

112TH CONGRESS
2D SESSION

H. R. 6139

To create a Federal charter for National Consumer Credit Corporations,
and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 18, 2012

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

A BILL

To create a Federal charter for National 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, while nonetheless
16 needing to rely on nondepository financial institu-
17 tions for short-term, small loans and other credit
18 products and financial services they desperately
19 need, but generally cannot obtain from traditional
20 banking institutions.

21 (3) Credit alternatives for underserved con-
22 sumers often are limited and not well suited to their
23 particular needs and in some instances lack any
24 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 generally have been unable to
6 make affordable small personal loans on a wide-
7 spread, commercially viable basis to these higher
8 risk consumers, most of whom may not even qualify
9 for a loan under the high credit standards regulators
10 necessarily require insured depositories to maintain.

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

24 (6) Efforts of governmental, nonprofit, and pri-
25 vate sector institutions to help underserved con-

1 consumers manage their personal finances more effec-
2 tively through financial education and counseling
3 programs also are important and must continue, but
4 given the tremendous number of consumers who face
5 significant ongoing financial challenges, most such
6 underserved consumers are likely to be unable to
7 overcome their financial difficulties through such ef-
8 forts.

9 (7) Nondepository creditors historically have
10 been primarily State regulated, are not federally in-
11 sured, generally pose little or no systemic or tax-
12 payer risk, typically have lower operating costs and
13 can employ less restrictive credit standards than de-
14 positories, and are a major source of short-term,
15 small loans and financial products or services for un-
16 derserved consumers, providing such consumers an-
17 nually with billions of dollars in credit, but the exist-
18 ing State-based regulatory system for such non-
19 depository creditors in many cases increases the
20 credit costs for a consumer and limits available cred-
21 it alternatives.

22 (8) Nondepository creditors currently lack the
23 authority available to National banks to operate in-
24 novatively and efficiently on a multistate or nation-
25 wide basis using a single lending charter subject to

1 strong uniform Federal lending regulations instead
2 of widely differing State laws.

3 (9) Differing State licensing and lending laws
4 often limit the types of credit products or services
5 nondepository creditors may offer, prevent loans
6 from being provided on a commercially viable basis,
7 stifle innovation, reduce competition, and leave un-
8 derserved consumers with a limited choice of prod-
9 ucts or services that in many cases are not well suit-
10 ed to their personal needs.

11 (10) The credit costs for underserved con-
12 sumers, which are relatively high because of their
13 greater credit risks, also are further adversely im-
14 pacted substantially by the costs creditors incur in
15 complying with the nationwide patchwork of dif-
16 ferent State regulatory requirements, virtually none
17 of which are the same and can be conflicting, dupli-
18 cative, and excessive.

19 (11) Nondepository creditors that focus their
20 lending on serving underserved consumers can be
21 adequately regulated by Federal statutory and regu-
22 latory provisions, and it is in the National interest
23 and will greatly benefit the millions of underserved
24 consumers who have pressing needs for better and
25 more affordable credit options for Congress to adopt

1 legislation to allow qualified nondepository creditors
2 that focus their operations primarily on serving un-
3 derserved consumers the option of receiving a Fed-
4 eral charter under which they can be more innova-
5 tive and operate more efficiently on a nationwide
6 basis subject to effective Federal regulation and su-
7 pervision without being subjected to duplicative and
8 conflicting State laws that in many cases limit prod-
9 uct innovation and choice and raise the cost of con-
10 sumer credit.

11 (12) Small businesses, which are vital to job
12 creation and the health of the nation's economy, also
13 have a continuing need for additional credit alter-
14 natives, and allowing federally chartered nondeposi-
15 tory creditors to offer certain financial products and
16 services to small businesses would be in the national
17 interest.

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

20 (1) provide underserved consumers greater ac-
21 cess to innovative, affordable, commercially viable,
22 and better suited financial products or services;

23 (2) create a Federal charter for qualified non-
24 depository creditors that focus their business on
25 meeting the credit needs of underserved consumers

1 and small businesses so that such creditors can op-
2 erate more efficiently and effectively under uniform
3 Federal lending standards rather than under the
4 widely varying, often conflicting, unnecessarily cost-
5 ly, and burdensome system of State lending laws
6 that currently apply to nondepository creditors; and

7 (3) require that the Comptroller promptly adopt
8 reasonable and flexible policies and procedures to en-
9 sure the approval of applications for Federal char-
10 ters for nondepository creditors and of commercially
11 viable financial products to be offered by such credi-
12 tors to underserved consumers and small businesses.

