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January 6, 2023

Via E-Rulemaking Portal

Dianna Seaborn
Director, Office of Financial Assistance
Office of Capital Access
Small Business Administration
409 3rd St., SW
Washington, DC 20416

Re: Comments Regarding Lifting the Moratorium on Licensing New SBLC - RIN 3245-AH92

On behalf of the Electronic Transactions Association ("ETA"), we appreciate the opportunity to share our thoughts on the Small Business Administration's ("SBA") proposal to lift the moratorium on licensing new Small Business Lending Companies ("SBLCs"). ETA supports SBA effort to promote innovation and support our nation's economy by providing SBA-guaranteed loans to small businesses authorized by section 7(a) of the Small Business Act.

Responsible innovation in financial services holds tremendous potential to expand access to fair and affordable credit, particularly for small businesses. When community banks, minority depository institutions, community development financial institutions and midsize, regional, and large institutions partner with technology firms, they can efficiently and conveniently deliver services that customers demand. Innovation makes it possible for institutions to extend credit to many more borrowers through the development of affordable, accessible, and relevant financial products that had previously not been available.

SBA's existing loan programs serve an important role in credit markets for small businesses by providing financing to businesses that do not have credit available elsewhere from conventional sources on reasonable terms. However, there are still gaps in capital for underserved communities that require policies targeted to meeting their needs. ETA is supportive of the proposed revisions to increase lending activity in identified capital market gaps, resulting in the expansion of business opportunities, and the creation of more jobs in underserved communities.

Who We Are

ETA is the world's leading advocacy and trade association for the payments industry. Our members span the breadth of significant payments and fintech companies, from the largest incumbent players to the emerging disruptors in the U.S and in more than a dozen countries around the world. ETA members make commerce possible by processing more than $21 trillion in purchases worldwide and deploying payments innovation to merchants and consumers.

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ETA's Input on SBA's Proposal

Small businesses are the backbone of the American economy, creating more than 60 percent of net new jobs and employing approximately half of the workforce in the private sector.[1] Unfortunately, many small businesses are unable to access traditional credit to grow their businesses due, in part, due to high search, transaction, and underwriting costs.[2] Studies show that, on average, traditional banks approve 27 percent of U.S.-based small business loan applications. Fortunately for small businesses, ETA's members and other new and innovative technology companies are expanding access to credit and offering affordable alternatives to traditional loans.[3]

Online small business lenders are willing to provide small businesses with smaller loans (typically less than $250,000) and shorter terms[4] that are well suited for their day-to-day operating needs or short-term use cases. By using sophisticated, data-driven algorithms to efficiently assess the creditworthiness of potential borrowers, lenders can reach funding decisions quickly and provide access to capital to approved borrowers expeditiously,[5] in some cases within 24 hours.

A report[6] on small business lending in the United States reveals that some of the nation's largest fintech small business lending platforms, including ETA members:

- Funded nearly $10 billion in online loans from 2015 to 2017
- Generating $37.7 billion in gross output
- Creating 358,911 jobs and $12.6 billion in wages in U.S. communities.

According to the study, nearly one-third of online small business borrowers are located in underserved communities. About one-quarter of these borrowers are microbusinesses with less than $100,000 in annual sales, and two-thirds have less than $500,000 in annual sales. About 42 percent of small businesses borrowed between $10,000 and $50,000 from the five online small business lenders, with an average loan of $55,498.

