by the FDIC and other parties to
2 expand access to small loans and other financial
3 products or services for underserved consumers
4 through banking institutions have had very limited
5 success because banks, which typically have rel-
6 atively high operating costs, generally have been un-
7 able to make affordable small personal loans on a
8 widespread, commercially viable basis to these higher
9 risk consumers, most of whom may not even qualify
10 for a loan under the high-credit standards regulators
11 necessarily require insured depositories to maintain.

12 (5) To the extent that depository institutions
13 offer underserved consumers affordable small loans
14 and other financial products or services on a com-
15 mercially viable basis, they should be encouraged to
16 do so, but it must be recognized that overcoming the
17 practical business obstacles for depositories to offer
18 such products or services appears to be quite dif-
19 ficult at best for most depositories, and given the
20 massive scope of the short-term credit needs of such
21 consumers, depositories most likely will be unable to
22 provide affordable small loans and other financial
23 products or services for a significant number of
24 them.

1 (6) Efforts of governmental, nonprofit, and pri-
2 vate sector institutions to help underserved con-
3 sumers manage their personal finances more effec-
4 tively through financial education and counseling
5 programs also are important and must continue, but
6 given the tremendous number of consumers who face
7 significant ongoing financial challenges, most such
8 underserved consumers are likely to be unable to
9 overcome their financial difficulties through such ef-
10 forts.

11 (7) Nondepository creditors historically have
12 been primarily State-regulated, are not federally in-
13 sured, generally pose little or no systemic or tax-
14 payer risk, typically have lower operating costs and
15 can employ less restrictive credit standards than de-
16 positories, and are a major source of small loans and
17 financial products or services for underserved con-
18 sumers, providing such consumers annually with bil-
19 lions of dollars in credit.

20 (8) A number of nondepository creditors have
21 developed advanced proprietary loan underwriting
22 and servicing procedures and cutting-edge tech-
23 nologies allowing them to offer credit to more under-
24 served consumers, but such creditors lack the au-
25 thority available to national banks to operate on a

1 multistate or nationwide basis using a single lending
2 charter and subject to strong, uniform Federal regu-
3 lation that would enable them to maximize their ca-
4 pacities to operate more innovatively and efficiently.

5 (9) Nondepository creditors are instead subject
6 to widely differing State licensing laws that impose
7 substantial cost and compliance burdens, and, more
8 significantly, laws that severely limit the types of fi-
9 nancial products or services that may be offered,
10 prevent loans from being provided on a commercially
11 viable basis, stifle innovation, reduce competition,
12 and leave underserved consumers with a limited
13 choice of products or services that in many cases are
14 not well suited to their personal needs and cost sig-
15 nificantly more because of these conflicting and out-
16 dated restrictive State laws.

17 (10) It is in the national interest and will great-
18 ly benefit the millions of underserved consumers who
19 have pressing needs for additional credit alternatives
20 for Congress to adopt legislation to authorize credi-
21 tors the option of receiving a Federal charter under
22 which they can provide such consumers loans and
23 other financial products and services through the
24 Internet and electronic devices and not traditional
25 brick-and-mortar storefront locations, allowing them

1 to operate more innovatively and efficiently on a na-
2 tionwide basis.

3 (11) An Internet consumer credit corporation
4 chartered under this Act will be adequately regu-
5 lated under Federal laws and regulations prescribed
6 by the Comptroller of the Currency and the Director
7 of the Consumer Financial Protection Bureau, and
8 such laws and regulations shall be enforced in ac-
9 cordance with this Act without such corporation
10 being subjected to duplicative and conflicting State
11 laws that in many cases severely and unnecessarily
12 restrict product innovation and choice and raise the
13 cost of the limited credit choices now available to un-
14 derserved consumers.

15 (12) Allowing such federally regulated lending
16 by Internet creditors as authorized by this Act
17 through the Internet and by electronic devices, but
18 not through traditional storefront, brick-and-mortar
19 locations, on a nationwide basis, is consistent with
20 the fact that consumers' borrowing habits are shift-
21 ing rapidly to seeking more financial product and
22 service choices with the convenience, ease of credit
23 access, and more alternatives provided by computers,
24 mobile phones, and other electronic devices, and mil-
25 lions of underserved consumers will be able to secure

1 credit from Internet consumer credit corporations
2 that are subject to applicable State and Federal
3 laws.

4 (13) Small businesses, which are vital to job
5 creation and the health of the Nation's economy,
6 also have a continuing need for additional credit al-
7 ternatives, and allowing Internet consumer credit
8 corporations to offer certain financial products and
9 services to small businesses through the Internet
10 and by electronic devices will be in the national in-
11 terest.