13 **SEC. 3. NATIONAL CONSUMER CREDIT CORPORATIONS.**

14 (a) FEDERAL CHARTER.—In accordance with the
15 provisions of this Act, and regulations prescribed pursuant
16 to this Act, the Comptroller shall charter qualified non-
17 depository creditors which shall be known as National
18 Consumer Credit Corporations (hereinafter referred to as
19 “Credit Corporations”) to offer financial products or serv-
20 ices described in subsection (f)(1).

21 (b) APPLICATION REQUIRED.—

22 (1) IN GENERAL.—A qualified nondepository
23 creditor that desires to obtain a Federal charter
24 under this Act shall submit an application to the
25 Comptroller at such time, in such manner, and ac-

1 complicated by such information as the Comptroller
2 may require.

3 (2) DEADLINE.—The Comptroller shall make a
4 determination as to whether an application sub-
5 mitted under paragraph (1) is approved or denied
6 expeditiously.

7 (c) REQUIREMENTS.—In seeking a Federal charter
8 under this Act, a qualified nondepository creditor shall
9 meet the following requirements:

10 (1) A business plan shall be established cov-
11 ering at least the initial 3-year period of operation
12 as a commercially viable entity with its primary
13 business activities being to serve the needs of under-
14 served consumers and small businesses and such
15 plan shall—

16 (A) identify the intended—

17 (i) geographical market area; and

18 (ii) location of its main office;

19 (B) realistically forecast market demand,
20 the intended customer base, competition, eco-
21 nomic conditions, financial projections, and
22 business risks;

23 (C) include a marketing plan that de-
24 scribes the types of financial products or serv-
25 ices such creditor intends to offer, how it will

1 market them, and how such products or serv-
2 ices are expected to be affordable for under-
3 served consumers and small businesses and
4 commercially viable for the creditor; and

5 (D) contain an acceptable plan for ensur-
6 ing compliance with all applicable laws and reg-
7 ulations, and for promptly addressing com-
8 plaints from such consumers and businesses.

9 (2) A competent and experienced management
10 team of good moral character with expertise in and
11 a commitment to serving the credit needs of under-
12 served consumers and awareness and understanding
13 of applicable legal requirements shall be established.

14 (3) Adequate capital structure relative to the
15 operational and financial assumptions and business
16 plans of the qualified nondepository creditor, includ-
17 ing the cost of utilizing advanced technology and in-
18 formation management systems for its operating and
19 compliance needs, shall be established.

20 (4) No qualified nondepository creditor shall be
21 directly or indirectly owned or controlled by any per-
22 son unless—

23 (A) the person is an individual, a Federal-
24 or State-chartered depository institution, a
25 bank holding company (as defined in section

1 2(a) of the Bank Holding Company Act of
2 1956 (12 U.S.C. 1841(a)), a savings and loan
3 holding company (as defined in section
4 10(a)(1)(D) of the Home Owners' Loan Act
5 (12 U.S.C. 1467a(a)(1)(D))), or a nonprofit
6 corporation; or

7 (B) the primary business activity of the
8 person involves—

9 (i) providing financial products or
10 services to consumers; or

11 (ii) owning or controlling persons
12 whose primary business activity is pro-
13 viding financial products or services to con-
14 sumers.

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

18 (d) AUTHORITY OF NATIONAL CONSUMER CREDIT
19 CORPORATIONS.—Upon receiving a Federal charter pur-
20 suant to subsection (a), a Credit Corporation shall be-
21 come, as from the date of the execution of its charter, a
22 body corporate, and, as such, a National Consumer Credit
23 Corporation, and in the name designated in the charter
24 it is authorized to—

25 (1) adopt and use a corporate seal;

1 (2) have succession from the date its charter is
2 issued until such time as it be dissolved by the act
3 of its shareholders owning two-thirds of its stock, or
4 until its charter is revoked by the Comptroller, or
5 until terminated by an Act of Congress, or until its
6 affairs are placed in the hands of a receiver and fi-
7 nally wound up by the receiver in accordance with
8 title 11, United States Code, or other applicable law;

