



May 20, 2021

SENATE VOTES TO OVERTURN OCC TRUE LENDER RULE

On May 11, the U.S. Senate voted 52-47 to approve Senator Chris Van Hollen's Congressional Review Act resolution of disapproval to invalidate the rule submitted by the OCC related to "National Banks and Federal Savings Associations as Lenders" (85 Fed. Reg. 6872 (October 30, 2020) (the "True Lender Rule"). See our Prior ALERT dated October 30, 2020 for further discussion of the True Lender Rule

A companion measure to reverse the OCC's True Lender Rule has been introduced in the U.S. House, where it is expected to be approved. Furthermore, the White House has indicated that President Biden is willing to sign it. As a result of the action, the law will simply revert to its pre-rule uncertainty

We will keep you advised of further development related to the True Lender Rule. □

✧ *Mike Tomkies and Emily Cellier*

FDIC ISSUES RFI ON DIGITAL ASSETS

The FDIC has issued a request for information and comment ("RFI") on digital assets. The RFI states that the FDIC is interested in receiving input on current and potential digital asset use cases involving insured depository institutions and their affiliates.

FDIC Chairman Jelena McWilliams stated, "At the FDIC we are laying the foundation for the next chapter of banking by ensuring we have a regulatory framework that allows responsible innovation to flourish. Digital assets is one area in which we have seen rapid expansion and innovation in recent years. This RFI gives us an opportunity to gain additional insight into the market, and what role banks might play in the future."

Sample questions from the RFI include the following:

- What, if any, activities or use cases related to digital assets are insured depository institutions currently engaging in or considering?
- In terms of the marketplace, where do insured depository institutions see the greatest demand for digital asset-related services, and who are the largest drivers for such services?

- What unique or particular risks are challenging to measure, monitor and control for the various digital asset use cases? What unique controls or processes are or could be implemented to address such risks?
- Are there any unique aspects of digital asset activities that the FDIC should take into account from a supervisory perspective?
- Are there any steps the FDIC should consider to ensure customers can distinguish between uninsured digital asset products on the one hand, and insured deposits on the other?

Comments must be received by July 16, 2021. □

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