Innovative Lending Platform Association

October 28, 2024

SENT VIA ELECTRONIC MAIL

Pursuant to: https://www.federalregister.gov/documents/2024/07/31/2024-16838/request-for-information-on-bank-fintech-arrangements-involving-banking-products-and-services

Ms. Ann E. Misback, Secretary
Board of Governors of the Federal Reserve System
Mailstop M-4775,
2001 C St NW,
Washington, DC 20551

Chief Counsel's Office
Attention: Comment Processing
Office of the Comptroller of the Currency
400 7th Street SW, Suite 3E-218
Washington, DC 20219

James Sheesley, Assistant Executive Secretary
Attention: Request for Information on Bank-Fintech Arrangements Involving Banking Products and Services Distributed to Consumers and Businesses – RIN 3064-ZA43,
Federal Deposit Insurance Corporation
550 17th Street, NW,
Washington, DC 20429

Contact Information:
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Re: Request for Information on Bank-Fintech Arrangements Involving Banking Products and Services Distributed to Consumers and Businesses;
Office of the Comptroller of the Currency [Docket No. OCC-2024-0014]
FEDERAL RESERVE SYSTEM [Docket No. OP-1836]
FEDERAL DEPOSIT INSURANCE CORPORATION RIN 3064-ZA43

Innovative Lending Platform Association

To Whom It May Concern:

ILPA appreciates the opportunity to provide comments to the Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (FRB or Board), and the Federal Deposit Insurance Corporation (FDIC) regarding the: Request for Information on Bank-Fintech Arrangements Involving Banking Products and Services Distributed to Consumers and Businesses.

About ILPA

The Innovative Lending Platform Association (ILPA) is the leading trade organization for online financing and service companies serving small businesses. Our member companies[1] share a commitment to the health and success of our nation's small businesses and dedicate themselves to advancing best practices and standards that promote responsible innovation and access to capital. Our members have provided over $30 billion to more than 1 million small businesses in various industries, from restaurants to construction to hair salons and beyond. Our members offer financing from $5,000 to $2,000,000 with an average loan size of between $35,000 and $150,000, primarily to businesses with fewer than 10 employees.

The ease with which these online lenders can serve such small business entrepreneurs, especially since the 2008 financial crisis, mirrors a larger trend. According to the Federal Reserve's "Annual Small Business Credit Survey,"[2] the number of U.S. small businesses that applied for credit with an online lender increased from 8% to 33% from 2010 to 2019. In fact, online lenders now disproportionately provide more access to credit to underserved communities than traditional financial institutions alone. These achievements are a hallmark of developing critical relationships between banks and financial technology companies (fintechs).

In 2016, ILPA launched an industry-first, voluntary model disclosure tool – the SMART Box® – that presents small businesses with comprehensive pricing metrics and identifies key financing terms in plain, easy-to-understand language. In addition to the SMART Box®, each ILPA member adheres to a Code of Ethics that sets forth the best practices for our members involved in providing, facilitating, and supporting the provision of capital to small businesses. Those best practices include the following commitments: (1) offers of capital or financing should be transparent and comprehensive; (2) small business customers should be treated fairly; (3) capital to small business customers should be offered responsibly; (4) agents and brokers should be encouraged to adhere strictly to all applicable laws and treat small businesses honestly and fairly; and (5) adoption of this Code of Ethics throughout company operations.

As small business lending platforms, ILPA members have a tangible impact on our nation's small businesses every day. ILPA members believe that in order to grow and invest in their business and employees, small business owners need access to timely and affordable credit. They need capital to purchase inventory and equipment, to upgrade or expand their facilities or operations, and to hire new workers. Unfortunately, small businesses have historically lacked access to capital, a challenge exacerbated by the Great Recession. The cost and approach of traditional underwriting practices continue to render "Main Street" lending not economically

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1 Members of ILPA include BackD Business Funding, Biz2Credit, Dedicated Financial GBC, Fiserv, Fundbox, Funding Circle, Lendio, Mulligan Funding, OnDeck/Enova, Equifax Commercial

2 2019 Federal Reserve Bank Report on Employer Firms "Small Business Credit Survey" https://www.fedsmallbusiness.org/medialibrary/fedsmallbusiness/files/2019/sbcs-employer-firms-report.pdf

viable for many banks by themselves, resulting in a credit gap for small businesses that risks their success and vitality. Through partnerships with these banks, ILPA members leverage innovative technologies and business models to fill that gap.