9 (3) borrow money, issue stock, and enter into
10 contracts;

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

14 (5) elect or appoint directors, and by its board
15 of directors to appoint a president, vice president,
16 and other officers, define their duties, require bonds
17 of them and fix the penalty thereof, dismiss such of-
18 ficers or any of them at pleasure, and appoint others
19 to fill their places;

20 (6) prescribe, by its board of directors, bylaws
21 not inconsistent with law, regulating the manner in
22 which its stock shall be transferred, its directors
23 elected or appointed, its officers appointed, its prop-
24 erty transferred, its general business conducted, and

1 the privileges granted to it by law exercised and en-
2 joyed;

3 (7) hire employees and consultants and fix their
4 compensation, define their duties, and give such per-
5 sons appropriate authority to carry on its business
6 operations;

7 (8) enter into joint ventures and other business
8 partnerships with other Credit Corporations, deposi-
9 tory institutions, State-chartered or licensed non-
10 depository creditors, third-party service providers
11 and vendors, and other parties to promote or facili-
12 tate providing commercially viable financial products
13 or services to underserved consumers and small busi-
14 nesses;

15 (9) contribute to community funds, or to chari-
16 table, philanthropic, or benevolent instrumentalities
17 conducive to public welfare, such sums as its board
18 of directors may deem expedient and in the interests
19 of the Credit Corporation;

20 (10) invest in, or buy or lease, real estate or
21 tangible personal property, including vehicles, equip-
22 ment, furnishings and furniture, to be used by the
23 Credit Corporation in conducting business related
24 operations authorized under this Act;

1 (11) conduct its business operations through
2 the Internet and such locations as its board of direc-
3 tors or duly authorized officers may determine are
4 appropriate for providing financial products or serv-
5 ices to consumers, including underserved consumers
6 and small businesses in accordance with the provi-
7 sions of this Act and regulations prescribed pursuant
8 to this Act;

9 (12) exercise by its board of directors or duly
10 authorized officers or agents, subject to law, all such
11 incidental, implied, or reasonably necessary powers
12 as may be appropriate to carry on its corporate op-
13 erations and the business of providing commercially
14 viable financial products or services to consumers,
15 including underserved consumers and small busi-
16 nesses in accordance with the provisions of this Act
17 and regulations prescribed pursuant to this Act;

18 (13) be affiliated with, or owned by, an insured
19 depository institution, nondepository creditor, non-
20 profit organization, or other qualified entities;

21 (14) acquire or merge with other Credit Cor-
22 porations; and

23 (15) exercise such other powers as may be pro-
24 vided for through regulations prescribed by the
25 Comptroller pursuant to the provisions of this Act.

1 (e) DUTIES AND RESPONSIBILITIES.—

2 (1) COMPTROLLER.—The Comptroller shall—

3 (A) ensure that, to the extent reasonably
4 possible, Credit Corporations primarily focus
5 their business operations on providing under-
6 served consumers a variety of affordable finan-
7 cial products or services that are commercially
8 viable to such Corporations, including certain
9 products or services that contain features to fa-
10 cilitate personal savings and enhance the credit
11 record of such consumers;

12 (B) encourage and facilitate—

13 (i) innovation with respect to the fi-
14 nancial products or services offered to un-
15 derserved consumers; and

16 (ii) joint ventures and other business
17 partnerships among Credit Corporations,
18 insured depository institutions, other non-
19 depository creditors, third-party service
20 providers and vendors, and nonprofit orga-
21 nizations in order to ensure greater credit
22 access for underserved consumers and
23 small businesses;

1 (C) provide, through regulations, details on
2 how Credit Corporations should be organized,
3 incorporated, and operated;

4 (D) conduct examination and supervisory
5 activities of Credit Corporations to—

6 (i) access their internal controls and
7 management ability;

8 (ii) evaluate their financial condition
9 and risk profile;

10 (iii) determine if they are meeting the
11 needs of underserved consumers and small
12 businesses; and

13 (iv) monitor their compliance with this
14 Act and all other applicable laws and regu-
15 lations, and identify areas in which correc-
16 tive action is needed; and

17 (E) consult and coordinate, as appropriate,
18 with other Federal and State regulatory agen-
19 cies, including State bank supervisors, to pro-
20 mote consistent regulatory treatment of con-
21 sumer and small business financial products
22 and services and to help ensure that the agen-
23 cies' supervisory activities, including examina-
24 tion schedules, of Credit Corporations and af-

1 affiliated companies are conducted in a coordi-
2 nated and efficient manner.

