



September 21, 2015

Docket ID No. TREAS-DO-2015-0007
U.S. Department of the Treasury,
1500 Pennsylvania Avenue NW, Room 1325
Washington, DC 20220
(Submitted via regulations.gov)

Re: Notice of Request for Information on Expanding Access to Credit through Online Marketplace Lending

To Whom It May Concern:

As a representative of the 28 million small business owners across the nation, Small Business Majority offers the following comments on the Treasury Department's Request for Information (RFI) on expanding access to credit through online marketplace lending.

Small Business Majority is a national small business advocacy organization, founded and run by small business owners, to support America's 28 million small businesses. We conduct extensive opinion and economic research and work with our rapidly growing network of small business owners across the country to ensure their voices are an integral part of the public policy debate. We regularly engage our network of 40,000 small business owners and thousands of business organizations, along with a formal strategic partnership program of more than 125 business organizations, enabling us to reach more than 500,000 entrepreneurs.

Small business owners—particularly women, minorities and other underserved populations—face significant hurdles accessing capital and encounter the added burdens of a complex marketplace and an uneven playing field. Small business owners have plenty of reasons for feeling sidelined in this regard. According to a recent Harvard Business School paper written by former Small Business Administration Administrator Karen Mills, banks are increasingly less focused on small business lending. While the small business share of total bank loans neared 50% in 1995, it sunk to 30% in 2012.

As part of the shift, most traditional banks of all sizes, even those offering SBA-guaranteed loans, have significantly reduced or eliminated loans below a certain threshold, typically \$250,000. Others simply won't lend to small businesses with revenue of less than \$2 million. This ends up being highly exclusionary, since 68% of small businesses seek loans of less than \$250,000. In fact, 50% of small businesses seek loans of \$100,000 or less. According to a 2013 study by the Federal Reserve, this drop on the supply side leaves a critical gap in the loan market.

New alternative/online lending opportunities have recently sprung up to fill this market need. This is a positive development for small businesses. However, alternative sources of financing, such as peer-to-peer lenders, merchant cash advance companies and others, operate in an almost entirely unregulated market. Some of these new lenders are behaving responsibly, but others are not—making small businesses vulnerable to predatory lenders who can jeopardize their businesses, homes and families and leave a vacuum in their communities.

There must be a balanced set of policies that encourages technological advances, opens up new credit markets, encourages crowdfunding and stimulates innovation in the hidebound banking system, but also prevents fraud and predatory lending. Increasing responsible lending opportunities and protections for small business owners will provide a powerful benefit to disadvantaged areas and the American economy as a whole, as entrepreneurs—especially the growing ranks of women and

minorities—safely access the loans they need to build a business that generates household wealth and stability for themselves and the members of their communities they employ.

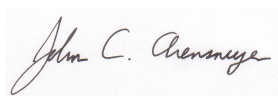
To fully realize the economic potential of America's primary job creators, we must ensure greater access and more options for obtaining responsible capital by:

- **Promoting responsible lending practices by lenders and brokers as set forth in the recently released Small Business Borrowers' Bill of Rights.** The transformation in small business lending needs to continue in a way that truly benefits America's small businesses. This means making sure the industry is built on transparency and fairness, and puts the interests of small businesses at the center of the lending process while making sure new sources of responsible capital flourish. This includes:
 - The right to transparent pricing and terms, including a right to see an annualized interest rate or APR and all fees.
 - The right to non-abusive products that do not trap borrowers in a cycle of expensive re-borrowing.
 - The right to responsible underwriting, so that borrowers are not placed in loans they are unable to repay.
 - The right to fair treatment from brokers, so that borrowers are not unknowingly steered into the most expensive loans.
 - The right to inclusive credit access, without discrimination.
 - The right to fair collection practices so borrowers are treated fairly and respectfully during the collections process. Collections on defaults should not be a lender's primary source of repayment.
- **Identifying federal agencies that can promulgate small business lending regulations under existing law, as well as looking for more expanded legislative solutions.** Alternative lenders, such as peer-to-peer lenders, merchant cash advance companies and others, operate in a mostly unregulated market. While this allows for necessary innovation, it also fosters abuse. Regulation is needed by federal agencies, such as the Consumer Financial Protection Bureau (CFPB) and the Office of the Comptroller of the Currency. Appropriate regulators should set standards for alternative small business lending that draw from the transparency and fairness practices established in the Small Business Borrowers' Bill of Rights to crack down on predatory lending practices. Examples of potential policies include:
 - Examining ways to empower the CFPB to police small business lending abuses.
 - Creating guidelines for clear, transparent disclosure by alternative non-bank lenders.
 - Ensuring that lenders size financing options to fit borrowers' needs.
 - Requiring that brokers be governed by a fiduciary responsibility to borrowers.
 - Requiring that all lending be free from discrimination.
- **Ensuring fair and clear regulations on crowdfunding and other non-bank, non-VC sources of capital while providing safeguards for business owners and investors.** Entrepreneurs and startups, in particular, see increasing opportunities to take their ideas to market with the help of direct investments through crowdfunding. Rapidly growing activity in

this space already demonstrates a robust community of individual investors who are not just interested in, but are actively seeking opportunities to support innovative entrepreneurs in all parts of the country. Regulators and policymakers must address the risk that comes with these alternative sources of capital. But, they must do so in a way that encourages new opportunities and doesn't stifle the very innovation that has the potential to create increased options and points of access for small businesses and entrepreneurs in need of capital, thus providing more fuel for our economic growth and success. Maintaining the regulatory oversight that is necessary following the financial crisis, but revising regulations for community bank and small credit unions.

It's no secret that small businesses are the backbone of our economy. They created nearly two million of the roughly three million private-sector jobs generated in 2014, and entrepreneurs are leaders in driving innovation and embracing new technologies. But small businesses can't thrive—or even exist in many cases—without access to capital, and that can be devastating to our economy. It's important for the Administration to know that access to responsible lending is crucial to the success of small businesses.

Sincerely,

A handwritten signature in black ink, reading "John C. Arensmeyer". The signature is written in a cursive, flowing style.

John Arensmeyer, Founder & CEO
Small Business Majority