December 5, 2022

Jodie Harris
Director
Community Development Financial Institutions (CDFI) Fund
U.S. Department of the Treasury
1500 Pennsylvania Avenue NW
Washington, DC 20220

RE: Public Comments on CDFI Certification Application (OMB Control Number: 1559-0028)

Dear Director Harris:

The Responsible Business Lending Coalition (RBLC)[1] appreciates the opportunity to comment on proposed revisions to the Community Development Financial Institutions (CDFI) Fund certification application. Our comments focus solely on revisions that seek to promote responsible and transparent small business financing as a core tenet of a CDFI's primary mission and the RBLC encourages the Fund to confirm an applicant's responsible small business financing practices as a prerequisite to CDFI certification.

The RBLC is a network of nonprofit and for-profit lenders, investors, and small business advocates who organized in 2015 around a shared commitment to innovation in small business lending and concerns about the rise of irresponsible small business lending. The mission of the RBLC is to drive responsible practices in the small business lending sector and promote a small business financing landscape built on transparency, fairness, and putting the rights of borrowers at the center of the lending process.

The RBLC created the Small Business Borrowers' Bill of Rights (BBoR) as the first cross-sector consensus on the rights that small business owners deserve and the practices that financing providers, brokers, and lead generators should employ to uphold those rights. Since the release of the BBoR, more than 100 institutions have committed to uphold the BBoR and key elements of the BBoR have been enacted into law in New York and California.

[1] Responsible Business Lending Coalition member organizations include: Accion Opportunity Fund, Aspen Institute, Camino Financial, Community Investment Management, Funding Circle, LendingClub, National Association for Latino Community Asset Builders, Opportunity Finance Network, and Small Business Majority.

We were pleased to see that the CDFI Fund incorporated elements of the BBoR in the revised CDFI certification application. For example, the certification application seeks to uphold a business borrowers "Right to Transparent Pricing and Terms" by asking applicants that provide small business loan products whether they disclose, in writing, the total loan amount, the "periodic" payment due, total finance charges over the life of the loan; and the annual percentage rate (APR) of the loan to a potential borrower. If an applicant answers "NO" to any of the disclosure questions, they are deemed ineligible for CDFI certification.

The certification application also seeks to uphold a business borrower's "Right to Responsible Underwriting" by asking applicants if their underwriting standards include "measures to ensure the (business) borrower has an ability to repay the loan according to the terms of the loan, meet any of the borrower's other major financial obligations, and still pay basic expenses, without having to reborrow or refinance." If the applicant does not have a process in place, they have an opportunity to submit a written explanation to the Fund regarding their underwriting practices and procedures, but an applicant that does not adequately consider a borrower's ability to repay may be denied CDFI certification.

The RBLC has not advocated for rate caps as a means of ensuring responsible small business financing products because we recognize that small business lending is extremely challenging and there are some cases where higher-cost small business financing can be consistent with responsible lending practices. However, we recognize that the Fund is looking to provide some flexibility for providers that offer a business loan product with an APR that exceeds 36% Military Annual Percentage Rate (MAPR) cap if a provider can justify pricing a loan that exceeds the cap. If an applicant is unable to justify a loan product with an APR in excess of 36% or if the loan product's annual default rate exceeds 5% - the applicant will be denied CDFI certification.

The RBLC is pleased that the Fund has added questions to the CDFI certification application that drive transparency and promote responsible lending practices and we encourage the Fund to consider incorporating other practices from the BBoR. We suggest amending the certification application to allow for the disclosure of "Estimated APR" to accommodate CDFIs offering financing products that do not have a fixed term. In addition, the certification application asks providers whether they report consumer loans to a major credit bureau and we encourage the Fund to ask small business loan providers the same question. The BBoR calls on providers to uphold a borrower's right to responsible credit reporting in order to help a borrower build a credit profile that may facilitate access to more affordable loans in the future and responsible reporting also enables other lenders to responsibly underwrite business borrowers. The RBLC team would welcome the opportunity to speak with the Fund and discuss how we might collaborate to further promote and support responsible small business financing practices within the CDFI industry.

We have attached a copy of the BBoR (see Attachment A), as well as a copy of the BBoR lender attestation form (see Attachment B). The BBoR attestation form includes guidance for calculating APR and estimated APR for financing products that do not have a fixed term and we encourage the CDFI Fund to make similar guidance documents available within the CDFI certification application.