3 (2) NATIONAL CONSUMER CREDIT CORPORA-
4 TIONS.—Each Credit Corporation shall—

5 (A) make financial education information
6 adopted by the Comptroller available to each
7 consumer to whom it offers a financial product
8 or service, including information on how a con-
9 sumer may obtain financial counseling services,
10 the benefits of following a regular personal sav-
11 ings program, and how consumers can improve
12 their credit ratings;

13 (B) comply with all applicable Federal laws
14 and regulations, including Federal consumer fi-
15 nancial protection law requirements;

16 (C) provide account access to its cus-
17 tomers, either through a toll-free telephone
18 number, the Internet, or both, during its nor-
19 mal business hours;

20 (D) along with other creditors otherwise
21 subject to the Truth in Lending Act (15 U.S.C.
22 1601 et seq.), provide, in accordance with regu-
23 lations prescribed pursuant to this Act, all con-
24 sumers who are extended credit by the Corpora-
25 tion or other creditors which has a repayment

1 term of 1-year or less with a clear and con-
2 spicuous statement in the loan agreement that
3 discloses the true cost of the loan, including all
4 interest, fees and other loan related charges, as
5 a dollar amount and as a percentage of the
6 principal amount of the loan in lieu of the an-
7 nual percentage rate disclosure that otherwise
8 would be required under the Truth in Lending
9 Act or regulations;

10 (E) report to the Comptroller such data as
11 the Comptroller may require regarding its ac-
12 tivities, including the types of financial products
13 or services provided to underserved consumers
14 and small businesses and the geographic market
15 areas where such services are offered, and data
16 demonstrating that its business activities are fo-
17 cused primarily on serving underserved con-
18 sumers and small businesses as required by this
19 Act, provided that adequate safeguards shall be
20 adopted by the Comptroller to ensure appro-
21 priate privacy and confidentiality protections
22 with respect to individually identifiable personal
23 data and proprietary corporate data;

24 (F) offer—

1 (i) an underserved consumer who is
2 unable to repay an extension of credit by
3 such Corporation that has a loan repay-
4 ment term of less than 120 days, an ex-
5 tended repayment plan, at no cost to the
6 consumer, at least once in a 12-month pe-
7 riod; and

8 (ii) to the extent reasonably possible,
9 certain financial products or services that
10 contain features to facilitate personal sav-
11 ings and that could help an underserved
12 consumer enhance their credit record if the
13 consumer fully complies with the terms
14 and conditions of such products or serv-
15 ices; and

16 (G) not—

17 (i) accept consumer or commercial de-
18 posits;

19 (ii) make commercial loans, except to
20 the extent allowed by the provisions of this
21 Act, and regulations prescribed pursuant
22 to this Act, with respect to small busi-
23 nesses;

24 (iii) make a consumer loan with a
25 term of 30 days or less; or

1 (iv) intentionally extend credit to a
2 consumer—

3 (I) unless the Credit Corporation
4 has a reasonable basis for believing
5 that the consumer can repay the cred-
6 it extension;

7 (II) if the maximum principal
8 amount of the credit outstanding from
9 all financial products or services au-
10 thORIZED by the Credit Corporation to
11 such consumer, in the case of an un-
12 secured credit transaction, exceeds
13 \$5,000, or in the case of a secured
14 credit transaction, \$25,000, unless a
15 higher amount is authorized by regu-
16 lations prescribed by the Comptroller;
17 or

18 (III) if the loan terms include a
19 prepayment penalty.

20 (f) NATIONAL CONSUMER CREDIT CORPORATION
21 BUSINESS ACTIVITIES AND PRODUCT APPROVAL.—

22 (1) BUSINESS ACTIVITIES.—

23 (A) IN GENERAL.—The primary business
24 activities of a Credit Corporation shall be to
25 offer financial products or services that are ap-

1 proved by the Comptroller pursuant to this sub-
2 section to underserved consumers and small
3 businesses.

4 (B) LIMITATION ON CREDIT EXTENSION
5 TO SMALL BUSINESSES.—A Credit Corporation
6 may not extend credit to a small business in ex-
7 cess of \$25,000.

