Unaffordable and Unsustainable

The New Business Lending

Opportunity Fund
working capital for working people

Agenda Item VI C (FINANCIAL SECURITY)
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ABOUT OPPORTUNITY FUND

Opportunity Fund believes that small amounts of money and financial advice can help people make permanent and lasting change in their own lives, driving economic mobility and building stronger communities. We say “Yes!” to small business owners, low-income students, and families because entrepreneurship, education, and sound financial habits are proven pathways to greater economic opportunity.

Our strategy combines microloans for small business owners and microsavings accounts to help students pay for college and families save for a rainy day. As California’s leading microfinance provider, our team has deployed $115 million and helped more than 12,000 people since 1994.

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Unaffordable and Unsustainable: The New Business Lending on Main Street

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INTRODUCTION

On the heels of the Great Recession, a new breed of "alternative" lenders has emerged to offer small businesses much-needed access to credit. These new lenders are filling a void created after banks dramatically cut back on their lending to small businesses.

While some of these new alternative lenders are responsible companies that use new technologies to lower costs and deliver affordable and fair credit,[1] the majority are peddling short-term and high-cost products that subject borrowers to opaque and often draconian terms, steep repayment obligations, and astonishingly high annual interest rates. These alternative lenders operate in a regulatory void. Some avoid state usury laws and other regulations by claiming their debt product is a "cash advance," rather than a loan. And while there are federal regulations governing consumer loan products like credit cards and mortgages, no such protections exist for commercial loans, even in cases where the business is a sole proprietor who has no greater financial sophistication than the average American. The result of this trend is that a growing number of small-business owners are accruing debt they can never repay, falling into debt traps that bear a striking resemblance to the destructive cycle of payday lending.

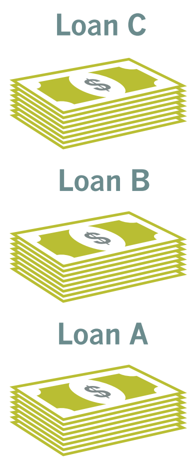
KEY FINDINGS

EXORBITANT APR'S

94% APR

The average alternative loan we analyzed carried an annual percentage rate (APR) of 94%, with one loan reaching a shocking 358%.

MULTIPLE ALTERNATIVE LENDERS



More than a quarter of the businesses in our dataset had loans outstanding with multiple alternative lenders. The practice of providing a follow-on loan to a small business that already has a loan is called "stacking." This can occur when a business is unable to meet payment obligations on the first loan.

PAYMENTS DOUBLE BUSINESS INCOME

2X

The average monthly loan payment for businesses in the dataset is nearly double (178%) the net income available to their owner(s). This unsustainable ratio severely hampers an owner's ability to expand a business or hire new employees, and drastically undermines the long-term viability of an enterprise.

REFINANCING IS POSSIBLE

60%
85%

Among the businesses that Opportunity Fund was able to refinance, monthly payments fell by more than 60% and APR dropped by an average of 85%. Those savings represent critically needed cash flow for many small businesses, but especially those struggling to survive or expand.

ALTERNATIVE LENDING LANDSCAPE VIA *FORBES*

Former SBA Administrator Karen Mills described the new small-business alternative lending landscape in a *Forbes* article published on September 23, 2014:

The new lenders generally fall into three categories.

1. The first wave of tech-based alternative lenders included companies like OnDeck Capital and Kabbage and can be referred to as **online balance sheet lenders**. Their loans typically are short-term, less than nine months, and fund working capital and inventory purchases. Many of these loan products operate similarly to a merchant cash advance, with a fixed amount or percent of sales deducted daily from the borrower's bank account over several months. Given the short loan terms, the rate a small-business borrower could pay on an annualized basis is a median of about 50 percent at OnDeck for a business term loan, but can range anywhere from 30 percent to 120 percent, with average loans of about $40,000.

2. Lending Club, Prosper, Funding Circle and Fundation are using a **peer-to-peer (P2P) model**. Backed by individual investors, these companies make loan decisions based on proprietary credit models and typically target mid-prime or near-prime borrowers. Interest rates range from 8 to 24 percent for loans of up to $250,000 that can stretch for three years. P2P platforms offer amortizing loans with fixed interest rates and three to five year maturities.