If knowledge is power, then this initiative will empower borrowers to make informed decisions about their businesses and livelihoods. While the RBLC is encouraging all providers to offer transparent disclosures of loan pricing and terms, we applaud the CDFI Fund for taking a critical first step towards a more just and transparent commercial financing marketplace. We encourage product transparency by requiring entities seeking certification to disclose rates and terms of their small business financing products. This effort would secure strong, consistent protections for the small business borrower. It would also ensure that a transparent financing process, in line with a CDFI's mission of providing capital to underserved communities, is in place.

The RBLC believes that our recommendations will strengthen the CDFI certification application and ensure that the programs and products supported by CDFIs are responsibly reaching the most vulnerable small entrepreneurs, including businesses owned by socially and economically disadvantaged individuals and/or very small businesses. Thank you for your commitment to maximizing the impact of this important initiative. We look forward to collaborating with you for the benefit of America's small businesses.

Sincerely,
Amyra Hasan
The Responsible Business Lending Coalition
amyra@borrowersbillofrights.org
619 Pennsylvania Ave SE, Suite 2
Washington, DC 20003

SMALL BUSINESS BORROWERS' BILL OF RIGHTS

Small Business Borrowers' Bill of Rights, 2021[1]

The way small businesses borrow money is being transformed. Innovation is creating faster and easier ways to borrow and increasing access to credit in communities that have historically been underserved. However, irresponsible practices have grown as well. The transformation in small business financing that we are experiencing 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.[2] This *Small Business Borrowers' Bill of Rights* identifies six 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, in a form that is *clear*, *conspicuous*, *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 uphold the following practices:

- **Transparent Rate** – Disclose the Annual Percentage Rate ("APR").[3]

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[1] The Small Business Borrowers Bill of Rights has been updated in the December of 2020 to incorporate feedback and learnings since the previous revision in 2017. The Small Business Borrowers' Bill of Rights was first launched in August 2015.

[2] The term "loan" and related terms used here, such as "lending," are intended to be interpreted in the broadest sense to refer to all business financing, including loans, lines of credit, merchant cash advances, factoring, and similar products offered and provided to U.S. small businesses. Similarly, the terms "lender" and "borrower" are intended to be interpreted in the broadest sense to include, in the case of lenders, merchant cash advance providers and credit marketplaces that facilitate loans on behalf of lenders.

[3] The annual percentage rate ("APR") is the total cost of financing, including interest, fees, and other required charges, annualized and expressed as a single percentage number. APR is the only established metric that enables informed price comparisons between products of different types, amounts, and term lengths. This is why APR has become the long-standing price metric that people are familiar with, vetted over 50 years of the Truth in Lending Act. An "Estimated APR" should be used for financing such as merchant cash advances, factoring, and similar products with variable term lengths. For a more detailed description of APR calculation, please see the *Small Business Borrowers' Bill of Rights* attestation forms.

- **Clear Comparison** – Present the following seven key terms clearly and prominently, in writing, to the borrower whenever a specific loan offer is presented or summarized for the borrower, such as in a term sheet, offer summary, or equivalent. This complete disclosure should be re-presented if the loan offer changes.

  1. Loan amount, and total amount provided after deducting fees or charges
  2. APR, or Estimated APR in the case of products with variable term lengths
  3. Payment amount and frequency, including the actual or estimated total payment amount per month if payment frequency is other than monthly.
  4. Term or estimated term
  5. All upfront and scheduled charges
  6. Collateral requirements
  7. Any financing charge potentially due at prepayment

  The *Small Business Borrowers' Bill of Rights* does not mandate a standardized form for these disclosures. Where the formatting of these disclosures is not mandated by state law, lenders may use their own designs that are consistent with the *Small Business Borrowers' Bill of Rights*.

- **Plain-English Terms** – Describe all key terms in an easy-to-understand manner. Do not, at any stage of the financing process, use percentages or the term "rate" to describe pricing in metrics that are not the actual interest rate or APR but may be reasonably mistaken for an interest rate or APR. Pricing described as a "factor rate," "simple interest rate," or other novel forms of percentage rates may be easily misunderstood to be interest rates or APRs, but mask that the actual interest rate or APR is much higher.

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 uphold the following practices:

- **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 offering additional financing with a fixed repayment amount to an existing borrower, if requiring their outstanding financing from this same provider to be repaid, forgive any unpaid fixed charges on the borrower's outstanding balance.