8 (2) PRODUCT APPROVAL.—

9 (A) IN GENERAL.—A Credit Corporation
10 shall submit a detailed description of any finan-
11 cial product or service that the Credit Corpora-
12 tion plans to offer to underserved consumers or
13 small businesses, including an explanation of
14 how the product or service will help meet the
15 credit and financial needs of underserved con-
16 sumers or small businesses and be commercially
17 viable for the Credit Corporation, and such
18 product or service shall be reviewed and ap-
19 proved by the Comptroller or deemed approved
20 pursuant to subparagraph (C) prior to such
21 product or service becoming available in the
22 marketplace for such consumers and businesses.

23 (B) REGULATIONS.—The Comptroller shall
24 prescribe regulations containing standards and
25 procedures, consistent with the provisions of

1 this Act, with respect to financial product ap-
2 proval, conditional approval, or disapproval, and
3 establish a method for expedited review of the
4 submissions under subparagraph (A), provided
5 that such regulations shall not provide for or
6 authorize the disapproval or conditional ap-
7 proval of a financial product or service unless
8 the Comptroller determines, based on a fair and
9 reasonable determination of the facts and cir-
10 cumstances regarding a proposed financial
11 product or service, that offering the proposed
12 such product or service will significantly harm
13 the interests of underserved consumers or small
14 businesses.

15 (C) TIMING.—If the Comptroller has not
16 advised a Credit Corporation of its approval,
17 conditional approval, or disapproval of a prod-
18 uct or service within 45 business days after a
19 Credit Corporation makes a submission under
20 subparagraph (A), the financial product or serv-
21 ice shall be deemed approved by the Comp-
22 troller and a Credit Corporation may offer it to
23 underserved consumers and small businesses,
24 provided that after a Credit Corporation has
25 begun offering such a product or service, the

1 Comptroller, pursuant to standards and proce-
2 dures set forth in regulations established pursu-
3 ant to subparagraph (B), may require a Credit
4 Corporation to cease offering or modify such a
5 product or service in order to ensure that such
6 product will not significantly harm the interests
7 of underserved consumers or small businesses.

8 (D) PRODUCTS OR SERVICES APPROVED
9 BY THE COMPTROLLER.—Financial products or
10 services approved by the Comptroller pursuant
11 to this subsection for underserved consumers
12 and small businesses may also be offered to
13 other consumers and small businesses.

14 (E) TYPES OF PRODUCTS OR SERVICES.—
15 The Comptroller shall make an effort to ap-
16 prove a broad range of financial products or
17 services, including some products or services
18 that contain features to facilitate savings and
19 credit building by underserved consumers.

20 (F) RULE OF CONSTRUCTION.—Nothing in
21 this Act provides the Comptroller with the au-
22 thority to regulate financial products or services
23 that a Credit Corporation does not provide or
24 offer to underserved consumers or small busi-
25 nesses, and that are provided or offered by an

1 affiliate company or another entity with which
2 the Credit Corporation has a business relation-
3 ship.

4 (g) NATIONAL CONSUMER CREDIT CORPORATION
5 REGULATORY FEE.—Each Credit Corporation shall pay
6 to the Comptroller an annual fee in an amount that the
7 Comptroller determines is sufficient, in the aggregate of
8 all such fees paid by Credit Corporations, to offset the
9 cost to the Comptroller of carrying out the provisions of
10 this Act.

11 (h) CHARTER SUSPENSION OR REVOCATION.—The
12 Comptroller, pursuant to procedures established in regula-
13 tions prescribed by the Comptroller, may suspend or re-
14 voke the charter of a Credit Corporation if there has been
15 a material failure by the Corporation to comply with the
16 requirements set forth in the charter, provisions of this
17 Act, or other applicable statutes or regulations.

18 (i) INTERNET AND BRICK AND MORTAR LOCA-
19 TIONS.—Neither the Comptroller nor any State or other
20 party shall prohibit a Credit Corporation from conducting
21 its business operations and providing financial products
22 or services through the Internet or in office or retail loca-
23 tions it owns or leases or those owned or leased by an
24 affiliated company, a joint venture, or a third-party busi-
25 ness that the Credit Corporation has established a busi-

1 ness relationship in connection with providing such prod-
2 ucts or services.

