Testimony for the Record

Submitted to the
House Committee on Small Business
Subcommittee on Economic Growth, Tax, and Capital Access

For the Hearing
“Financing through Fintech: Online Lending’s Role in Improving Small Business Capital Access”
October 25, 2017

Submitted by Alison Feighan on behalf of the Responsible Business Lending Coalition

Chairman Brat and Ranking Member Evans, on behalf of the Responsible Business Lending Coalition (RBLC) I thank you for convening this important hearing. We hope that today’s discussion will launch an ongoing dialogue to encourage much needed innovation in small business lending, while also empowering and protecting small businesses borrowers from irresponsible lending practices and products. We appreciate the opportunity to contribute to this dialogue by submitting testimony related to the Small Business Borrowers’ Bill of Rights and RBLC’s efforts to drive responsible practice in the small business lending space.

The RBLC is a diverse network of experienced for-profit and nonprofit lenders, brokers, and small business advocates organized to promote responsible innovation in small business lending and combat the rise of predatory and irresponsible lending practices and products in the market. The RBLC’s members are the Aspen Institute, a nonpartisan policy forum; Funding Circle and Lending Club, two leading Fintech innovators in marketplace lending; Accion and Opportunity Fund, two of the largest nonprofit CDFI small business lenders; Fundera, a leading small business loan broker; Community Investing Management, an impact-driven investor in small business financing; and the Small Business Majority, a nonprofit trade association and advocate for small businesses.

Members of the RBLC recognize that the way small businesses borrow money is changing and innovation is providing faster and easier access to capital, particularly in communities historically underserved by traditional lenders. The RBLC believes that in order to effectively empower small businesses, these innovations must place transparency, fairness, and borrowers’ rights at the center of the lending process. To that end, the RBLC created the Small Business Borrowers’ Bill of Rights, a cross-sector consensus on the responsible lending practices that all small business owners seeking financing deserve. More than simply a statement of principles, the Small Business Borrowers’ Bill of Rights is a set of specific practices that lenders, marketplaces, and brokers should abide by to uphold the rights of their small business customers. The six rights are:
1. **The Right to Transparent Pricing and Terms:** A borrower has the right to have the cost and terms of any financing being offered presented to them in writing and in a form, that is clear, complete, and easy to compare with other financing options, so they can make the best decision for their business.

2. **The Right to Non-Abusive Products:** A borrower has the right to expect that the financing products offered by a lender will not trap his/her business in an expensive cycle of re-borrowing.

3. **The Right to Responsible Underwriting:** A borrower has the right to expect a lender is offering financing based on underwriting practices that assess the ability of the borrower’s business to succeed and repay.

4. **The Right to Fair Treatment from Brokers:** A borrower has the right to honest, transparent, and impartial communications with a broker regarding loan options, conflicts of interest, fees, and the financing options available.

5. **The Right to Inclusive Credit Access:** A borrower has the right to fair and equal treatment when seeking a loan including protections guaranteed under the Equal Credit Opportunity Act.

6. **The Right to Fair Collections Practices:** A borrower has the right to be treated fairly and respectfully throughout a collections process and the right to protections like those guaranteed under the Fair Debt Collection Practices Act.

Since released two years ago, some 90 organizations including for-profit fintech innovators, nonprofit CDFI lenders, advocacy and community groups, investors, brokers, and marketplaces have signed on to the *Small Business Borrowers’ Bill of Rights* as Signatories or Endorsers. To become a “Signatory,” the CEO or chief executive of a lender, marketplace, or broker must sign an attestation form affirming that the organization abides by each and every relevant practice set forth in the *Small Business Borrowers’ Bill of Rights*. There is no option to abide by certain requirements and ignore others. A Signatory’s CEO is required to sign a standard Attestation Form designed for either a lender or marketplace, or a broker. Organizations that do not provide lending or brokering services, such as think tanks and advocates, can sign on as “Endorsers.”

At the end of this statement we have attached a copy of the *Small Business Borrowers’ Bill of Rights*, lender and the broker Attestation Forms, and a current list of signatories and endorsers.

