



CLOSE THE SHADOW BANKING LOOPHOLE ACT

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

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.

Specifically, at the height of the coronavirus pandemic, 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 2021, Rakuten, a giant Japanese e-commerce company that is seeking an ILC charter, refiled its application for deposit insurance with 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, 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.



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Additional Background:

[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](#)

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](#)