3 (j) USURY LIMIT.—Neither the Comptroller, nor any
4 governmental entity shall have the authority to establish,
5 directly or indirectly, a usury limit or cap on the rate of
6 interest, fees, or other charges applicable to an extension
7 of credit offered a consumer or small business pursuant
8 to this Act.

9 (k) RELATIONSHIP TO OTHER FEDERAL AND STATE
10 LAWS.—

11 (1) FEDERAL LAW.—A Credit Corporation is
12 subject to all otherwise applicable provisions of Fed-
13 eral statutes and regulations, including the con-
14 sumer financial protection laws listed under section
15 1002(12) of the Consumer Financial Protection Act
16 of 2010 (12 U.S.C. 5481(12)) and regulations estab-
17 lished pursuant to this Act.

18 (2) STATE LAW.—A Credit Corporation, or an
19 employee, agent, or other business partner of a
20 Credit Corporation, shall not be subject to—

21 (A) State laws that relate to office loca-
22 tion, licensing, education, or training that apply
23 to the operations of a Credit Corporation, or its
24 employees, agents, or other business partners to
25 the extent that these operations relate to the

1 exercise of its powers or authorities under this
2 Act and implementing regulations to provide fi-
3 nancial products and services to underserved
4 consumers and small businesses; or

5 (B) other State laws that—

6 (i) have a discriminatory effect on a
7 Credit Corporation compared to the effect
8 of such laws on any other depository or
9 nondepository creditor chartered or li-
10 censed in that State;

11 (ii) consistent with the legal standard
12 for preemption in the decision of the Su-
13 preme Court of the United States in
14 *Barnett Bank of Marion County, N.A. v.*
15 *Nelson, Florida Insurance Commissioner,*
16 *et al.*, 517 U.S. 25 (1996), prevent or sig-
17 nificantly interfere with the exercise by a
18 Credit Corporation of its powers, including
19 such Corporation's ability to offer financial
20 products approved by the Comptroller to
21 consumers or small businesses; or

22 (iii) are preempted by any provision of
23 Federal law.

24 (3) DETERMINATION OF PREEMPTION.—Any
25 regulation or order of the Comptroller or any court

1 of competent jurisdiction may make a determination
2 that a State law prevents or significantly interferes
3 with the exercise by a Credit Corporation of its pow-
4 ers on a case-by-case basis, in accordance with appli-
5 cable law.

6 (1) ENFORCEMENT.—

7 (1) IN GENERAL.—The Comptroller may en-
8 force in any court of competent jurisdiction the pro-
9 visions of this Act, regulations prescribed pursuant
10 to this Act, and cease and desist or other orders or
11 regulatory requirements imposed by the Comptroller.

12 (2) ACTION BY STATE.—The attorney general
13 (or the equivalent thereof) of any State shall have
14 the power to investigate violations of this Act or im-
15 plementing regulations prescribed by the Comp-
16 troller, and may bring a civil enforcement action in
17 the name of such State against a Credit Corporation
18 in any district court of the United States in the
19 State or in State court that has jurisdiction over the
20 defendant and to secure remedies under provisions
21 of this Act or remedies otherwise provided under
22 other law.

23 (3) CONSULTATION REQUIRED.—

24 (A) NOTICE.—

1 (i) IN GENERAL.—Before initiating
2 any action in a court or other administra-
3 tive or regulatory proceeding against any
4 Credit Corporation as authorized by this
5 Act to enforce any provision of this Act,
6 including any regulation prescribed by the
7 Comptroller, a State attorney general or
8 State regulator shall timely provide a copy
9 of the complete complaint to be filed and
10 written notice describing such action or
11 proceeding to the Comptroller.

12 (ii) EMERGENCY ACTION.—If prior
13 notice is not practicable, the State attorney
14 general or State regulator shall provide a
15 copy of the complete complaint and the no-
16 tice to the Comptroller immediately upon
17 instituting the action or proceeding.

18 (iii) CONTENTS OF NOTICE.—The no-
19 tification required under this paragraph
20 shall, at a minimum, describe—

21 (I) the identity of the parties;

22 (II) the alleged facts underlying
23 the proceeding; and

24 (III) whether there may be a
25 need to coordinate the prosecution of

1 the proceeding so as not to interfere
2 with any action, including any rule-
3 making, undertaken by the Comp-
4 troller.