**Why a Small Business Borrowers’ Bill of Rights?**

The small business financing landscape continues to change at a rapid pace, with new technologies, new lenders, and new products coming on line daily – some good and some not so good. While the RBLC supports efforts to make capital more accessible, particularly to entrepreneurs in underserved communities, we would like to see as much attention given to the quality of that capital and ensuring that in the long run, capital is helping and not harming small businesses. We continue to see evidence of the abusive and deceptive lending practices that led the formation of the RBLC and the launch of the *Small Business Borrowers’ Bill of Rights*, including:

a) Obfuscation of very high financing costs

b) Misaligned incentives between lenders and borrowers
c) Double-charging borrowers when loans are renewed by “double dipping”


d) Mismatch between financial products’ purported use and behavior encouraged by the provider

e) Hidden prepayment charges

f) Misaligned broker incentives steering small businesses into expensive products

g) “Stacking” of too much debt

h) Lack of legal protections in collections, and

i) Need for financial inclusion

The Rights were developed as industry-driven standards of accountability and transparency, in the absence of small business lending regulation. The majority of state and federal laws that apply to consumer loans do not apply to small business loans and there is no federal regulator overseeing small business lending.

The Rights apply to all types of lending institutions that serve small businesses, including traditional financial institutions, CDFIs and other mission-driven lenders, as well as fintech lenders, marketplaces, and brokers. Similarly, the Rights apply to the full range of small business financing products available. In the Small Business Borrowers’ Bill of Rights and Attestation Forms, the term “loan” and related terms such as “lending” are intended to include loans, lines of credit, merchant cash advances, and similar products that extend credit to U.S. small businesses, but may or may not be advertised as “loans.” Similarly, the terms “lender” and “borrower” are intended to be interpreted in the broadest sense possible to include credit marketplaces that facilitate loans on behalf of lenders, cash advance providers, and all manner of persons providing loans to a small business or evaluating the creditworthiness of a small business seeking a loan. In the case of borrowers, the Rights apply to all U.S. small businesses who seek or obtain financing.

Advancing Transparency

As the text of the Small Business Borrowers’ Bill of Rights indicates, the RBLC believes that transparency is critical to enabling small business owners to access capital that will benefit their businesses. Standardized disclosure elements that apply to all loans, lines of credit, merchant cash advances, and similar products are an important means to achieve greater transparency. To that end, we have engaged with colleagues in the industry – including those that have become signatories of the Small Business Borrowers’ Bill of Rights, and those that have not – to discuss standardized disclosure, and we will continue that dialogue.

The RBLC believes the purpose of standardized disclosure is to enable borrowers to understand the cost, terms, and affordability of the financing being offered, to effectively compare financing options and make an informed decision. Disclosures that offer only partial information, or that use terminology that is not well understood by borrowers make it more challenging for business owners to make choices that are in their best interest. With that goal in mind, the RBLC supports standardized disclosure that includes the following six elements:

1. Amount: The total amount paid to a borrower (with fees deducted) must be disclosed.
2. **Annualized Percentage Rate (APR):** The APR, as the all-in annualized price of the financing, is the best metric to help borrowers effectively evaluate and compare the price of financing products and therefore must be disclosed. In the case of a merchant cash advance (MCA) a lender would disclose an “estimated APR.”

3. **Total Monthly Payments:** The total monthly payment is the best metric to help a borrower evaluate affordability and therefore must be disclosed. If payment frequency is not monthly, a lender must calculate the estimated monthly payment and disclose the frequency and amounts of each payment (e.g. $xx each weekday) and in the case of a MCA, a lender must disclose how payments are calculated and with what frequency payments are due (e.g. X % of every dollar in sales to be deducted daily until $xx is repaid).

4. **Term:** The term of the financing must be disclosed – either in months or years – and if the term is not fixed then the lender must disclose the “estimated term.”

5. **Total Cost:** The total cost of the financing must be disclosed and broken down, so a borrower can understand what expenses and/or fees are included in the total cost (e.g. Interest Expense = $xx, Origination Fee = $xx).

6. **Prepayment Cost/Savings:** To assess the cost of financing, a borrower must be able to account for any cost or savings associated with prepayment. Therefore, a lender must disclose if there is a cost (or a benefit) to the borrower associated with prepayment (e.g. Prepayment Cost/Savings = Up to $xx).