3. A third emerging online player in small-business lending are **lender-agnostic marketplaces**, which create their own market where small-business borrowers can comparison shop among a range of products from a variety of lenders — including community and regional banks, online balance sheet lenders, and others. Some of the most prominent of these players include Biz2Credit, Lendio, and Fundera. One of the more interesting factors of these marketplaces is that they mitigate one of the biggest problems borrowers and lenders face: search costs. Typically, these marketplaces earn revenue by charging a small fee on top of the loan if the borrower gets funded and accepts the terms of a loan from its platform.[2]

METHODS

While many alternative lenders provide affordable loan products, balance sheet lenders' and merchant cash advance (MCA) providers' exploited and dissatisfied borrowers frequently come to Opportunity Fund in search of refinancing options. As the nation's largest non-profit microlender to small businesses, California-based Opportunity Fund is uniquely positioned to collect information about alternative lending contracts from our clients. In an effort to better understand this rapidly growing sector of commercial finance and its impact on small business, Opportunity Fund has created the first detailed dataset of balance sheet loans and MCA agreements — information provided by business owners who have applied to us for refinancing.

The dataset comprises information from the loan applications of 104 businesses, representing a diverse swath of the California economy (*see Appendix A for details*). These businesses received 150 alternative loans* from 54 different lenders, underscoring the large number of players in the field of alternative small business financing. Of the 104 businesses that took out these alternative loans, Opportunity Fund was able to refinance 59 businesses into longer term loans with significantly lower monthly payments.[3] Most of the other applicants had borrowed so much money that we did not believe they could repay the debt, even if it was refinanced over a longer term at a much lower rate.

*Throughout this report the word "loans" may be used as shorthand to reference all the online and alternative lender debt analyzed in our research, including many merchant cash advances (which are not loans) that are included in the dataset.

OVERBURDENED WITH DEBT

A wholesale clothing business had a strong net profit of $7,000 each month. The owner — a middle-income, minority woman — then borrowed $70,000 from three alternative lenders. Her payments on these loans exceeded $42,000 per month — six times her available monthly take home pay.

The owner applied for a loan from Opportunity Fund to refinance the debt she had taken on. However, the amount of debt levied on the business was more than we could refinance — even with the lower rate and longer term. It would have been irresponsible to put her into a new loan, knowing it was a payment she couldn't afford, even if it would have been significantly cheaper. By January 2016, we learned, she had shut down her business under the burden of its debts.

Opportunity Fund is able to refinance over-burdened small business owners' debts more than half the time. When Opportunity Fund is able to refinance a business owner's debt(s), their loan payment falls by over 60% and APRs drop from 94% to 10%.

THE HIGH COSTS OF UNREGULATED ALTERNATIVE LOANS

This short-term, high-cost alternative lending market is booming, in part, because of a decline in conventional banks' willingness to provide loans to smaller businesses. As the Federal Deposit Insurance Corporation (FDIC) reports, the number of bank-based commercial loans of $1 million or less has fallen every year since 2008, and remains 20% below pre-recession levels, even as loans for more than $1 million have rebounded.[4] In California alone, Small Business Administration lending fell by more than 60% between 2007 and 2013.[5]

Many alternative lenders take advantage of their non-bank status to escape regulations that require clarity and reduce unethical lending practices.

Opportunistic alternative lenders have flooded into this gap with a variety of short-term, high-cost debt products. These lenders have far higher approval rates than banks and make the loan process attractive to borrowers. Applications can be completed within 30 minutes, decisions

The alternative lending market subjects small businesses to charges that many might consider usurious.

made within hours, and funds deposited in the applicant's bank account within days. However, these conveniences are typically accompanied by misleading language and crippling terms, as many alternative lenders take advantage of their non-bank status to escape regulations that require clarity and reduce unethical lending practices. One common way this is accomplished is by expressing the loan's cost in terms of a "factor rate" or a "multiple" rather than an APR.