5 (B) COMPTROLLER RESPONSE.—In any
6 action described brought by a State attorney
7 general or State regulator, the Comptroller
8 may—

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

10 and

11 (ii) upon intervening—

12 (I) remove the action to the ap-
13 propriate United States district court,
14 if the action was not originally
15 brought there;

16 (II) be heard on all matters aris-
17 ing in the action; and

18 (III) appeal any order or judg-
19 ment, to the same extent as any other
20 party in the proceeding may.

21 (4) REGULATIONS.—The Comptroller shall pre-
22 scribe regulations to implement the requirements of
23 this subsection and, from time to time, provide guid-
24 ance in order to further coordinate actions with the
25 State attorneys general and other regulators.

1 (5) PRESERVATION OF STATE AUTHORITY.—No
2 provision of this Act shall be construed as modi-
3 fying, limiting, or superseding the operation of any
4 provision of any enumerated Federal consumer fi-
5 nancial protection law listed under section 1002(12)
6 of the Consumer Financial Protection Act of 2010
7 (12 U.S.C. 5482(12)) and regulations prescribed
8 pursuant to such laws that relates to the authority
9 of a State attorney general or State regulator to en-
10 force such Federal law and regulations.

11 (m) PENALTIES.—Whoever knowingly violates any
12 provision of this Act, or regulation prescribed pursuant to
13 this Act, shall be fined not more than \$10,000 for each
14 day such violation occurs, and the Comptroller, in connec-
15 tion with its ongoing regulation and supervision program,
16 may also establish and impose other reasonable penalties
17 for violations of this Act, regulations prescribed pursuant
18 to this Act, or orders or supervisory mandates, including
19 cease and desist orders, issued by the Comptroller.

20 (n) REPORTS TO CONGRESS.—Not later than 180
21 days after the date of effective date of this Act, and annu-
22 ally for 5 years thereafter, the Comptroller shall submit
23 to Congress a report on its activities and progress with
24 approving Credit Corporations pursuant to subsection (b)

1 and approving financial products or services pursuant to
2 subsection (f), and such reports shall include—

3 (1) a descriptive summary of the actions of the
4 Comptroller during the reporting period to carry out
5 the purposes of this Act;

6 (2) the number of charter applications and
7 product approval submissions received by the Comptroller;
8

9 (3) the number of such applications and sub-
10 missions that were approved or disapproved, includ-
11 ing a detailed explanation for each disapproval, or
12 are pending;

13 (4) a description of any further actions the
14 Comptroller intends to undertake to—

15 (A) facilitate the chartering of qualified
16 nondepository institutions; and

17 (B) increase the number of financial prod-
18 ucts that are approved to help increase competi-
19 tion and consumer choice for underserved con-
20 sumers; and

21 (5) any recommendations the Comptroller may
22 have regarding other legislative measures that would
23 improve the ability of a Credit Corporation to pro-
24 vide additional financial products or services to un-
25 derserved consumers or small businesses.

1 (o) REGULATIONS.—The Comptroller shall prescribe
2 regulations implementing the provisions of this Act not
3 later than 180 days after the effective date of this Act.

4 **SEC. 4. DEFINITIONS.**

5 In this Act:

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

9 (2) AFFORDABLE.—The term “affordable”
10 means that a creditor has a reasonable expectation
11 that a consumer will be able to repay an extension
12 of credit.

13 (3) COMMERCIALLY VIABLE.—The term “com-
14 mercially viable” means that a reasonable economic
15 profit is expected to be made when a financial prod-
16 uct or service is provided to a consumer or small
17 business.

18 (4) COMPTROLLER.—The term “Comptroller”
19 means the Comptroller of the Currency.

20 (5) CONSUMER.—The term “consumer” means
21 an individual or agent, trustee, or representative act-
22 ing on behalf of an individual.

23 (6) CONTROL AND CONTROLLED BY.—The
24 terms “control” and “controlled by” mean that—

1 (A) a person directly or indirectly or acting
2 through 1 or more other persons owns, controls,
3 or has power to vote 25 per centum or more of
4 any class of voting stock of a company;

5 (B) a person controls in any manner the
6 election of a majority of the directors or trust-
7 ees of a company; or

8 (C) the Comptroller makes a determina-
9 tion, after notice and opportunity for hearing,
10 that a person directly or indirectly exercises a
11 controlling influence over the management or
12 policies of a company.

