

The OCC Proposes Two Standards for the True Lender Question

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As Acting Comptroller Brian Brooks promised in his [Statement on Becoming Acting Comptroller](#), the OCC **proposed** a rule on July 20, 2020, setting forth standards for determining the true lender of a loan made in the context of a partnership between a national bank or federal savings association (**bank**) and a third party, such as a FinTech marketplace lender. Under this proposal, a bank makes a loan if, as of the date of origination, the bank (1) is named as the lender in the loan agreement or (2) funds the loan. The OCC expects that working together with the recently codified valid-when-made rule ([12 C.F.R. § 7.4001 and § 160.110](#)), this proposal would provide greater clarity to banks regarding their lending activities. The OCC invites comments on the proposal through September 3, 2020, especially on the appropriateness of the scope of lending arrangements covered by these proposed standards.

Please see our [client memorandum](#) for more details.