It is not surprising, then, that the alternative lending market subjects small businesses to charges that many might consider usurious, as evidenced by the loan characteristics and APR figures provided in Table 1 below.[6]

TABLE 1

Alternative Loan Characteristics	Mean	Median
Loan Amount	$32,664	$24,427
Repayment Amount	$55,737	$37,098
# Months	23	11
Payment/Month	$4,219	$3,832
APR	**93.9%**	**72.0%**

APR varied widely and inconsistently by borrower and business characteristics (*see Appendix B*). According to conventional understanding of risk, the rate charged to borrowers should decline as signs of potential risk decrease, but such a pattern is not evident in the dataset. This suggests that rather than pricing loans to reflect risk, many alternative lenders are able to lead credit-worthy borrowers into overpriced loans by obfuscating the true cost.

THE IMPACT ON SMALL BUSINESSESS

Drilling down beyond APR, we looked to the businesses' Cash Flow Available for Debt Service (CFADS), which accounts for both business-based financial performance and the personal income and debt of the business owner. In evaluating financial stability, we consider CFADS to be a more appropriate measure than net profit because small-business owners often supplement business income with part-time work or a spouse's paycheck. Including these other considerations gives us a more complete picture of how an owner grapples with a business' financial health. CFADS measures the true "net income" that a small-business owner can use to cover personal bills and/or reinvest in the business.

For this analysis, we calculated the portion of a small-business owner's monthly "net income" (CFADS) that is eaten up by payments to alternative lenders.[7]

On average, the borrowers we encountered faced an unsustainable average payment ratio of almost 178%. Nearly half (47%) of borrowers in the Opportunity Fund dataset were devoting more than 100% of their monthly take-home pay to debt repayment – which means that every month these borrowers owed more to the lender than they had available from both business and personal net income.

Astonishingly, among the Hispanic borrowers in our sample, the average monthly payment was more than 400% of take-home pay.

These numbers make it clear that short-term, high-cost alternative lending contracts are unsustainable. On the contrary, many of the business we surveyed had obtained one or more "implosive" loans whose ultimate impact may be bankruptcy. In our sample, unregulated alternative lending has effectively become a mechanism for turning a successful or promising business into one nearly certain to fail.

Average monthly payment ratios also varied widely by borrower and business characteristics (*see Appendix C*). Astonishingly, among the Hispanic borrowers in our sample, the average monthly payment was more than 400% of take-home pay. Further research is urgently needed to better understand this disparity.

It should be noted again that not all alternative small-business lenders are offering toxic products. Some non-bank lenders are offering sustainable loan products with terms of one year or longer and APRs not exceeding 30%. These are more manageable and can be beneficial to small businesses with no conventional financing options. Unfortunately, in an alternative lending environment with no rules about disclosure or transparency, it can be difficult for a small business owner to distinguish between a safe, affordable loan and a high-cost, damaging loan disguised as a helpful cash advance.

ESCAPING THE ALTERNATIVE LENDING TRAP

Opportunity Fund attempts wherever possible to help businesses weighed down by alternative loan obligations. As of January 2016, we have refinanced 59 businesses at an average APR of 9.8% (as compared to the 93.9% documented in Table 1), for loans totaling $2.15 million. The average monthly payments of these businesses fell by over 60%. The ratio of debt payments as a share of net income (CFADS) also fell by nearly 60% — freeing critically needed cash flow for our borrowers. Additional details on the refinanced loans from a non-profit lender such as Opportunity Fund are available in Table 2.

TABLE 2

Opportunity Fund Refinanced Loan Characteristics	Mean	Median
Loan Amount	$36,376	$31,062
Repayment Amount	$42,456	$36,432
# Months	32	36
Payment/Month	$1,358	$1,148
APR	**9.8%**	**9.5%**

Opportunity Fund rescues small businesses from an alternative loan debt spiral, enabling them to save enough money that they can reinvest in their businesses *while* repaying their loan. Among businesses of all types and sizes, owners who we refinanced saved, on average, more than $4,300 per month — funds that can be used to expand operations, hire additional employees, or open new locations. Variation by business owner and business characteristics are provided in Appendix C.

Unfortunately, by the time many businesses contact us, they are already in too deep. The applications Opportunity Fund has declined have an average debt obligation more than double the businesses' available cash flow (237%).

SWEET SUCCESS

The middle-income, minority female owners of a bakery experienced a rapid and unexpected increase in business after they appeared on a reality TV show, taking home nearly $5,000 in profits each month. Despite their success, banks were unwilling to extend the owners credit to fund business expansion.