- **No Hidden Prepayment Charges –** If, in the event of prepayment, the borrower will be required to pay financing charges other than interest accrued since the last payment, disclose these charges as "prepayment charges." Also disclose any additional charges or fees added in the case of prepayment as "prepayment penalties." Disclose (a) the potential amount of these prepayment charges and penalties in any loan offer summaries, and (b) the actual prepayment charge and penalties at the time of any prepayment. In the case of financing with payments that vary as a percentage of the borrower's sales, a payoff event is considered prepayment if the borrower states the intent to pay off the financing, or in any event of refinancing.
- **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 ongoing, 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.
- **Fair Prepayment** – If a borrower requests to prepay or refinance a loan, provide any information required for prepayment within two business days of the borrower's request. To enable small businesses to access the most appropriate financing, the final payoff amount should not vary based on the source of funds used for payoff, funds from a third-party should be considered equivalent to funds from the borrower.
- **Responsive Complaint Management** – If a complaint is submitted requesting action or a response, provide a confirmation of receipt in writing within five days. When possible, research and resolve the complaint in a timely manner.

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 uphold the following practices:

- **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/lead generator'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 and Lead Generators

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

In order to protect your Right to Fair Treatment from Brokers, brokers and lead generators must offer:

- **Transparent Loan Options** – Disclose all loan options for which the borrower qualifies through the broker or lead generator's services, indicating the lowest APR option.
- **Transparent Compensation** – Disclose all compensation paid to the broker or lead generator, by either the lender or borrower, in connection with each loan offer presented.
- **Disclosure of Broker Incentives** – Disclose the broker's or lead generator's fee structure and any other financial incentives they have, including whether they receive higher fees for brokering certain loans. Brokers or lead generators who have not legally agreed to act in the best interests of the potential borrower may not state they are acting in the best interest of the potential borrower.
- **No Fees for Failure** – No brokering or related fees can be charged to the potential borrower if the broker or lead generator is unable to find them a loan and if the borrower does not accept a loan secured through their services.
- **Responsive Complaint Management** – If a complaint is submitted requesting action or a response, provide a confirmation of receipt in writing within five days. When possible, 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 uphold:

- **Non-Discrimination** – Uphold 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, gender identity, marital status, age, or sexual orientation.

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 uphold the following practices:

- **Fair Treatment** – Abide by the intent of the Fair Debt Collection Practices Act and provide borrowers similar protections as described in that Act.
- **Fair Agreements –** Do not utilize confessions of judgement or equivalent legal agreements by which a borrower preemptively agrees to lose disputes with the lender.[4]
- **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.

[4] Lenders currently utilizing confessions of judgement (COJ) are granted 180 days from the date of signing their attestation form to comply with the COJ prohibition. A limited exception to the prohibition is provided for certain Small Business Administration (SBA) loans, for which SBA requires a COJ clause (borrowers based in MD, VA, and PA). The Responsible Business Lending Coalition urges the SBA to remove all COJ requirements, both optional and mandated, from SBA loan documents moving forward.

Small Business Borrowers' Bill of Rights

Attestation Form and Attestation Worksheet for Lenders and Marketplaces, 2021[1]

In order for a lender or marketplace to become a signatory of the Small Business Borrowers' Bill of Rights, 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, and, if requested, promptly provide additional documentation evidencing compliance with any or all of the enumerated practices (the "**Supporting Documents**"). The Supporting Documents shall be in a form acceptable to the Responsible Business Lending Coalition. Once completed, the Attestation Form, Attestation Worksheet and, if applicable, any Supporting Documents should be emailed to bbor@borrowersbillofrights.org.

[1] The Small Business Borrowers Bill of Rights has been updated in December, 2020 to incorporate feedback and learning since the previous revision in 2017. The Small Business Borrowers' Bill of Rights was first launched in August 2015.

Small Business Borrowers’ Bill of Rights (2021)
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* 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.BorrowersBillofRights.org.