Summary Comments

Through the digital transformation that has taken place over the last decade, American consumers and businesses are increasingly relying on and demanding greater access to digital financial products and services. To accommodate this fundamental transition in the way that consumers bank and are banked, financial institutions, of all sizes, have increasingly turned to financial technology companies (fintechs) to both support their own product offerings, as well as assist the market in expanding access to diverse, compliant, and customer demanded product offerings.

Both financial institutions and financial technology companies (fintechs) benefit from the strengths of the other party in these relationships. This collaboration resulted in significant innovation in the marketplace over the past decade, providing greater access to traditionally under and unserved communities, as well as encouraged competition within the marketplace at benefits the end customer through better products at lower prices for small business borrowers.

In the commercial financing space, the emergence of digital applications and underwriting has materially, and positively, altered the ability of community financial institutions to offer real-time financing products to small businesses, to better compete with larger financial institutions and provide a wider range of product offerings that support a greater swath of the market. In recent Congressional testimony Republic Bank Executive Chair Steven Trager offered this apt observation:

> "Think of Republic Bank as the restaurant that creates and funds the meals and our fintech partners as UberEats that helps market and deliver the meals. We believe partnerships with fintechs provide benefits to consumers and small businesses, our Bank, and the fintech companies. The strong relationships we develop leverage each party's expertise to strive toward providing great products and experiences for our customers."[3]

In a common partnership between a fintech company and a state-regulated bank, the bank serves as the program supervisor and administrator, overseeing the fintech's activities, such as commercial lending and the associated credit risk. While many fintech programs are subject to state regulation and oversight, they also fall under the broader regulatory framework of the bank. This means the fintech program is integrated into the bank's federal and state prudential supervision, ensuring compliance with safety, soundness, and consumer protection standards. By aligning fintech operations with the bank's supervisory framework, the partnership ensures that the fintech's services operate within the same regulatory and credit risk guidelines as traditional banking services, providing a layer of oversight that safeguards both consumers and the financial system as a whole.

While the bank is the program sponsor, the fintech acts as a key mechanism to market, attract, and onboard customers efficiently, often utilizing digital platforms that streamline user

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[3] https://docs.house.gov/meetings/BA/BA20/20240712/117514/HHRG-118-BA20-Wstate-TragerS-20240712.pdf

experiences. By leveraging the fintech's technology, the bank can scale its customer acquisition efforts more effectively, reducing the high marginal costs, time, and effort typically required for serving customers, particularly in the commercial space.

For underrepresented minority and rural communities, fintech platforms offer an innovative, cost-effective way to extend the bank's reach. This allows the bank to serve new and underserved markets without the heavy overhead of traditional branch networks.

Additionally, fintech often processes vast amounts of customer data, which banks can leverage to improve credit modeling and risk assessment. Fintech's ability to build or enhance credit models with non-traditional data points can help the bank better evaluate creditworthiness, particularly for individuals or businesses with limited credit histories (INSERT FINREG LAB STUDY). This not only broadens the bank's market but also strengthens its lending portfolio by reaching customers who may have been overlooked by traditional models.