12 (b) PURPOSE AND INTENT.—The purpose and intent
13 of this Act is to—

14 (1) provide underserved consumers greater ac-
15 cess to innovative, affordable, commercially viable,
16 and better suited financial products and services;

17 (2) create a Federal charter for creditors that
18 offer financial products or services through the
19 Internet and electronic devices and not traditional
20 brick-and-mortar storefront locations and focus their
21 business primarily on meeting the credit needs of
22 underserved consumers and small businesses, ena-
23 bling such Internet creditors to provide more innova-
24 tive, affordable, and appropriate credit options, sub-
25 ject to uniform Federal lending standards rather

1 than operating under the widely varying, often con-
2 flicting, overly restrictive, and unnecessarily costly
3 system of State lending laws that currently prevent
4 nondepository creditors from offering underserved
5 consumers and small businesses the credit options
6 they need;

7 (3) clarify that Congress understands that even
8 with the more innovative and efficient lending au-
9 thorized by this Act and reasonable pricing by Inter-
10 net consumer credit corporations, the cost of com-
11 mercially viable, short-term, small-dollar credit for
12 higher risk underserved consumers typically will be
13 considerably higher than the cost for other con-
14 sumers who have no credit impairments and that
15 when the cost of such credit is expressed in terms
16 of an annual percentage rate, in most cases such
17 rate will be much higher than such rate for larger,
18 longer term loans, especially those made to con-
19 sumers with unimpaired credit records, and there-
20 fore it should not be presumed or necessarily con-
21 cluded that such credit extensions to underserved
22 consumers are unfair or abusive, provided full disclo-
23 sure of the cost of such credit is made as required
24 by this Act and such corporation has a reasonable
25 basis for determining that an underserved consumer

1 can repay, therefore indicating that the credit is af-
2 fordable;

3 (4) require that the Comptroller exercise his or
4 her authorities to administer, enforce, and imple-
5 ment the provisions of this Act and regulations pre-
6 scribed pursuant to this Act to provide for ongoing
7 prudential regulatory oversight of Internet consumer
8 credit corporations and to promptly adopt reasonable
9 and flexible policies and procedures to ensure the ap-
10 proval of Federal charters for qualified applicants,
11 while also promoting the offering of innovative, af-
12 fordable, and commercially viable financial products
13 or services; and

14 (5) require that the Director exercise his or her
15 authorities to administer, enforce, and implement
16 the provisions of Federal consumer financial laws
17 and applicable provisions of this Act and regulations
18 prescribed pursuant to this Act to ensure that un-
19 derserved consumers receive effective consumer fi-
20 nancial protections, while also promoting the offer-
21 ing of innovative, affordable, and commercially viable
22 financial products or services.

23 **SEC. 3. INTERNET CONSUMER CREDIT CORPORATIONS.**

24 (a) FEDERAL CHARTER.—In accordance with the
25 provisions of this Act, and regulations prescribed pursuant

1 to this Act, the Comptroller shall charter creditors which
2 shall become Internet consumer credit corporations (here-
3 inafter referred to as “Internet creditors”) to offer finan-
4 cial products or services primarily to underserved con-
5 sumers and small businesses as provided for in this Act.

6 (b) APPLICATION REQUIRED.—

7 (1) IN GENERAL.—A person that desires to ob-
8 tain a Federal charter under this Act shall submit
9 an application to the Comptroller at such time, in
10 such manner, and accompanied by such information
11 as the Comptroller may require.

12 (2) EXPEDITIOUS DETERMINATION.—The
13 Comptroller shall make a determination as to wheth-
14 er an application submitted under paragraph (1) is
15 approved or denied expeditiously.

16 (c) REQUIREMENTS.—In seeking a Federal charter
17 under this Act, an applicant shall meet the following re-
18 quirements:

19 (1) A business plan shall be established cov-
20 ering at least the initial 3-year period of operation
21 as a commercially viable entity with its primary
22 business activities being to serve the needs of under-
23 served consumers and small businesses for credit
24 and related financial services through the Internet

1 and electronic devices and not through brick-and-
2 mortar locations, and such plan shall—

3 (A) realistically forecast market demand,
4 the intended customer base, competition, eco-
5 nomic conditions, financial projections, and
6 business risks;

7 (B) include a marketing plan that de-
8 scribes the types of financial products or serv-
9 ices such creditor intends to offer, how it will
10 market them, and how such products or serv-
11 ices are expected to be affordable for under-
12 served consumers and small businesses and
13 commercially viable for the creditor; and

14 (C) contain an acceptable plan for—

15 (i) ensuring compliance with all appli-
16 cable laws and regulations; and

17 (ii) for promptly addressing com-
18 plaints from underserved consumers and
19 small businesses.

20 (2) A competent and experienced management
21 team of good moral character with expertise in and
22 a commitment to serving the credit needs of under-
23 served consumers, experience in offering financial
24 services products to consumers through the Internet
25 or electronic devices, and awareness and under-

1 standing of applicable legal requirements shall be es-
2 tablished.

3 (3) Adequate capital structure relative to the
4 operational and financial assumptions and business
5 plans of the applicant, including the cost of utilizing
6 advanced technology and information management
7 systems for its operating and compliance needs, shall
8 be established.