Terms of this Attestation

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

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

c. If requested by the Responsible Business Lending Coalition, I have provided or will promptly provide (as the case may be) all Supporting Documents (as such term is defined on the cover page of this Attestation Form) in a form acceptable to the Responsible Business Lending Coalition.

d. 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.

e. I understand that this Attestation Form and my organization’s logo may be removed from the Small Business Borrowers’ Bill of Rights website if (i) my organization does not complete and submit a satisfactory updated Attestation Form within one calendar year from the date of my signature below, and (ii) each successive year thereafter, or (iii) if my organization ceases to abide by this Attestation or (iv) if, after receiving a request from the Responsible Business Lending Coalition, my organization fails to promptly provide any Supporting Documents or provides inadequate Supporting Documents (as applicable).

f. 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.

g. 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): ______________________________

h. 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

Small Business Borrowers' Bill of Rights, 2021

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 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.[2] Questions regarding the form can be directed to bbor@borrowersbillofrights.org.

The Right to Transparent Pricing and Terms

☐ **Transparent Rate**

Disclose the Annual Percentage Rate (APR), or Estimated APR in the case of variable-term financing.

APR is the total cost of financing, including interest, fees, and other required charges, annualized and expressed as a single percentage number. This enables apples-to-apples price comparison between financing of different amounts and term lengths.

APR disclosure for small business financing may be required under state laws including California's SB 1235 and New York's Small Business Truth in Lending Act, which are based on the federal Truth in Lending Act. Where these state laws do not apply, APR should be calculated according to the Truth in Lending Act, as implemented in Regulation Z §1026.22, including the following guidelines:

- When disclosed, APR should not be of lesser prominence than any other term in the disclosure.
- For merchant cash advances and other sales-based financing, the estimated APR, payment amounts, and term disclosed should be calculated based on the projections for repayment that are used in underwriting the financing.
- For lines of credit and similar open-ended financing, APR should be calculated to include fees by assuming that the borrower draws the full amount on the origination date, and makes the minimum payments required.
- For factoring financing, the projected timing of payment should be established by the due date of the accounts receivable factored or based on data for the historical payment behavior of the firm named on the accounts receivable factored.
- If payment amounts vary, APR should be calculated based on the projected payment amounts, rather than an average payment amount.
- 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.
- For assistance in calculating APR using standard formulas in programs such as Microsoft Excel, please see Appendix: "Sample APR Calculation Formulas."

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[2] 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, factors, and all manner of persons providing financing to U.S. small businesses or evaluating the creditworthiness of such small businesses in connection with providing financing, and, in the case of borrowers, all U.S. small businesses who seek or obtain financing.

☐ **Clear Comparison**

Present the following seven key terms listed clearly and prominently, in writing, to the borrower whenever a specific loan offer is presented or summarized for the borrower, such as in a term sheet, offer summary, or equivalent:

1. Loan amount, and total amount provided after deducting fees or charges
2. APR or Estimated APR
3. Payment amount and frequency, including the actual or estimated total payment amount per month if payment frequency is other than monthly
4. Term or estimated term
5. All upfront and scheduled charges
6. Collateral requirements
7. Any financing charge potentially due at prepayment

The Small Business Borrowers' Bill of Rights does not mandate a standardized form for these disclosures. Where the formatting of these disclosures is not mandated by state law, lenders may use their own designs that include these seven key terms, as described here in the Transparent Rate and Clear Comparison sections.

☐ I have included in this Attestation, as a Supporting Document, a screenshot or other document demonstrating disclosure of these seven terms to borrowers in the manner described here in the Transparent Rate, Clear Comparison, and Plain-English Terms sections.

☐ I have included in this Attestation, as a Supporting Document, a short description of when the screenshot or other disclosure documents I have included are presented to the borrower, and when any other summaries of loan terms are disclosed.

☐ **Plain-English Terms**

Describe all key terms in an easy-to-understand manner. Do not, at any stage of the financing process, use percentages or the term "rate" to describe pricing metrics that are not the actual interest rate or APR. Pricing described as a "factor rate," "simple interest rate," or other novel forms of percentage rates may be easily misunderstood to be interest rates or APRs, but mask that the actual interest rate or APR is much higher.

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.[3]

☐ **No "Double Dipping"**

Do not double-charge the borrower. When offering additional financing with a fixed-fee as the

[3] Government loan programs, such as the PPP, with defined underwriting approaches are also compliant.

primary financing charge to an existing borrower, if requiring their outstanding financing to be repaid forgive any unpaid fixed charges on the borrower's outstanding balance.