In addition, the RBLC believes the following elements **must not be included** in standardized disclosure:

a) Standardized disclosure should not reference metrics or percentage rates other than interest rate or APR. Metrics such as “Simple Interest” or “Factor Rate” or references to “payment multipliers” or other terms can too easily be confused with an interest rate and using such term undermines an applicant’s ability to effectively compare financing options.

b) Standardized disclosure should not emphasize any element above the Amount, APR and Total Monthly Payment. These three elements should be emphasized above other elements disclosed, as they are most critical to an applicant’s understanding of a loan’s benefits, price, and affordability.

c) Standardized disclosure should not disclose information unless it contributes directly to an applicant’s ability to understand the cost, terms, and affordability of the financing available to them. A summary section should be limited to key factors that help an applicant understand and compare the cost and affordability of financing in the simplest way possible.

Again, on behalf of the RBLC, I thank you for the opportunity to contribute to the subcommittee’s hearing. Please know we are available to answer any follow up questions about the *Small Business Borrowers’ Bill of Rights* or any of the information provided in our testimony. We look forward to working with the committee as you continue to explore how fintech innovations can encourage and facilitate responsible small business lending.
The way small businesses borrow money is being transformed. Innovators are providing faster and easier ways to borrow and increasing access to credit in communities that have historically been underserved. This transformation will achieve its potential only if it is built on transparency, fairness, and putting the rights of borrowers at the center of the lending process. To that end, we have identified the fundamental financing rights that we believe all small businesses deserve. These rights are not yet protected by law, in most cases. We encourage the entire small business financing industry to join us in upholding these rights.

1. The Right to Transparent Pricing and Terms
You have a right to see the cost and terms of any financing being 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. In order to protect your Right to Transparent Pricing and Terms, lenders and brokers must:

- **Transparent Rate** – Disclose the Annual Percentage Rate (APR), as the all-in annualized price of the financing, and the annualized interest rate if one is used.
- **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, total amount provided after deducting fees or charges, payment amount and frequency, total monthly payment amount if payment frequency is other than monthly, collateral requirements, and any prepayment charges.
- **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 an expensive cycle of re-borrowing. Lenders’ profitability should come from your success not from your failure to repay the loan according to its original terms. In order to protect your Right to Non-Abusive Products, lenders must:

- **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”** – Do not double-charge the borrower. When refinancing or modifying a loan with a fixed-fee as the primary financing charge, do not charge fees on the borrower’s outstanding principal unless there is a tangible cost benefit to the borrower.
- **No Hidden Prepayment Charges** —If the borrower receives no savings, or limited savings, in early payoff, disclose this in the original loan term sheet or offer summary, and again at the time of payoff. For financing with a fixed term, if a prepaying borrower owes a fixed repayment amount or a certain percentage of that amount regardless of when they pay off the financing, disclose this as prepayment charge. This charge is equal to the remaining financing charge owed at payoff, which is the cost the borrower is paying for the unused portion of the loan.
• **Appropriate Product** – Match loan product design and loan product use. If presenting a loan product as designed for one use, do not encourage borrowing behavior contrary to that use. For example, short-term products may be well suited for short-term use, but not for long-term recurring use. Long-term products with prepayment penalties may be well suited for long-term use, but not for short-term needs.

• **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.

• **Responsive Complaint Management** – If a complaint is submitted, provide a confirmation of receipt within five days and in writing, when possible, and research and resolve the complaint in a timely manner. lv

• **Clear Notice Regarding Referrals** - If referring a small business to another lender or broker, provide clear notice that a referral is being made. If the lender or broker is not already a signatory of the *Small Business Borrowers’ Bill of Rights* and thus has agreed to clear disclosure and responsible lending practices, inform borrowers that as they move forward they should consider key aspects of any financing offered – the APR, the total payment amount owed monthly (even if payments are made daily or weekly), their ability to pay off any financing they take, and whether they may owe financing charges even if they pay off early.

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. In order to protect your Right to Responsible Underwriting, lenders must:

• **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 debt 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 largest amount they could qualify for.

• **Responsible Credit Reporting** – Report loan repayment information to major credit bureaus and consult 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. In order to protect your Right to Fair Treatment from Brokers, brokers must offer:

- **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.

- **Responsive Complaint Management** – If a complaint is submitted, provide a confirmation of receipt within five days and in writing, when possible, and research and resolve the complaint in a timely manner.