These data-based methods are creating new opportunities for borrowers and lenders. By being agile, nimble, and scalable, they can work in tandem with related financial service offerings. For example, online small business lending programs can be synced with payment platforms to assist

[1] Federal Reserve Banks of New York, Atlanta, Cleveland and Philadelphia, Joint Small Business Credit Survey Report, 2014 at 4 (released February 2015) ("Joint Small Business Credit Survey Report"); Karen Gordon Mills, Brayden McCarthy, The State of Small Business Lending: Credit Access During the Recovery and How Technology May Change the Game, Harvard Business School Working Paper 15-004 (July 22, 2014) at 3 ("State of Small Business Lending").
[2] 80 Fed. Reg. 42866, 42867 (July 20, 2015).
[3] In 2014, almost 20 percent of small business applicants sought credit from an online lender. *Id*.
[4] *Id*.
[5] State of Small Business Lending at 6-7; Scott Shane, Why Small Businesses Are Turning to Online Lenders (April 15, 2015), available at http://www.entrepreneur.com/article/245075.
[6] Pham, N., Triantis, A., & Donovan, M. (2018). *The Economic Benefits of Online Lending to Small Businesses and the U.S. Economy*. ndp | analytics. Retrieved from https://hollandfintech.com/wp-content/uploads/2018/06/OnlineLendingMay252018.pdf

in underwriting decisions nearly in real time, and they provide convenient repayment options for small businesses.

Many non-traditional lenders, including ETA members[7], participated in SBA's Paycheck Protection Program ("PPP"), which provided billions of dollars to small businesses during the economic upheaval caused by the COVID-19 pandemic. Based on the success of the PPP, ETA is supportive of removing the moratorium on licensing new SBLCs which will open opportunities for these lenders to participate in the 7(a) Loan Program, providing additional sources of capital to America's small businesses and targeting gaps in the credit market.

Confidentiality

Due to the potential reputational and operational concerns raised by public disclosure of a firm's engagement in SBA's 7(a) program, it seems prudent to ensure that denial in the program is not publicly shared by the agency. This is important because firms that may face a negative impact to their reputation or may encourage consumer perception that they are engaging in unsafe and unsound practices, even if this is not the case.

As a result, ETA requests that the name of any firm denied in the SBA 7(a) process not be publicly disclosed in connection with SBA's evaluation. Additionally, ETA requests that SBA's implement policies including a process whereby requesting firms may identify certain information as confidential business information such that the information will be redacted in any public notice issued by SBA.

Appeals Process

ETA encourages the SBA to maintain their appeals process for firms that are denied by the Lender, CDC, Intermediary, or SBA. The appeals process should provide firms with additional consultation with the appropriate body to help remedy application issues and ensure that the firms are given a fair opportunity to make their case to agency officials. This effort led by the SBA would ensure that agencies and firms build a strong collaborative relationship that will help ensure further collaboration throughout the process.

Regulations Should be Tailored to the Risk Profile of the Entity

ETA agrees with standard eligibility requirements to ensure that only legitimate, well-governed, and capable enterprises access the program in principle. Additionally, access and functionality should be tailored to an individual entity's risk management and operational capabilities. If entities cannot meet appropriate standards, they should be excluded from accessing the SBA 7(a) program.

Furthermore, the SBA should provide on-going oversight to ensure risk profiles have not changed materially, and risk management structures and operational capabilities remain adequate. Ongoing oversight should be achieved through periodic examination, audit, and

[7] As of July 2021, ETA members lent more than $145.8 billion to 2.3 million small businesses.

certification. To achieve that result a principles-based approach would be a positive step forward and allows for the necessary flexibility.

Incentivizing Bank-Fintech Partnerships

The SBA could incentivize bank-fintech partnerships as a steppingstone to full fintech participation in SBA programs. By incentivizing this relationship, or at least providing an option to fintech companies that want to eventually participate in the program fully, it could help encourage fintech companies that want to participate but are concerned about managing the complex standard operating procedures in the program. In addition, this could also help to mitigate risks associated with allowing new entrants into to the program. Strong, bank-fintech partnerships benefits consumers and facilitates innovation. The SBA could model this program to the existing SBA mentor-protégé program[8] used in the SBA's federal contracting work.

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ETA appreciates the opportunity to provide input on this important issue. If you have any questions, please contact me or ETA's Senior Vice President of Government Affairs, Scott Talbott at stalbott@electran.org.

Sincerely,

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[8] https://www.sba.gov/federal-contracting/contracting-assistance-programs/sba-mentor-protege-program