9 (4) No Internet creditor shall be directly or in-
10 directly owned or controlled by any person unless—

11 (A) the person is an individual, a Federal-
12 or State-chartered depository institution, a
13 bank holding company (as defined in section
14 2(a) of the Bank Holding Company Act of
15 1956 (12 U.S.C. 1841(a))), a savings and loan
16 holding company (as defined in section
17 10(a)(1)(D) of the Home Owners' Loan Act
18 (12 U.S.C. 1467a(a)(1)(D))), or a nonprofit
19 corporation; or

20 (B) the primary business activity of the
21 person involves—

22 (i) providing financial products or
23 services to consumers; or

24 (ii) owning or controlling persons
25 whose primary business activity is pro-

1 viding financial products or services to con-
2 sumers.

3 (5) Any other requirements provided for under
4 this Act or in regulations prescribed by the Comp-
5 troller consistent with the purposes of this Act.

6 (d) AUTHORITY OF INTERNET CREDITORS.—Upon
7 receiving a Federal charter pursuant to subsection (a), an
8 Internet creditor shall become, as from the date of the
9 execution of its charter, a body corporate, and, as such,
10 an Internet consumer credit corporation, and in the name
11 designated in the charter it is authorized to—

12 (1) adopt and use a corporate seal;

13 (2) have succession from the date its charter is
14 issued until such time as it be dissolved by the act
15 of its shareholders owning two-thirds of its stock, or
16 until its charter is revoked by the Comptroller, or
17 until terminated by an Act of Congress, or until its
18 affairs are placed in the hands of a receiver and fi-
19 nally wound up by the receiver in accordance with
20 title 11, United States Code, or other applicable law;

21 (3) borrow money, issue stock, and enter into
22 contracts;

23 (4) sue and be sued and complain and defend,
24 in any court of law and equity of competent jurisdic-
25 tion, as fully as natural persons;

1 (5) elect or appoint directors, and by its board
2 of directors to appoint a president, vice president,
3 and other officers, define their duties, require bonds
4 of them and fix the penalty thereof, dismiss such of-
5 ficers or any of them at pleasure, and appoint others
6 to fill their places;

7 (6) prescribe, by its board of directors, bylaws
8 not inconsistent with law, regulating the manner in
9 which its stock shall be transferred, its directors
10 elected or appointed, its officers appointed, its prop-
11 erty transferred, its general business conducted, and
12 the privileges granted to it by law exercised and en-
13 joyed;

14 (7) hire employees and consultants and fix their
15 compensation, define their duties, and give such per-
16 sons appropriate authority to carry on its business
17 operations;

18 (8) enter into joint ventures and other business
19 partnerships with other Internet creditors, deposi-
20 tory institutions, State-chartered or licensed non-
21 depository creditors, third-party service providers
22 and vendors, and other parties to promote or facili-
23 tate providing as herein authorized commercially via-
24 ble financial products or services to underserved con-
25 sumers and small businesses;

1 (9) contribute to community funds, or to chari-
2 table, philanthropic, or benevolent instrumentalities
3 conducive to public welfare, such sums as its board
4 of directors may deem expedient and in the interests
5 of the Internet creditor;

6 (10) invest in, or buy or lease, real estate or
7 tangible personal property, including vehicles, equip-
8 ment, furnishings and furniture, to be used by the
9 Internet creditor in conducting business related op-
10 erations authorized under this Act;

11 (11) provide loans and other financial services
12 only through the Internet and electronic devices as
13 its board of directors or duly authorized officers or
14 agents may determine, in accordance with this Act
15 and regulations prescribed pursuant to this Act, are
16 appropriate for providing financial products or serv-
17 ices to consumers, including underserved consumers,
18 and to small businesses in accordance with the pro-
19 visions of this Act and regulations prescribed pursu-
20 ant to this Act;

21 (12) exercise by its board of directors or duly
22 authorized officers or agents, subject to law, all such
23 incidental, implied, or reasonably necessary powers
24 as may be appropriate to carry on its corporate op-
25 erations and the business of providing commercially

1 viable financial products or services to consumers,
2 including underserved consumers and small busi-
3 nesses in accordance with the provisions of this Act
4 and regulations prescribed pursuant to this Act;

5 (13) be affiliated with, or owned by, an insured
6 depository institution, nondepository creditor, non-
7 profit organization, or other qualified entities unless
8 otherwise limited by this Act or regulations pre-
9 scribed pursuant to this Act;

10 (14) acquire or merge with other Internet credi-
11 tors; and

12 (15) exercise such other powers as may be rea-
13 sonably necessary or appropriate to offer financial
14 products or services as provided for pursuant to this
15 Act, or provided for through regulations prescribed
16 by the Comptroller pursuant to the provisions of this
17 Act.