5. The Right to Inclusive Credit Access
You have a right to fair and equal treatment when seeking a loan. In order to protect your Right to Inclusive Credit Access, lenders and brokers must:

- **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

You have a right to be treated fairly and respectfully throughout a collections process. Collections on defaulted loans should not be used by lenders as a primary source of repayment. In order to protect your Right to Fair Collections Practices, lenders must:

- **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.
In order for a lender or marketplace to become a signatory of the Small Business Borrower’s Bill of Rights 2.0, its chief executive must attest that it abides by all practices described in the Small Business Borrowers’ Bill of Rights by completing both the **Attestation Form** and the **Attestation Worksheet** below. Once completed, the documents should be emailed to info@responsiblebusinesslending.org.
Small Business Borrowers’ Bill of Rights (2.0 Update)
Attestation Form for Lenders and Credit Marketplaces

Summary of Attestation
By checking the boxes below, I affirm that my organization actively supports and adheres to the Small Business Borrowers’ Bill of Rights (2.0 Update) and abides by all of the practices described in the attached Attestation Worksheet:

- The Right to Transparent Pricing and Terms
- The Right to Non-Abusive Products
- The Right to Responsible Underwriting
- The Right to Inclusive Credit Access
- The Right to Fair Collections Practices

Note: You must be able to truthfully check all five boxes to be deemed a Signatory of the Small Business Borrowers’ Bill of Rights and thereby eligible to have your organization’s logo appear on the Small Business Borrowers’ Bill of Rights website, www.ResponsibleBusinessLending.org.

Terms of this Attestation
a. I have read and understand the Small Business Borrowers’ Bill of Rights (2.0 Update).
b. I have completed the attached Attestation Worksheet, indicating in writing that my organization abides by all of the enumerated practices.
c. By completing this Attestation Form and attesting that my organization abides by all of the enumerated practices in the attached Attestation Worksheet, I consent to having this Attestation Form and my organization’s logo posted on the Small Business Borrowers’ Bill of Rights website.
d. I understand that this Attestation Form and my organization’s logo may be removed from the Small Business Borrowers’ Bill of Rights website if my organization does not complete and submit a satisfactory updated Attestation Form within one calendar year from the date of my signature below, and each successive year thereafter, or if my organization ceases to abide by this Attestation.
e. I agree, on behalf of my organization, that my organization assents to and will be bound by the Terms of Use for the Small Business Borrowers’ Bill of Rights website.
f. Anyone with questions for my organization regarding this Attestation Form completed by my organization can contact the following individual (include name, title, email address, and phone number):

________________________________________________________________________

________________________________________________________________________

g. I attest that the information above is accurate and represents the standard practices for all financing products and services offered through my organization to small businesses. Furthermore, I hereby certify that I am authorized to sign this Attestation Form on behalf of my organization.

________________________________________________________________________

Organization Name

Chief Executive Signature

Chief Executive Name

Date

The Responsible Business Lending Coalition
www.responsiblebusinesslending.org · info@responsiblebusinesslending.org
Small Business Borrowers’ Bill of Rights (2.0 Update)
Attestation Worksheet for Lenders and Marketplaces

In order for an organization to become a signatory it must attest that it abides by the Small Business Borrowers’ Bill of Rights (2.0 Update) by having its chief executive complete this worksheet by checking each box below indicating that his or her organization abides by each of the practices set forth below. Questions regarding the form can be directed to info@responsiblebusinesslending.org.

The Right to Transparent Pricing and Terms

☐ Transparent Rate
  • Disclose the Annual Percentage Rate (APR) and the annualized interest rate if one is used.
  • The disclosure of APR is an addition of this 2.0 Update. The previous version of the Small Business Borrowers Bill of Rights required disclosure of annualized interest rates. An organization that is not already disclosing APRs may nonetheless complete this Attestation by checking this box, but must begin disclosing APRs as described here within 180 days of signing this Attestation. The organization agrees to provide evidence of disclosure of APRs within that time to info@responsiblebusinesslending.org.
  • Interest rate is defined as the scheduled or periodic financing cost, other than an upfront cost, expressed as a percentage of the outstanding principal and annualized.
  • APR is the annual rate that is charged for borrowing, expressed as a single percentage number. It includes fees as well as interest rate, and represents the actual yearly cost of funds.
  • Interest rates and APR are a percentage of outstanding principal balance, not of the original financing amount.
  • For lines of credit or other open-ended types of financing, rates must be calculated with reasonable assumptions about use, including assuming that the borrower draws the full amount on the origination date, and makes the minimum payments required.
  • If a rate is promotional or introductory, the term sheet or its equivalent should clearly state this, and how the rate could change in the future.