The owners had no other financing options, so they opted for a merchant cash advance. The constrictive impact on their cash flow led them to stack 3 additional borrowing contracts in an effort to keep the business going, resulting in monthly payments exceeding $23,000 and a blended APR of more than 117%.

Opportunity Fund was able to refinance the bakery's alternative debt, cutting their monthly payments by nearly 90% and their APR by nearly 93%. As of January 2016, the bakery was thriving, with its owners stating that "It is a relief knowing that we are finally out of the shark-infested waters of cash advances."

CONCLUSION

Alternative small-business lending is a rapidly developing market sector, often operating outside the purview of regulations designed both to provide market clarity and to protect consumers from predatory and insupportable practices. Small businesses are the engine of the American economy, creating 60% of its jobs, yet this sector still has not recovered from the 2008 recession — in no small part because of a lack of investment capital. The reluctance of conventional banks to service this critical market has created a vacuum that is being filled by a new breed of lenders who operate beyond regulatory oversight.

This new 'alternative' lending market has helped many small-business owners obtain better financing more quickly but, as this report documents, it has also allowed alternative lenders to prey on small-business owners who have limited credit options to expand or fund their ventures.

Some are responsible companies trying to help small businesses succeed. The majority, however, are in business only for short-term gain, and their financial incentives are not aligned with those of their customers. Their practices are ripe for investigation, and we applaud federal and state efforts that are beginning to separate the ethical alternative lenders from the unethical.

But while these efforts are underway, the small-business credit market seems increasingly unstable. It is an industry undergoing rapid growth. Some technology entrepreneurs hope to disrupt the market with online platforms that use proprietary algorithms to extend credit. Others operate old-fashioned "boiler rooms" and rely on networks of brokers to bring in a high volume of deals. This new market has helped many small-business owners obtain better financing more quickly but, as this report documents, it has also allowed alternative lenders to prey on frustrated small-business owners who have limited credit options to expand or fund their ventures.

Opportunity Fund is the nation's largest nonprofit microlender, with $60 million in our total outstanding portfolio of 2,700 loans and charge-offs under 2%. Understanding the vital role small business ownership plays in opening doors to economic mobility and the American Dream, our vision is that all small-business owners have access to affordable and responsible credit to build their businesses, support their families, and create jobs. As the data we present here demonstrates, that vision is under attack from many alternative lenders.

As a mission-based lender, we hope that the data in this report start to erode the façade that some of the more abusive alternative lenders have constructed and allow potential borrowers to distinguish between helpful and meretricious providers. We also hope to provide policymakers with the data they need to formulate smart regulations that protect the interests of America's "main street" small-business owners.

FOOTNOTES

1. Please refer to www.responsiblebusinesslending.org for information about what we believe constitutes responsible small-business lending, and for a list of signatories to the Small Business Borrowers Bill of Rights.

2. **Forbes,** "*Alternative Online Lenders Fill Funding Needs For Small Businesses*": http://onforb.es/1oVS9UC

3. For more detail about the Opportunity Fund sample and methods, please see Appendix A and Appendix D.

4. **Harvard Business School,** "*The State of Small Business Lending: Credit Access during the Recovery and How Technology May Change the Game*": http://hbs.me/1NsrmFr

5. **California Reinvestment Coalition,** "*Small Business Access to Credit: The Little Engine that Could: If Banks Helped*": http://bit.ly/1a6BGPq

6. For additional information about the alternative lending contracts in the Opportunity Fund database, please see Appendix B.

7. For additional information about average APR by various background factors, please see Appendix C.

APPENDIX A: DESCRIPTIVE STATISTICS OF THE SAMPLE

Race/Ethnicity	
Asian or Middle Eastern	25%
Black/African-American	7%
Hawaiian/Pacific Islander	3%
Hispanic/Latino	21%
Native American/ Native Alaskan	1%
Other	6%
White	37%

Gender	
Female	37%
Male	63%

Income Level	
Low	47%
Moderate	20%
Middle	17%
Upper	17%

* Borrower income level calculations take into account household size and adjusted gross income and compare it to the median income of similar households in the same geographic area. The income boundaries are: Low is less than 50% of the area median income (AMI), Moderate is 50-80% of AMI, Middle is 81-120% of AMI, and Upper is more than 120% of AMI. Numbers add to 101% because of rounding.