18 (e) DUTIES AND RESPONSIBILITIES.—

19 (1) COMPTROLLER OF THE CURRENCY.—The
20 Comptroller shall—

21 (A) ensure that Internet creditors only
22 provide loans and other financial products or
23 services through the Internet and electronic de-
24 vices and that, to the extent reasonably pos-
25 sible, such creditors primarily focus their busi-

1 ness operations on providing underserved con-
2 sumers a variety of affordable financial prod-
3 ucts or services that are commercially viable for
4 such creditors, including certain products or
5 services that contain features to facilitate per-
6 sonal savings and enhance the credit record of
7 such consumers;

8 (B) encourage and facilitate—

9 (i) innovation with respect to the fi-
10 nancial products or services offered to un-
11 derserved consumers; and

12 (ii) joint ventures and other business
13 partnerships among Internet creditors, in-
14 sured depository institutions, other non-
15 depository creditors, third-party service
16 providers and vendors, nonprofit organiza-
17 tions, and other parties in order to ensure
18 greater credit access for underserved con-
19 sumers and small businesses;

20 (C) provide, through regulations, details on
21 how Internet creditors should be organized, in-
22 corporated, and operated in a prudential man-
23 ner;

24 (D) conduct examination and supervisory
25 activities of Internet creditors to—

- 1 (i) access their internal controls and
2 management ability;
- 3 (ii) evaluate their financial condition
4 and risk profile;
- 5 (iii) determine if they are meeting the
6 needs of underserved consumers and small
7 businesses; and
- 8 (iv) monitor their compliance with this
9 Act and other applicable laws and regula-
10 tions that the Comptroller may have ad-
11 ministrative responsibility for, and identify
12 areas in which corrective action is needed;
- 13 (E) consult, cooperate and coordinate, as
14 appropriate, with the Director and with other
15 Federal and State regulatory agencies, includ-
16 ing State bank supervisors, to promote much
17 greater availability of innovative, affordable,
18 commercially viable credit for underserved con-
19 sumers, and consistent regulatory treatment of
20 consumer and small business financial products
21 and services;
- 22 (F) help ensure that the supervisory activi-
23 ties, including examination schedules, of Inter-
24 net creditors and affiliated companies are con-

1 ducted in a coordinated and efficient manner;
2 and

3 (G) adopt adequate safeguards to ensure
4 appropriate privacy and confidentiality protec-
5 tions with respect to individually identifiable
6 personal data and proprietary corporate data.

7 (2) DIRECTOR OF THE BUREAU OF CONSUMER
8 FINANCIAL PROTECTION.—The Director shall—

9 (A) regulate the offering and provision of
10 consumer financial products or services by
11 Internet creditors under the Federal consumer
12 financial laws pursuant to its authorities under
13 the Dodd-Frank Wall Street Reform and Con-
14 sumer Protection Act (12 U.S.C. 5301 et seq.),
15 this Act, and regulations prescribed pursuant to
16 this Act;

17 (B) consult, cooperate, and coordinate, as
18 appropriate, with the Comptroller and with
19 other Federal and State regulatory agencies, in-
20 cluding State bank supervisors, to promote—

21 (i) much greater availability of inno-
22 vative, affordable, commercially viable
23 credit for underserved consumers and
24 small businesses; and

1 (ii) consistent regulatory treatment of
2 consumer and small business financial
3 products or services;

4 (C) help ensure that the supervisory activi-
5 ties, including examination schedules, of Inter-
6 net creditors and affiliated companies are con-
7 ducted in a coordinated and efficient manner;
8 and

9 (D) adopt adequate safeguards to ensure
10 appropriate privacy and confidentially protec-
11 tions with respect to individually identifiable
12 personal data and proprietary corporate data.

13 (3) INTERNET CREDITORS.—Each Internet
14 creditor shall—

15 (A) make financial education information
16 available to each consumer it offers a financial
17 product or service, including information on
18 how a consumer may obtain financial coun-
19 seling services, the benefits of following a reg-
20 ular personal savings program, and how con-
21 sumers can improve their credit ratings;

22 (B) comply with all applicable Federal laws
23 and regulations, including Federal consumer fi-
24 nancial protection law requirements and such
25 State laws, regulations, and enforcement ac-

1 tions as are authorized under the provisions of
2 this Act;

3 (C) provide account access to its customers
4 through the Internet and a toll-free telephone
5 number;

6 (D) provide, in accordance with regulations
7 prescribed pursuant to this Act, to all con-
8 sumers who are extended credit with a repay-
9 ment term of 1 year or less by the Internet
10 creditor a clear and conspicuous statement in
11 the loan agreement that discloses the true cost
12 of the loan, including all interest, fees, and
13 other loan-related charges, as a dollar amount
14 and as a percentage of the principal amount of
15 the loan in lieu of the annual percentage rate
16 disclosure that otherwise would be required
17 under the Truth in Lending Act (15 U.S.C.
18 1601 et seq.) or regulations prescribed pursu-
19 ant to such Act;