13 (7) CREDIT.—The term “credit” means the
14 right granted by a person to a consumer or a small
15 business to defer payment of a debt, incur debt and
16 defer its payment, or purchase property or services
17 and defer payment for such purchase.

18 (8) CREDITOR.—The term “creditor” has the
19 same meaning as is given such term in section
20 103(g) of the Truth in Lending Act (15 U.S.C.
21 1602(g)), and for purposes of this Act, shall include
22 a person who extends credit to a small business pur-
23 suant to the provisions of this Act.

24 (9) EXTENDED REPAYMENT PLAN.—The term
25 “extended repayment plan” means an installment

1 plan under which a consumer who is unable to repay
2 a credit extension on a loan with a term of less than
3 120 days on the date due, and who complies with
4 applicable requirements established in regulations
5 prescribed by the Comptroller, may repay a creditor
6 the outstanding balance of the loan in at least 4
7 substantially equal payments without being charged
8 any additional interest, fees, or other charges.

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

17 (11) INSURED DEPOSITORY INSTITUTION AND
18 DEPOSITORY INSTITUTION.—The terms “insured de-
19 pository institution” and “depository institution”
20 (also referred to herein as “depositories”) have the
21 same meanings as are given such terms under sec-
22 tion 3(c) of the Federal Deposit Insurance Act (12
23 U.S.C. 1813(c)), and for purposes of this Act, also
24 includes an “insured credit union” as such term is

1 defined under section 101(7) of the Federal Credit
2 Union Act (12 U.S.C. 1752(7)).

3 (12) QUALIFIED NONDEPOSITORY CREDITOR.—

4 The term “qualified nondepository creditor” means
5 an entity that is chartered or licensed by a State
6 and offers personal loans or other financial products
7 or services to consumers or small businesses, but
8 does not accept consumer or commercial deposits.

9 (13) PERSON.—The term “person” means an
10 individual, partnership, company, corporation, asso-
11 ciation (incorporated or unincorporated), trust, es-
12 tate, cooperative organization, or any other entity.

13 (14) PRIMARY BUSINESS ACTIVITIES.—The
14 term “primary business activities” means that the
15 business activities of a Credit Corporation predomi-
16 nately involve providing financial products and serv-
17 ices approved by the Comptroller to underserved
18 consumers and small businesses.

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

21 (A) a consumer credit transaction where
22 the performance of the credit obligation is se-
23 cured by an interest in property; and

24 (B) such transaction is recognized as se-
25 cured by State or Federal law.

1 (16) SMALL BUSINESS.—The term “small busi-
2 ness” means a business entity, including a sole pro-
3 prietorship, that has less than 500 full-time employ-
4 ees.

5 (17) STATE.—The term “State” means—

6 (A) a State, territory, or possession of the
7 United States, the District of Columbia, the
8 Commonwealth of Puerto Rico, the Common-
9 wealth of the Northern Mariana Islands, Guam,
10 American Samoa, and the United States Virgin
11 Islands; and

12 (B) federally recognized Indian tribes, as
13 published by the Secretary of the Interior pur-
14 suant to section 104(a) of the Federally Recog-
15 nized Indian Tribe List Act of 1994 (25 U.S.C.
16 479a–1(a)).

17 (18) UNDERSERVED CONSUMER.—The term
18 “underserved consumer” means a natural person
19 who—

20 (A) does not have a checking or savings
21 account with an insured depository institution;
22 or

23 (B) has a deposit account with an insured
24 depository institution, but has limited or no
25 ability to obtain small personal loans or other

1 nondepository financial products or services
2 from an insured depository institution.

3 (19) UNSECURED CREDIT TRANSACTION.—The
4 term “unsecured credit transaction” means a con-
5 sumer credit transaction where the performance of
6 the credit obligation is not secured by an interest in
7 property or where the security interest is not recog-
8 nized by State or Federal law.

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

10 Section 104 of the Truth in Lending Act (15 U.S.C.
11 1603) is amended by adding at the end the following:

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

20 **SEC. 6. EFFECTIVE DATE.**

21 This Act shall be effective 180 days after the date
22 of the enactment of this Act.

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