



CLOSE THE SHADOW BANKING LOOPHOLE ACT

A Bill to Close Regulatory Loopholes and Ensure a Fair and Competitive Banking System

The Close the Shadow Banking Loophole Act would require nonbank companies that own an industrial loan company (ILC) to be subject to the same rules as traditional banks. Allowing Big Tech companies to own ILCs without the same regulatory safeguards gives them a boost over traditional banks and credit unions and puts consumers at risk.

The bill would:

- Require a company that owns or controls an ILC to be subject to the same consolidated supervision by the Federal Reserve as any other bank holding company under the Bank Holding Company Act.
- Provide a carve-out for existing ILCs and allow the FDIC time to consider pending ILC applications.
- Prohibit the federal banking agencies from approving a change in control of an existing ILC unless its acquirer is subject to consolidated supervision by the Federal Reserve.

Additional Background:

Nonbank commercial companies that seek to operate like banks through an industrial loan company (ILC) raise systemic financial stability, competition, and consumer protection concerns. ILC's are state-chartered banking institutions whose holding companies are not subject to consolidated supervision by the Federal Reserve, as all other bank holding companies are. This loophole prevents Federal regulators from examining the nonbank commercial holding company to determine the risks its nonbank operations pose to both the stability of the ILC and the financial system.

In March 2020, the FDIC approved ILC deposit insurance applications for Square and Nelnet, giving two large, nonbank commercial businesses access to the payment system and federal deposit insurance without the federal oversight required of banks. In 2023, Rakuten, a giant Japanese e-commerce company that has long sought an ILC charter, attempted for the fourth time to gain deposit insurance through the NCUA, after three prior attempts to secure deposit insurance through the FDIC.

The result is that traditional banks, with their regulatory safeguards, are at a competitive disadvantage with ILCs. To maintain a level playing field in the banking industry, protect consumers,



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and ensure the safety and soundness of the financial system, legislation is needed to limit agency overreach and close the ILC loophole. Many commercial companies which previously explored ILC charters with the FDIC ultimately sought FDIC-insured national bank charters with the OCC and consolidated Federal Reserve supervision at the holding company level. This is proof that commercial companies do not need loopholes, special charters, or special treatment. Congress must close this loophole to make sure entities that engage in banking are required to follow the same rules and consumer protections as every other bank.

[Congress's inaction on ILCs, fintech charters worries bankers](#)

[Amazon bank creates more problems than it solves](#)

[FDIC Eases Path for Amazon and Facebook to Become Lenders](#)

Rakuten

- [Banking industry renews opposition to Rakuten's ILC application](#)
- [Japanese Online Retailer Rakuten Seeks U.S. Bank Charter](#)
- [Rakuten backpedals on plan for credit union charter](#)
- [Rakuten withdraws bid for NCUA charter](#)

Square

- [Square, Jack Dorsey's Pay Service, Is Withholding Money Merchants Say They Need](#)
- [Square has started keeping 30% of some retailers' payments at the worst possible time](#)
- [Square Goes Public And Fields A Flood Of Customer Complaints](#)

Nelnet

- [Emergency relief screw-up hits 5 million student loan borrowers](#) (Nelnet is the parent company of Great Lakes Loan Servicing)
- [Special Allowance Payments to Nelnet for Loans Funded by Tax-Exempt Obligations, Final Audit Report, U.S. Dept. of Education \(2006\)](#)

Ford

- [Ford ILC application gets pushback from ICBA, consumer groups](#)

Edward Jones

- [Edward Jones withdraws ILC charter application](#)