20 (E) report to the Comptroller or Director
21 such data as either may require regarding its
22 activities, including the types of financial prod-
23 ucts or services provided to underserved con-
24 sumers and small businesses, and data dem-
25 onstrating that its business activities are fo-

1 cused primarily on serving underserved con-
2 sumers and small businesses as required by this
3 Act;

4 (F) offer—

5 (i) an underserved consumer who is
6 unable to repay an extension of credit by
7 an Internet creditor that has a loan repay-
8 ment term of less than 120 days, an ex-
9 tended repayment plan, at no cost to the
10 consumer, at least once in a 12-month pe-
11 riod; and

12 (ii) to the extent reasonably possible,
13 certain financial products or services that
14 contain features to facilitate personal sav-
15 ings that could help underserved con-
16 sumers enhance their credit records if such
17 consumers fully comply with the terms and
18 conditions of such products or services;
19 and

20 (G) not—

21 (i) accept consumer or commercial de-
22 posits;

23 (ii) make commercial loans, except to
24 the extent allowed by the provisions of this

- 1 Act and regulations prescribed pursuant to
2 this Act, with respect to small businesses;
- 3 (iii) make a consumer loan with a
4 term of 30 days or less;
- 5 (iv) make a loan that requires a con-
6 sumer to repay the loan balance in one
7 lump-sum payment; or
- 8 (v) extend credit to a consumer—
- 9 (I) unless the Internet creditor
10 has a reasonable basis for believing
11 that the consumer will have the ability
12 to repay the credit extension;
- 13 (II) if the maximum principal
14 amount of the credit outstanding from
15 all financial products or services au-
16 thorized by the Internet creditor to
17 such consumer, in the case of an un-
18 secured credit transaction, exceeds
19 \$5,000, or in the case of a secured
20 credit transaction, \$25,000, unless a
21 higher amount is authorized by regu-
22 lations prescribed by the Comptroller;
- 23 or
- 24 (III) if the loan terms include a
25 prepayment penalty; or

1 (vi) extend credit to a small business
2 in excess of \$25,000.

3 (f) ADDITIONAL PRODUCT OR SERVICE OFFER-
4 INGS.—Financial products or services that may be offered
5 to underserved consumers pursuant to this subsection for
6 underserved consumers and certain small businesses may
7 also be offered to other consumers and businesses.

8 (g) RULE OF CONSTRUCTION.—Nothing in this Act
9 is intended to provide the Comptroller or the Director with
10 the authority to—

11 (1) regulate financial products or services that
12 are provided or offered by an affiliate company or
13 another entity that the Internet creditor has a busi-
14 ness relationship with, but the Internet creditor does
15 not provide or offer to underserved consumers or
16 small businesses in accordance with this Act;

17 (2) determine, directly or indirectly, pricing ap-
18 plicable to an extension of credit offered by an Inter-
19 net creditor to a consumer or small business pursu-
20 ant to this Act through a usury limit, a cap on the
21 rate of interest, fees, or other charges, or otherwise;

22 (3) prohibit, directly or indirectly, the offering
23 of a financial product or service to underserved con-
24 sumers or small businesses by an Internet creditor
25 pursuant to this Act unless a determination is made

1 by the Comptroller or Director, based on a fair and
2 reasonable determination of the facts and cir-
3 cumstances regarding the financial product or serv-
4 ice, that offering such a product or service will seri-
5 ously harm the financial interests of underserved
6 consumers or small businesses; or

7 (4) presume or conclude that a credit extension
8 offered to underserved consumers by an Internet
9 creditor under the provisions of this Act, regulations
10 prescribed by this Act, and such other statutes and
11 regulations as either may have administrative and
12 enforcement authority for is unfair, abusive, or oth-
13 erwise inappropriate solely on the basis that the in-
14 terest rates and other charges to such consumers,
15 who typically pose relatively high credit risks, are
16 significantly higher than those on credit extensions
17 offered to other consumers who do not pose such
18 high credit risks.

19 (h) INTERNET CREDITOR REGULATORY FEE.—Each
20 Internet creditor shall pay to the Comptroller an annual
21 fee in a reasonable amount that the Comptroller deter-
22 mines is sufficient, in the aggregate of all such fees paid
23 by Internet creditors, to offset the cost to the Comptroller
24 of carrying out the provisions of this Act.

1 (i) CHARTER SUSPENSION OR REVOCATION.—The
2 Comptroller, pursuant to procedures established in regula-
3 tions prescribed by the Comptroller, may suspend or re-
4 voke the charter of an Internet creditor if there has been
5 a material failure by the Internet creditor to comply with
6 the requirements set forth in the charter, provisions of this
7 Act, or other applicable statutes, regulations, or orders.