Further, according to the Federal Reserve's 2022 Small Business Credit Survey, 59% of American small businesses have unmet funding needs.[4] 50% of Black-owned firms reported unmet funding needs, compared to 45% of Asian-owned firms, 44% of Hispanic-owned firms, and 34% of white-owned businesses.[5]

Fortunately, state-licensed and regulated non-depository online small business lenders (fintechs) are filling the gap.[6] Research conducted by the Bank for International Settlements (BIS) and the Federal Reserve Bank of Philadelphia found that members like ours are:

> "increasing access to capital at a lower cost for borrowers who are less likely to receive credit from traditional banks…" and "predicting future loan performance more accurately than the conventional method to credit scoring, leading to better loan performance".[7]

This is proof that collaboration between financial institutions and fintech service providers and small business financers are filling a need within the small business economy. Fintech's are disproportionately serving the smallest of small businesses and minority-owned businesses. We believe that our members are able to do this in large part due to their well developed digital platforms and technology. The request for information fails to meaningfully articulate the positive impacts fintech providers, largely in partnership with financial institutions, are having on the small business economy. To solely see these partnerships as a risk to the stability of the financial market is willfully ignoring or overlooking the benefit created by businesses having the ability to hire more employees, update antiquated technology or equipment or grow their businesses. It is incumbent upon the regulators to take a more holistic view on the state of the small business economy before rushing to judge the risks associated with commercial

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[4] https://www.fedsmallbusiness.org/survey/2022/report-on-employer-firms
[5] https://www.fedsmallbusiness.org/survey/2022/2022-report-on-firms-owned-by-people-of-color
[6] Types of third party licensing regimes include:
-Broker licensing: Some states require a license to arrange loans for another lender.
-Servicing and debt collection licensing: Many states require licenses for loan servicers and debt collectors.
-Taking assignment of loans licensing: Some states require a license to take assignment of a loan.
-Money transmitter licenses: Fintechs with payment solutions often have a state money transmitter license.
[7] https://www.bis.org/publ/work1041.pdf

financing partnerships between fintechs and financial institutions. These partnerships curate the perfect environment to improve and accelerate delivery of financial services offerings for small businesses and consumers alike.

Furthermore, non-depository online small business financers are subject to state licensing and regulation as well as numerous Federal laws and regulations governing commercial lending including but not limited to:

- Section 5 of the Federal Trade Commission Act
- Section 1071 of the Dodd-Frank Act
- Equal Credit Opportunity Act and Regulation B
- Fair Credit Reporting Act, as amended by the Fair and Accurate Credit Transactions Act, and Regulation V
- The Telephone Consumer Protection Act
- The Can-SPAM Act of 2003
- Holder Rule and equivalent state laws
- Section 101 a-b of the Electronic Signatures in Global and National Commerce Act
- Servicemembers Civil Relief Act
- The Coronavirus Aid, Relief, and Economic Security Act
- The Bank Secrecy Act
- The Electric Fund Transfer Act

Characterizing state licensed and regulated non-depository online small business lenders as “unregulated” is demonstrably false.

Conclusion

The future of financial services is dependent on the ability of financial institutions to continue to meet the demand of their customer base. Digital products and services are a key driver of this demand. Fintech ability to work with insured depository institutions to offer innovative digital products to their customers. Financial institutions should be encouraged to partner with innovative technology providers under clear supervisory guidelines to facilitate the most market competition and customer choice. Any presumption by regulators that whatever a financial institution is already using is inherently better or safer than what they could have by partnering with a fintech stifles innovation and results in less financial access and inclusion. Before taking further action on partnerships between financial institutions and fintech commercial financing companies, the regulators should undertake a meaningful review of the state of the market and the increased access that has been developed through these partnerships. Without such a review, any discussion of risks is not built upon sufficient data and insight.

ILPA appreciates that the agencies are trying to better understand the rapidly developing nature of the relationships between fintechs and financial institutions. All financial institutions should continue to have the right to partner with fintechs to competitively offer innovative products and services to their customers. However, the regulators should work towards establishing a clear and consistent path for more such partnerships to the benefit of consumers and ILPA’s small business customers. The association stands ready to support the regulators in gaining a further understanding of how these partnerships are creating positive economic benefit for the market and ultimately improving the capability of financial institutions to support the needs of their customers.

Thank you for the opportunity to comment on this important request for information.

Sincerely,

Scott Stewart
CEO, Innovative Lending Platform Association