☐ No Hidden Prepayment Charges

- If, in the event of prepayment, the borrower will be required to pay financing charges other than interest accrued since the last payment, disclose these charges as "prepayment charges." Disclose any additional charges of fees added in the case of prepayment as "prepayment penalties."
- Disclose (a) the potential amount of these prepayment charges and penalties in any loan offer summaries, and (b) the actual prepayment charges and penalties at the time of any prepayment.
- In the case of financing with payments that vary as a percentage of the borrower's sales, a payoff event is considered prepayment if the borrower states the intent to pay off the financing, or in any event of refinancing.

☐ 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. 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.

☐ Fair Prepayment

- If a borrower requests to prepay or refinance a loan, provide any information required for the prepayment within two business days of the borrower's request.
- Final payoff amount should not vary based on the source of funds used for payoff, funds from a third-party should be considered equivalent to funds from the borrower.

☐ Responsive Complaint Management

If a borrower complaint is submitted requesting action or a response, provide a confirmation of receipt in writing within five days when possible, and research and resolve the issue in a timely manner.

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 should not make loans that the borrower cannot truly afford, even if the lender can find a way to be repaid. If the lender receives repayment directly the borrower's gross sales (i.e. credit card or payments processing or daily payments) before the borrower has the opportunity to pay for their required operating expenses, the lender must also verify, through documents, data from third parties, and/or due diligence, that the borrower can repay all debt and remain profitable (i.e. a debt service coverage ratio of greater than 1.00), or that it has a credible path to profitability.

☐ **Right-sized Financing**

Size loans to meet the borrower's need, rather than to maximize the lender's or broker/lead generator's revenue. Seek to offer the borrower the size of loan that they need, rather than automatically 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**

Uphold 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, gender identity, marital status, age, sexual orientation.

The Right to Fair Collection Practices

☐ **Fair Treatment**

Abide by the letter and intent of the Fair Debt Collection Practices Act and provide borrowers similar protections as described in that Act.

☐ **Fair Agreements**

Do not utilize confessions of judgement or equivalent legal agreements by which a borrower preemptively agrees to lose disputes with the lender.[4]

☐ **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.

[4] Lenders currently utilizing confessions of judgement (COJ) are granted 180 days from the date of signing this attestation form to comply with the COJ prohibition. A limited exception to the prohibition is provided for certain Small Business Administration (SBA) loans, for which SBA requires a COJ clause (borrowers based in MD, VA, and PA). The Responsible Business Lending Coalition urges the SBA to remove all COJ requirements, both optional and mandated, from SBA loan documents moving forward.

Appendix: Sample APR Calculation Formulas

APR calculation can be made simple by using standard formulas in common spreadsheet software programs. If used correctly, the following formulas in Microsoft Excel or Google Sheets can calculate APR for loans, merchant cash advances, lines of credit, factoring, and other types of financing, consistent with the Truth in Lending Act formulas in Regulation Z. Other formulas and calculators not shown here also calculate APR accurately; the formulas below are provided as one resource. To confirm that any specific application of these formulas complies with legal requirements, please consult with legal counsel.

1. **For financing products with payments of equal amounts paid at equal intervals**
This may be appropriate for most loans, lines of credit, and merchant cash advances with flat sales projections and payments made daily, weekly, bi-weekly, or monthly.

> *APR = RATE (Number of payments, payment amount as a negative number, disbursed amount after fees deducted) * Number of payment periods in one year to annualize*

2. **For financing products with payments of differing amounts paid at equal intervals**
This may be appropriate for loans with scheduled payments of different amounts, or for merchant cash advances considering sales projections that rise or fall over the payment period and with payments made daily, weekly, bi-weekly, monthly. It can also be used to include periods when charges are compounded but no payment is made.
This formula may be used for standard factoring financing by including the amount disbursed to the small business in the first cell, followed by cells with values of zero for each period in which charges are compounded but no payment is made, and a final payment cell when the invoice is paid representing the value of the invoice minus any amount not refunded to the small business.

> *APR = IRR (select a series of cells indicating the flow of money, with the disbursed amount in the first cell, followed by cells representing the total payments in each subsequent payment period as negative numbers) * Number of payment periods in one year to annualize*

3. **For financing products paid at irregular intervals**
This may be appropriate for financing paid on weekdays only, skipping weekends, for example.

> *APR = ((XIRR (select a series of cells in two columns with the first column indicating the flow of payments, with the disbursed amount in the first cell as a positive number and payments back to the financing provider in subsequent cells as negative numbers, and the second column indicating the corresponding dates of each disbursement or payment) +1)^(1/365)-1)*365*