8 (j) RELATIONSHIP TO OTHER FEDERAL AND STATE
9 LAWS.—

10 (1) FEDERAL LAW.—An Internet creditor is
11 subject to—

12 (A) all otherwise applicable provisions of
13 Federal statutes and regulations, including the
14 consumer financial laws listed under section
15 1002(14) of the Consumer Financial Protection
16 Act of 2010 (12 U.S.C. 5481(14)), section 987
17 of title 10, United States Code (relating to con-
18 sumer credit extended to servicemembers and
19 dependents), and the provisions of this Act and
20 regulations established pursuant to this Act;
21 and

22 (B) the administration and enforcement of
23 such statutes and regulations by the Comp-
24 troller, the Director, any other Federal agency,

1 or State attorney general (or the equivalent
2 thereof) having enforcement authority.

3 (2) STATE LAW.—An Internet creditor, or an
4 employee, agent, or other business partner of an
5 Internet creditor, shall not be subject to—

6 (A) State laws that relate to office loca-
7 tion, licensing, education, or training that apply
8 to the operations of an Internet creditor, or its
9 employees, agents, or other business partners to
10 the extent that these operations relate to the
11 exercise of its powers or authorities under this
12 Act and implementing regulations to provide fi-
13 nancial products or services to underserved con-
14 sumers and small businesses; or

15 (B) other State laws that—

16 (i) have a discriminatory effect on an
17 Internet creditor compared to the effect of
18 such laws on any other depository or non-
19 depository creditor chartered or licensed in
20 that State;

21 (ii) consistent with the legal standard
22 for preemption in the decision of the Su-
23 preme Court of the United States in
24 *Barnett Bank of Marion County, N.A. v.*
25 *Nelson, Florida Insurance Commissioner,*

1 et al., 517 U.S. 25 (1996), prevent or sig-
2 nificantly interfere with the exercise by an
3 Internet creditor of its powers and authori-
4 ties as set forth in this Act; or

5 (iii) are preempted by any provision of
6 Federal law.

7 (3) DETERMINATION OF PREEMPTION.—An
8 Internet creditor may challenge the applicability of a
9 State law as preventing or significantly interfering
10 with the exercise of such creditor’s powers under
11 this Act, or for violating any provision of paragraph
12 (2), in any court of competent jurisdiction, and the
13 Comptroller or Director, by regulation or order, or
14 any court of competent jurisdiction may make a de-
15 termination, on a case-by-case basis, that a State
16 law prevents or significantly interferes with the exer-
17 cise of an Internet creditor’s powers under this Act,
18 or violates a provision of paragraph (2), in accord-
19 ance with applicable law.

20 (k) ENFORCEMENT.—

21 (1) IN GENERAL.—The Comptroller or the Di-
22 rector may enforce in any court of competent juris-
23 diction the provisions of this Act, regulations pre-
24 scribed pursuant to this Act relating to their respec-
25 tive regulatory authority in this Act, and their re-

1 spective cease and desist or other orders or regu-
2 latory requirements.

3 (2) ACTION BY STATE.—The attorney general
4 (or the equivalent thereof) of any State shall have
5 the power to investigate violations of this Act and
6 may bring a civil enforcement action in the name of
7 such State against an Internet creditor in any dis-
8 trict court of the United States or in State court
9 that has jurisdiction over the Internet creditor and
10 to secure civil penalties and such other remedies
11 under provisions of this Act or otherwise provided
12 under other applicable law.

13 (3) CONSULTATION REQUIRED.—

14 (A) NOTICE.—

15 (i) IN GENERAL.—When initiating any
16 action in a court or other administrative or
17 regulatory proceeding against any Internet
18 creditor as authorized by this Act to en-
19 force any provision of this Act, including
20 any regulation pursuant to this Act, a copy
21 of the complete complaint filed or to be
22 filed and written notice describing such ac-
23 tion or proceeding shall be provided to the
24 Comptroller and the Director by the State
25 attorney general (or the equivalent thereof)

1 prior to or immediately upon instituting
2 the action or proceeding.

3 (ii) CONTENTS OF NOTICE.—The noti-
4 fication required under this paragraph
5 shall, at a minimum, describe—

6 (I) the identity of the parties;

7 (II) the alleged facts underlying
8 the proceeding; and

9 (III) whether there may be a
10 need to coordinate the prosecution of
11 the proceeding so as not to interfere
12 with any action, including any rule-
13 making, undertaken by the Comp-
14 troller or the Director.

15 (B) COMPTROLLER AND DIRECTOR RE-
16 SPONSE.—In any action brought by a State at-
17 torney general (or equivalent thereof), the
18 Comptroller and Director may—

19 (i) intervene in the action as a party;

20 and

21 (ii) upon intervening—

22 (I) remove the action to the ap-
23 propriate United States district court,
24 if the action was not originally
25 brought there;

1 (II) be heard on all matters arising in the action; and

2
3 (III) appeal any order or judgment, to the same extent as any other party in the proceeding may.