☐ 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, total amount provided after deducting fees or charges, payment amount and frequency, total monthly payment amount if payment frequency is other than monthly, collateral requirements, and any prepayment charges.

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.

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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.

The Right to Non-Abusive Products

No Debt Traps

- If a 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 a new loan.

No “Double Dipping”

Do not double-charge the borrower. When refinancing or modifying a loan with a fixed-fee as the primary financing charge, no fees are charged on the borrower’s outstanding principal unless there is a tangible cost benefit to the borrower.

No Hidden Prepayment Charges

- If a borrower receives no savings, or limited savings, in early payoff, this information is disclosed in the original loan term sheet or offer summary, and again at the time of payoff. For financing with a fixed term, if a prepaying borrower owes a fixed repayment amount or a certain percentage of that amount regardless of when they pay off the financing, this information is disclosed as a prepayment charge. This charge is equal to the remaining financing charge owed at payoff, which is the cost the borrower is paying for the unused portion of the loan.

Appropriate Product

- Match loan product design and loan product use. If presenting a loan product as designed for one use, do not encourage borrowing behavior contrary to that use. For example, short-term products may be well suited for short term use, but not for long-term recurring use. Long-term products with prepayment penalties may be well suited for long-term use, but not for short-term needs.

Pressure Free

- Allow potential borrowers to consider their credit options free from pressure or artificial timelines.

Prompt Prepayment Assistance

- If a borrower seeks to prepay a loan, provide any information required for the prepayment within two business days of the borrower’s request.

Responsive Complaint Management

- If a borrower complaint is submitted, provide a confirmation of receipt in writing within five days when possible, and research and resolve the issue in a timely manner.
Clear Notice Regarding Referrals

- If referring a small business to another lender or broker, provide clear notice that a referral is being made. If the lender or broker is not already a signatory of the *Small Business Borrowers’ Bill of Rights* and thus has agreed to clear disclosure and responsible lending practices, inform borrowers that as they move forward they should consider key aspects of any financing offered – the APR, the total payment amount owed monthly (even if payments are made daily or weekly), their ability to pay off any financing they take, and whether they may owe financing charges even if they pay off early.

The provision of this “clear notice” statement is an addition of this 2.0 Update. An organization that is not already abiding by this requirement may nonetheless complete this Attestation by checking this box, but must begin abiding by this requirement within 180 days of signing this Attestation. The organization agrees to provide evidence of abiding by this requirement within that time to info@responsiblebusinesslending.org.

The Right to Responsible Underwriting

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 the borrower’s gross sales must also verify, through documents, data from third parties, and/or due diligence, that the borrower can repay all debt 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 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.
The Right to Inclusive Credit Access

☐ 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.

The Right to Fair Collection Practices

☐ 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.
In order for a broker to become a signatory of the Small Business Borrower’s Bill of Rights 2.0, its chief executive must attest that it abides by all practices described in the Small Business Borrowers’ Bill of Rights by completing both the Attestation Form and the Attestation Worksheet below. Once completed, the documents should be emailed to info@responsiblebusinesslending.org.
Summary of Attestation
By checking the boxes below, I affirm that my organization actively supports and adheres to the *Small Business Borrowers’ Bill of Rights (2.0 Update)* and abides by all of the practices described in the attached Attestation Worksheet:

- The Right to Transparent Pricing and Terms
- The Right to Fair Treatment for Brokers
- The Right to Inclusive Credit Access

Note: You must be able to truthfully check all three boxes to be deemed a Signatory of the Small Business Borrowers’ Bill of Rights and thereby eligible to have your organization’s logo appear on the Small Business Borrowers’ Bill of Rights website, www.ResponsibleBusinessLending.org.