FICO*	
Bad (0-599)	18%
Poor (600-649)	39%
Fair (650-699)	32%
Good (700+)	11%

Number of Employees**	
1-4	22%
5-9	38%
10-14	22%
15+	18%

Years of Operation	
<1	38%
1	15%
2-4	22%
5+	25%

* This creditworthiness score is based on several factors, including debt/credit payment history; overall level of debt; new credit inquiries; the span of credit history; and the types of accounts. Credit scores are pulled at the time businesses apply to Opportunity Fund for a loan.

* *Part-time workers were counted as 0.5 of an employee.

APPENDIX B: ALTERNATIVE LOAN IMPACT, BY DEMOGRAPHIC SUB-GROUP & BUSINESS CHARACTERISTICS

Category	Group	Average APR	Average Monthly Payment*
TOTAL	TOTAL	94%	178%
Gender	Female	99%	119%
	Male	91%	207%
Race/Ethnicity**	Asian/Middle Eastern	93%	147%
	Black/African American	128%	155%
	Hispanic/Latino	93%	409%
	Other	56%	159%
	White	96%	146%
Income Level	Low	102%	188%
	Moderate	82%	131%
	Middle	106%	294%
	High	77%	80%
# of Employees	0-4	75%	89%
	5-9	92%	177%
	10-14	96%	153%
	15+	115%	318%

* As a % of Net Income

** Hawaiian/Pacific Islander and Native American/Alaskan are not included in this table because of low sample size.

	Borrower Characteristics	Average APR per Alternative Lending Contract	Average Monthly Payment*
Credit Score	Bad (0-599)	103%	143%
	Poor (600-649)	84%	211%
	Fair (650-699)	112%	163%
	Good (700+)	77%	147%
Business Age	<1 Year of Operation	105%	224%
	1 Year of Operation	95%	214%
	2-4 Years of Operation	65%	56%
	5+ Years of Operation	94%	166%

* As a % of Net Income

APPENDIX C: OPPORTUNITY FUND ASSISTANCE, BY DEMOGRAPHIC SUB-GROUP & BUSINESS CHARACTERISTICS

Category	Group	Payment per Month*	APR*	Share of Net Income*
TOTAL	TOTAL	-$4,309	-77%	-104%
Gender	Female	-$3,617	-69%	-61%
	Male	-$4,756	-82%	-133%
Race/Ethnicity**	Asian/Middle Eastern	-$4,238	-72%	-118%
	Black/African American	-$6,678	-72%	-154%
	Hispanic/ Latino	-$2,951	-63%	-116%
	Other	-$5,496	-40%	-90%
	White	-$4,486	-88%	-99%
Income Level	Low	-$3,821	-87%	-133%
	Moderate	-$4,882	-81%	-102%
	Middle	-$5,194	-64%	-73%
	High	-$4,187	-49%	-41%
# of Employees	0-4	-$3,254	-66%	-64%
	5-9	-$4,813	-89%	-141%
	10-14	-$3,310	-77%	-104%
	15+	-$6,883	-76%	-115%

* Payment per Month, APR and Share of Net Income (in % points) shows the average change by moving from alternative lender to Opportunity Fund.

** Hawaiian/Pacific Islander and Native American/Alaskan are not included in this table because of low sample size.

Borrower Characteristics	Group	Payment per Month*	APR*	Share of Net Income*
Credit Source	Bad (0-599)	-$4,185	-95%	-101%
	Poor (600-649)	-$3,090	-83%	-82%
	Fair (650-699)	-$5,063	-73%	-131%
	Good (700+)	-$5,466	-58%	-93%
Years in Business	<1 Year of Operation	-$4,403	-88%	-114%
	1 Year of Operation	-$3,762	-68%	-121%
	2-4 Years of Operation	-$2,328	-56%	-37%
	5+ Years of Operation	-$5,194	-75%	-114%

* Payment per Month, APR and Share of Net Income (in % points) shows the average change by moving from alternative lender to Opportunity Fund.

APPENDIX D: METHODS

- As part of the loan application process, Opportunity Fund gathers demographic and financial performance information from the applicants. We also examine bank account and merchant servicing statements. These statements, as well as credit bureau information, confirm the information provided by the applicants and provide additional financial information.

