C A D W A L A D E R

CABINET NEWS
Research and commentary on regulatory and other financial services topics

Regulatory Flexibility and Transparency: New Frontiers in Lending

June 18, 2026

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Final Cadwalader Issue of Cabinet; See You in July!

June 18, 2026

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This is the final issue of *Cabinet* before the anticipated completion of our merger with Hogan Lovells.

Cabinet will continue to be published. We're very excited to continue delivering the latest research and commentary on regulatory and financial services issues, now as part of the expanded Global Regulatory practice at Hogan Lovells Cadwalader. See you in July!

Oregon's DIDMCA Opt-Out

June 18, 2026

By Mercedes Kelley Tunstall
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In the latest development regarding states continuing to push "true lender" concerns, **Oregon passed a law on April 13, 2026** stating that for purposes of the federal Depository Institutions Deregulation and Monetary Control Act (DIDMCA) – the law that allows states to opt-out of banks exporting their state's interest rates into Oregon, the state "does not want [DIDMCA] to apply to consumer finance loans made in this state." Consumer finance loans in Oregon mean those made to consumers that are for $50,000 or less, and the interest rate on those loans is capped at 36%, which is actually a fairly high interest rate cap, especially compared to Colorado's cap of 21%, which state has also attempted to opt-out from DIDMCA recently. The effective date of the law was June 5, 2026.

Once again, three financial services trade associations **have filed suit to enjoin enforcement of the Oregon law**, including the National Association of Industrial Bankers, the Online Lenders Alliance and the American Financial Services Association. The suit makes the same argument made in the Colorado lawsuit, which was supported by the Federal Deposit Insurance Corporation in its amicus brief in that case, that when a loan is "made in" a state, **it is necessary to look at the lender's location**, and not the borrower's location. Effectively, this means that when loans are made by out-of-state state banks, those state banks may continue to export their interest rate into the state (national banks are still allowed to export their interest rates, despite a DIDMCA opt-out.

The trade associations have also added a "dormant commerce clause" argument to their brief. The Oregon legislation triggers the applicability of Oregon's rate cap each time a borrower makes a loan payment from an Oregon bank account, so even if the borrower has a loan that has a higher interest rate and that loan was made legally when the borrower lived in Utah, for example, merely paying the loan from Oregon means that the loan becomes non-compliant in Oregon. Such a result is a restraint on interstate commerce, hence the unusual inclusion of a dormant commerce clause argument.

The upshot here is that for lending programs that make loans in Oregon and are working with an out-of-state state bank partner and **are not making small-dollar loans**, such loan programs are likely already in compliance with the 36% interest rate. This is because such loan programs, to be competitive with prime and near-prime borrowers, likely offer interest rates that are generally lower and because there are operational efficiencies in complying with a 36% interest rate cap, since 36% is the same interest rate cap in place for borrowers under the federal Military Lending Act. However, for lending programs that do make small-dollar loans or that are focused upon subprime and non-prime borrowers, the Oregon law is likely to present real challenges for their business models.

The UK's FCA Consults on a More Flexible Mortgage Lending Regime

June 18, 2026

By Alix Prentice
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On 9 July 2026, the UK's Financial Conduct Authority (**FCA**) released **Consultation Paper 26/18 (CP 26/18)** on the "Mortgage Rule Review: supporting first-time buyers and underserved consumers".

CP 26/18 looks at the ways the regulatory regime can assist other initiatives in meeting the challenges of achieving home ownership in an increasingly difficult landscape, which difficulties particularly affect first-time buyers, the self-employed and older borrowers. Its proposals include:

1. Changes to the provisions on allowing interest-only mortgages, including: removing the requirement for the lender to obtain a credible repayment plan when the interest-only portion of the loan amounts to less than 25% of its total value per the lender's valuation; adapting requirements for when a credible repayment strategy is needed involving sale of the property and purchase of a cheaper alternative; and adding further examples of credible repayment strategy options to include follow-on mortgage products and conversion to repayment within a reasonable time.
2. Retirement interest-only mortgages: Here, the proposal is that the affordability assessment should be the same as for other (non-retirement) interest-only mortgages and not include a default assessment of whether a sole borrower could afford repayments should the joint borrower pass away.
3. Encouraging lenders to accommodate borrowers on variable or irregular incomes: While this is already permitted by the rules, the FCA believes that by adding to its Handbook example to include non-monthly payments and expanding definitions to cover "regular contractual payments" (rather than monthly payments), underserved customers may be better accommodated.
4. Bridging loan terms: In order to avoid borrowers having to take out a second bridging loan (a common practice), the FCA is proposing to amend its definition of bridging loans which are regulated mortgage contracts to include terms of up to 24 months – the current definition caps the term at 12 months.

Comments are due by 28 June 2026.

OCC Clarifies Licensing Decisions Process

June 18, 2026

By Daniel Meade
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Yesterday, the Office of the Comptroller of the Currency ("OCC") issued **a brief but revealing statement** explaining how it will process licensing filings under **12 C.F.R. Part 5**. While the OCC characterized the release as a clarification of existing procedures rather than a policy change, the statement provides insight into how the OCC intends to evaluate charter applications, merger proposals, change-in-control notices, and other corporate filings. Most notably, the OCC signaled a greater willingness to return incomplete applications early in the process and announced that it intends to make denial decisions more public going forward.

The OCC emphasized that filings should arrive substantially complete. Under the OCC's framework, an application may be (i) approved, (ii) conditionally approved, (iii) denied, or (iv) returned as materially deficient. The OCC's statement stressed that it may return a filing without reaching the merits if it lacks sufficient information to evaluate the applicable statutory and regulatory standards. Examples include missing biographical or financial information, incomplete corporate background information, or failures to provide information required by OCC forms and instructions. The statement also makes clear that deficiencies are not necessarily cured by an iterative back-and-forth with agency staff. If responses to information requests remain inadequate, the OCC may return the filing rather than continue the review process.

The OCC's statement devotes particular attention to *de novo* charter applications. The OCC stated that organizers should describe proposed products and services with specificity and demonstrate how those activities will be operationalized. Applicants also must present a fully developed governance, risk management, and compliance framework. Although the statement does not specifically reference fintech applicants, the guidance appears aimed in part at novel business models that seek regulatory approval before key operational and control functions have been fully developed.

The OCC reiterated that approvals and conditional approvals will be granted only when applicable legal and policy standards are satisfied. Conversely, denials may result from significant supervisory concerns, material CRA concerns, compliance weaknesses, inconsistency with applicable law or OCC policy, or an applicant's failure to provide requested information. None of these standards are new, but the agency's decision to restate them suggests a desire to create clearer expectations for applicants before filings are submitted.

The most noteworthy development may be the OCC's announcement that it plans to make denial decisions public. Historically, the industry has had access to a substantial body of approval orders but relatively few public examples of unsuccessful applications. Public denials could provide valuable guidance regarding how the OCC applies statutory and regulatory standards in practice and may gradually create a more developed body of licensing precedent for practitioners and applicants. However, public denials, rather than more private suggestions to withdraw, could have negative impacts on institutions receiving public denials.

The OCC statement does not alter any substantive approval criteria, but it does provide a useful window into the OCC's supervisory philosophy. The agency appears intent on moving incomplete applications off its desk earlier, focusing review resources on filings that are ready for substantive consideration. For institutions considering a charter, merger, or other OCC approval, the message is straightforward: arrive with a mature business plan, a fully developed governance structure, and complete supporting documentation. Applicants hoping to work out key details during the review process may find the OCC less receptive than in the past.