4
5
6 (4) REGULATIONS.—The Comptroller and the
7 Director shall jointly prescribe regulations to implement the requirements of this subsection and, from
8 time to time, consult with State attorneys general
9 (or the equivalent thereof) in order to develop appropriate protocols to coordinate actions with the State
10 attorneys general and other appropriate regulators.

11
12
13 (5) PRESERVATION OF STATE AUTHORITY.—No
14 provision of this Act shall be construed as modifying, limiting, or superseding the operation of any
15 provision of any Federal consumer financial protection law or regulations prescribed pursuant to such
16 laws that relates to the authority of a State attorney
17 general (or the equivalent thereof) to enforce such
18 Federal law and regulations.

19
20
21 (I) PENALTIES FOR VIOLATIONS.—The relief available for violations of provisions of this Act, regulations
22 prescribed pursuant to this Act, or orders or supervisory
23 mandates, including cease and desist orders, with respect
24 to proceedings involving Internet creditors by the Comp-
25

1 troller, the Director, or State attorneys general (or the
2 equivalent thereof) shall be the same as or equivalent to
3 that provided with respect to actions by the Director in
4 section 1055 of the Dodd-Frank Wall Street Reform and
5 Consumer Protection Act (12 U.S.C. 5565).

6 (m) REPORTS TO CONGRESS.—Not later than 180
7 days after the effective date of this Act, and annually for
8 5 years thereafter, the Comptroller and the Director shall
9 submit to Congress a joint report on their activities and
10 progress in helping to expand access to innovative and af-
11 fordable credit for underserved consumers and small busi-
12 nesses, and such reports shall include—

13 (1) a descriptive summary of the actions of the
14 Comptroller and the Director during the reporting
15 period to carry out the purposes of this Act;

16 (2) the number of charter applications received
17 by the Comptroller;

18 (3) the number of charter applications that
19 were approved, disapproved, conditionally approved,
20 or are pending and a detailed explanation of each
21 disapproval or conditional approval;

22 (4) a description of any further actions the
23 Comptroller or the Director believes should be un-
24 dertaken to—

1 (A) facilitate the chartering of qualified
2 nondepository institutions; and

3 (B) increase the number of financial prod-
4 ucts that are available to help increase competi-
5 tion and consumer choice for underserved con-
6 sumers; and

7 (5) any recommendations the Comptroller or
8 the Director may have regarding other legislative
9 measures that would improve the ability of an Inter-
10 net creditor to provide additional financial products
11 or services to underserved consumers or small busi-
12 nesses.

13 (n) REGULATIONS.—The Comptroller and the Direc-
14 tor shall consult and prescribe joint regulations imple-
15 menting the provisions of this Act not later than 180 days
16 after the effective date of this Act.

17 **SEC. 4. DEFINITIONS.**

18 In this Act:

19 (1) AFFILIATE.—The term “affiliate” means
20 any person that controls, is controlled by, or is
21 under common control with another person.

22 (2) AFFORDABLE.—The term “affordable”
23 means that a creditor has a reasonable expectation
24 that a consumer or small business will be able to
25 repay an extension of credit.

1 (3) **COMMERCIALLY VIABLE.**—The term “com-
2 mercially viable” means that a reasonable economic
3 profit is expected to be made when a financial prod-
4 uct or service is provided to a consumer or small
5 business.

6 (4) **COMPTROLLER.**—The term “Comptroller”
7 means the Comptroller of the Currency.

8 (5) **CONSUMER.**—The term “consumer” means
9 an individual or agent, trustee, or representative act-
10 ing on behalf of an individual.

11 (6) **CONTROL AND CONTROLLED BY.**—The
12 terms “control” and “controlled by” mean that—

13 (A) a person directly or indirectly or acting
14 through 1 or more other persons owns, controls,
15 or has power to vote 25 percent or more of any
16 class of voting stock of a company;

17 (B) a person controls in any manner the
18 election of a majority of the directors or trust-
19 ees of a company; or

20 (C) the Comptroller makes a determina-
21 tion, after notice and opportunity for hearing,
22 that a person directly or indirectly exercises a
23 controlling influence over the management or
24 policies of a company.

1 (7) CREDIT.—The term “credit” means the
2 right granted by a person to a consumer or a small
3 business to defer payment of a debt, incur debt and
4 defer its payment, or purchase property or services
5 and defer payment for such purchase.

6 (8) CREDITOR.—The term “creditor” has the
7 same meaning as is given such term in section
8 103(g) of the Truth in Lending Act (15 U.S.C.
9 1602(g)), and for purposes of this Act, shall include
10 a person who extends credit to a small business pur-
11 suant to the provisions of this Act.

12 (9) DIRECTOR.—The term “Director” means
13 the Director of the Bureau of Consumer Financial
14 Protection.

15 (10) ELECTRONIC DEVICE.—The term “elec-
16 tronic device” means an electronic device that com-
17 municates by any transfer of signs, signals, writing,
18 images, sounds, data, or intelligence of any nature
19 transmitted in whole or in part by a wire, radio,
20 electromagnetic, photoelectronic, or photo-optical
21 system that affects interstate or foreign commerce.