- As part of the verification process, Opportunity Fund also gathers information about an applicant's alternative loan(s) by reviewing the borrowing contract(s) between the applicant and his/her alternative lender(s). In a small number of cases, the borrower's original contract was unavailable; Opportunity Fund can usually deduce most of the missing data points by examining the applicant's bank and commercial statements.

- Opportunity Fund considered but ultimately rejected the possibility of imputing missing data. Missing data points therefore were recorded as "blanks" and not considered as part of our final analysis.

- In many of the reviewed contracts, the payment amount was specified in both dollar amounts and as a percentage of sales — with the stipulation that the borrower must pay whichever is greater. In these cases, the dollar amount was used in the dataset because it represented the "minimum allowable" payment. Consequently, the analyses in this report offer a conservative estimate of the detrimental effects of alternative lending.

- In a small number of contracts, the payment amount was specified only as a percentage of sales. To calculate a dollar amount that could be included in the dataset, Opportunity Fund applied that percentage to the previous three months of sales specified in an applicant's bank and merchant statements.

- Opportunity Fund calculated Annual Percentage Rate (APR) using a standard compound interest formula.

- To analyze per-business data for those applicants who had "stacked" two or more transactions at the time of their application, Opportunity Fund considered only those applicants who provided full information for all transactions. If any data was missing for any transactions, all of the per-business fields for that applicant were left blank. (However, the included contract information could still be used to calculate per-transaction information.)

- Opportunity Fund conducted both F-tests and T-tests on the group of its own loans and the group of alternative transactions for three variables: monthly payments, APR, and payments as a share of Cash Flow Available for Debt Service (CFADS). In each of these cases, the differences between the two groups were statistically significant at the 0.05 level.

SMALL BUSINESS BORROWERS' BILL OF RIGHTS

Opportunity Fund co-authored and is a signatory to the Small Business Borrowers' Bill of Rights

www.responsiblebusinesslending.org

1. The Right to Transparent Pricing and Terms

You have a right to see the cost and terms of any financing you are offered in writing and in a form that is clear, complete, and easy to compare with other options, so that you can make the best decision for your business.

What this means for lenders and brokers:

- *Transparent Rate* – Disclose an annualized interest rate or APR.
- *No Hidden Fees* – Disclose all upfront and scheduled charges.
- *Plain-English Terms* – Describe all key terms in an easy-to-understand manner, including the loan amount, payment amount and frequency, collateral requirements, and the cost of prepayment.
- *Clear Comparison* – Present all of these pricing and other key terms clearly and prominently, in writing, to the borrower when the loan offer is summarized for the borrower and whenever a term sheet, offer summary, or equivalent is provided.

2. The Right to Non-Abusive Products

You have a right to loan products that will not trap you in expensive cycles of re-borrowing. Lenders' profitability should come from your success, not from your failure to repay the loan according to its original terms.

What this means for lenders:

- *No Debt Traps* – If the borrower is unable to repay an existing loan, extend new credit only if due diligence indicates that the borrower's situation has changed, enabling them to repay the new loan.
- *No "Double Dipping"* – When refinancing or modifying a loan, do not add new fees or fixed charges on existing principal.
- *No Hidden Penalties* – Charge interest only on the time period that the loan remains outstanding. If the borrower pays off a loan early, do not charge interest or periodic costs associated with the remaining period of the loan, unless such costs have been clearly disclosed, prior to making the loan and specifically disclosed at the time of payoff, as a prepayment penalty or fee.
- *Pressure Free* – Allow borrowers a reasonable time to consider their loan options free from pressure or artificial timelines.
- *Prompt Prepayment Assistance* – If a borrower seeks to prepay a loan, provide any information required for prepayment within two business days of the borrower's request.

3. The Right to Responsible Underwriting

You have a right to work with lenders who will set you up for success, not failure. High loss rates should not be accepted by lenders simply as a cost of business to be passed on to you in the form of high rates or fees.