Terms of this Attestation

a. I have read and understand the *Small Business Borrowers’ Bill of Rights (2.0 Update)*.

b. I have completed the attached Attestation Worksheet, indicating in writing that my organization abides by *all* of the enumerated practices.

c. By completing this Attestation Form and attesting that my organization abides by *all* of the enumerated practices in the attached Attestation Worksheet, I consent to having this Attestation Form and my organization’s logo posted on the Small Business Borrowers’ Bill of Rights Website.

d. I understand that this Attestation Form and my organization’s logo may be removed from the Small Business Borrowers’ Bill of Rights website if my organization does not complete and submit a satisfactory updated Attestation Form within one calendar year from the date of my signature below, and each successive year thereafter, or if my organization ceases to abide by this Attestation.

e. I agree, on behalf of my organization, that my organization assents to and will be bound by the Terms of Use for the Small Business Borrowers’ Bill of Rights website.

f. Anyone with questions for my organization regarding this Attestation Form completed by my organization can contact the following individual (include name, title, email address, and phone number):


g. I attest that the information above is accurate and represents the standard practices for all financing products and services offered through my organization to small businesses. Furthermore, I hereby certify that I am authorized to sign this Attestation Form on behalf of my organization.

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Small Business Borrowers’ Bill of Rights (2.0 Update)  
Attestation Worksheet for Brokers

In order for an organization to become a signatory it must attest that it abides by the Small Business Borrowers’ Bill of Rights (2.0 Update) by having its chief executive complete this worksheet by checking each box below indicating that his or her organization abides by each of the practices set forth below.¹ Questions regarding the form can be directed to info@responsiblebusinesslending.org.

The Right to Transparent Pricing and Terms

☐ Transparent Rate
  • Disclose the Annual Percentage Rate (APR) and the annualized interest rate if one is used.
  • The disclosure of APR is an addition of this 2.0 Update. The previous version of the Small Business Borrowers Bill of Rights required disclosure of annualized interest rates. An organization that is not already disclosing APRs may nonetheless complete this Attestation by checking this box, but must begin disclosing APRs as described here within 180 days of signing this Attestation. The organization agrees to provide evidence of disclosure of APRs within that time to info@responsiblebusinesslending.org.
  • Interest rate is defined as the scheduled or periodic financing cost, other than an upfront cost, expressed as a percentage of the outstanding principal and annualized.
  • APR is the annual rate that is charged for borrowing, expressed as a single percentage number. It includes fees as well as interest rate, and represents the actual yearly cost of funds.
  • Interest rates and APR are a percentage of outstanding principal balance, not of the original financing amount.
  • For lines of credit or other open-ended types of financing, rates must be calculated with reasonable assumptions about use, including assuming that the borrower draws the full amount on the origination date, and makes the minimum payments required.
  • If a rate is promotional or introductory, the term sheet or its equivalent should clearly state this, and how the rate could change in the future.

☐ 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, total amount provided after deducting fees or charges, payment amount and frequency, total monthly payment amount if payment frequency is other than monthly, collateral requirements, and any prepayment charges.

☐ 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.

¹ The Responsible Business Lending Coalition
www.responsiblebusinesslending.org · info@responsiblebusinesslending.org
The Right to Fair Treatment from 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.
  
☐ Please write here a URL for where this information can currently be found on your website, as of the date of signature:

An organization that is not already disclosing anonymous and aggregated results of borrowers who obtain financing through their services may nonetheless check this box, but must present evidence of this disclosure on its site along with the URL to info@responsiblebusinesslending.org within 180 days of signing this Attestation.

☐ Empower Borrowers to Make Informed Financing Decision
  • 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 Fee 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.

☐ Responsive Complaint Management
  • If a complaint is submitted, provide a confirmation of receipt within five days and in writing, when possible, and research and resolve the complaint in a timely manner.
The Right to Inclusive Credit Access

☐ 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.

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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.
Signatories

The following lenders, brokers, and marketplaces have taken a stand for small businesses by attesting that they abide by the Small Business Borrowers’ Bill of Rights.
Small Business Borrowers’ Bill of Rights – Signatories
November 2017
Small Business Borrowers' Bill of Rights – Signatories
November 2017
Endorsers

These organizations do not provide financing services to small businesses but care deeply about responsible business lending and actively support the Small Business Borrowers’ Bill of Rights as endorsers.