22 (11) EXTENDED REPAYMENT PLAN.—The term
23 “extended repayment plan” means an installment
24 plan under which a consumer who is unable to repay
25 a credit extension on a loan with a term of less than

1 120 days on the date due, and who complies with
2 applicable requirements established in regulations
3 pursuant to this Act, may repay a creditor the out-
4 standing balance of the loan in at least 4 substan-
5 tially equal payments without being charged any ad-
6 ditional interest, fees, or other charges.

7 (12) FEDERAL CONSUMER FINANCIAL LAWS.—
8 The term “Federal consumer financial laws” has the
9 same meaning as is given to that term in section
10 1002(14) of the Consumer Financial Protection Act
11 of 2010 (12 U.S.C. 5481(14)).

12 (13) FINANCIAL PRODUCT OR SERVICE.—The
13 term “financial product or service” has the same
14 meaning as is given the term “consumer financial
15 product or service” in section 1002(5) of the Con-
16 sumer Financial Protection Act of 2010 (12 U.S.C.
17 5481(5)), and for purposes of this Act, shall also in-
18 clude a financial product or service provided to a
19 small business.

20 (14) INSURED DEPOSITORY INSTITUTION AND
21 DEPOSITORY INSTITUTION.—The terms “insured de-
22 pository institution” and “depository institution”
23 (also referred to herein as “depositories”) have the
24 same meanings as are given such terms under sec-
25 tion 3(c) of the Federal Deposit Insurance Act (12

1 U.S.C. 1813(c)), and for purposes of this Act, also
2 includes an “insured credit union” as such term is
3 defined under section 101(7) of the Federal Credit
4 Union Act (12 U.S.C. 1752(7)).

5 (15) INTERNET.—The term “Internet” means
6 the international computer network of interoperable
7 packet-switched data networks.

8 (16) NONDEPOSITORY CREDITOR.—The term
9 “nondepository creditor” means an entity that is
10 chartered or licensed by a State and offers personal
11 loans or other financial products or services to con-
12 sumers or small businesses, but does not accept con-
13 sumer or commercial deposits.

14 (17) PERSON.—The term “person” means an
15 individual, partnership, company, corporation, asso-
16 ciation (incorporated or unincorporated), trust, es-
17 tate, cooperative organization, or any other entity.

18 (18) PRIMARY BUSINESS ACTIVITIES.—The
19 term “primary business activities” means that the
20 business activities of an Internet creditor predomi-
21 nately involve providing financial products and serv-
22 ices to underserved consumers and small businesses.

23 (19) SECURED CREDIT TRANSACTION.—The
24 term “secured credit transaction” means—

1 (A) a consumer credit transaction where
2 the performance of the credit obligation is se-
3 cured by an interest in property; and

4 (B) such transaction is recognized as se-
5 cured by State or Federal law, provided, how-
6 ever, a consumer’s authorization for an elec-
7 tronic fund transfer as a payment on a finan-
8 cial product or service shall not be considered,
9 for purposes of this Act, as security on a credit
10 transaction.

11 (20) SMALL BUSINESS.—The term “small busi-
12 ness” means a business entity, including a sole pro-
13 prietorship, that has less than 500 full-time employ-
14 ees.

15 (21) STATE.—The term “State” means—

16 (A) a State, territory, or possession of the
17 United States, the District of Columbia, the
18 Commonwealth of Puerto Rico, the Common-
19 wealth of the Northern Mariana Islands, Guam,
20 American Samoa, and the United States Virgin
21 Islands.

22 (22) UNDERSERVED CONSUMER.—The term
23 “underserved consumer” means a natural person
24 who—

1 (A) does not have a checking or savings
2 account with an insured depository institution;
3 or

4 (B) has a deposit account with an insured
5 depository institution, but has limited or no
6 ability to obtain small personal loans or other
7 nondepository financial products or services
8 from an insured depository institution.

9 (23) UNSECURED CREDIT TRANSACTION.—The
10 term “unsecured credit transaction” means a con-
11 sumer credit transaction where the performance of
12 the credit obligation is not secured by an interest in
13 property or where the security interest is not recog-
14 nized by State or Federal law.

15 **SEC. 5. CONFORMING AMENDMENT TO TILA.**

16 Section 104 of the Truth in Lending Act (15 U.S.C.
17 1603) is amended by adding at the end the following:

18 “(8) Credit transactions involving extensions of
19 credit with a term of 1 year or less in which the
20 creditor provides consumers in all such credit trans-
21 actions with a clear and conspicuous statement in
22 the loan agreement that discloses the true cost of
23 the loan, including all interest, fees, and other loan
24 related charges, as a dollar amount and as a per-
25 centage of the principal amount of the loan.”.

1 **SEC. 6. EFFECTIVE DATE.**

2 This Act shall be effective 180 days after the date
3 of the enactment of this Act.

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