What this means for lenders:

- *Believe in the Borrower* – Offer financing only with high confidence that the borrower can repay its entire debt burden without defaulting or re-borrowing.
- *Alignment of Interests* – Lenders who receive repayment directly from the borrower's gross sales must also verify, through documents, data from third parties, and/or due diligence, that the borrower can repay all indebtedness and remain profitable, or that it has a credible path to profitability. Lenders should not make loans that the borrower cannot truly afford, even if the lender can find a way to be repaid.
- *Right-sized Financing* – Size loans to meet the borrower's need, rather than to maximize the lender's or broker's revenue. Seek to offer the borrower the size of loan that they need, rather than offering the maximum amount they qualify for.
- *Responsible Credit Reporting* – Report loan repayment information to major credit bureaus and consult the borrower's credit data when underwriting a loan. Such reporting enables other lenders to responsibly underwrite the borrower and helps the borrower build a credit profile that may facilitate

access to more affordable loans in the future. Lenders must inform the borrower and any guarantors if they intend to report loan repayment performance to guarantors' credit bureaus only in certain circumstances, such as after a default.

4. The Right to Fair Treatment from Brokers

You have a right to transparency, honesty, and impartiality in all of your interactions with brokers.

What this means for brokers:

- *Transparent Loan Options* – Disclose all loan options for which the borrower qualifies through the broker's services, emphasizing the lowest APR option, and disclose all lenders to which the broker sends loan applications on the borrower's behalf.
- *Transparent Broker Fees* – Disclose all compensation paid to the broker, and all charges that will be paid directly or indirectly by the borrower, whether paid up front or financed in the loan.
- *Transparent Results* – Post clearly and prominently on the broker's website the anonymous and aggregated results of borrowers who obtain financing through the brokers' services, in terms of APR and financing product.
- *Empower Borrowers to Make Informed Financing Decisions* – Educate the borrower on each loan option and ensure that the borrower reasonably understands the cost and terms as well as the pros and cons of financing decisions before they sign a loan document. Brokers should use tools that help the potential borrower comparison shop, including APRs and loan calculators.
- *Disclosure of Conflicts of Interest* – Disclose any conflicts of interest, the broker's fee structure, and any financial incentives they have, including whether the broker receives higher fees for brokering certain loans. Brokers who are paid higher fees with certain lenders, loan types, or terms other than the size of the loan, may not state they are acting in the best interest of the potential borrower.
- *No Fees for Failure* – No fees can be charged to the potential borrower if the broker is unable to find them a loan and if the borrower does not accept a loan secured through the broker's services.

5. The Right to Inclusive Credit Access

You have a right to fair and equal treatment when seeking a loan.

What this means for lenders and brokers:

- *Non-Discrimination* – Respect the letter and intent of fair lending laws, including the Equal Credit Opportunity Act. Do not discriminate against small business owners on the basis of race, color, religion, national origin, sex, marital status, age, sexual orientation or identity, or any other protected class. Lesbian, Gay, Bisexual and Transgender (LGBT) small business owners deserve the same protection when seeking or obtaining credit.

6. The Right to Fair Collection Practices

If you are unable to repay a loan, you have a right to be treated fairly and respectfully throughout the collections process. Collections on defaulted loans should not be used by lenders as a primary source of repayment.

What this means for lenders:

- *Fair Treatment* – Abide by the spirit of the Fair Debt Collection Practices Act and provide borrowers similar protections as described in that Act.
- *Responsible Oversight* – Diligently vet and oversee the collections practices of third-party collectors and debt buyers. Do not work with collectors or debt buyers who fail to treat borrowers fairly.
- *Accurate Information* – Transmit accurate, current, and complete information about the loan to third-party collectors and debt buyers.

1) The term "loan" and related terms used here such as "lending" are intended to be interpreted in the broadest sense possible so as to include loans, lines of credit, merchant cash advances, and similar products offered and provided to U.S. small businesses, whether or not such credit products are characterized legally or otherwise as loans. Similarly, the terms "lender" and "borrower" are intended to be interpreted in the broadest sense possible so as to include, in the case of lenders, credit marketplaces that facilitate loans on behalf of lenders, cash advance providers, and all manner of persons providing loans to U.S. small businesses or evaluating the creditworthiness of such small businesses in connection with providing a loan, and, in the case of borrowers, all U.S. small businesses who seek or obtain a loan.

Opportunity Fund
working capital for working people

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