

Congress of the United States
Washington, DC 20515

April 24, 2024

The Honorable Isabella Casillas Guzman
Administrator
U.S. Small Business Administration
409 3rd Street S.W.
Washington, D.C. 20416

We write regarding the Small Business Administration's (SBA) award of a Small Business Lending Company (SBLC) license to Funding Circle.

Last year, the SBA announced it would be lifting a 40-year moratorium on licensing new SBLCs to participate in the 7(a) loan program, stating its intent to immediately license three new SBLC lenders. Members in both the House and Senate expressed concerns over this expansion, citing doubts about the SBA's capacity to serve as the primary regulator for additional SBLCs. Now, only a few months after the licenses were announced, reports indicate that Funding Circle, one of the non-depository financial institutions selected to receive an SBLC license, has been granted final approval of the license.¹ The license has been granted despite public statements by its CEO that it does not plan to invest the intensive capital required to participate in the 7(a) loan program, and instead announced its U.S.-based operations would be sold to mitigate losses.² These statements from Funding Circle point to a fundamental failure in the SBA's vetting of applicants for the SBLC licenses, and further reinforce the bipartisan concerns raised by members last year about the SBA's lack of oversight capacity.

As you know, an SBLC license provides a lender with the ability to obtain government guarantees when underwriting small business loans. This allows lenders to underwrite a higher volume of loans to small businesses than would otherwise be possible due to risk. Since either American taxpayers or borrower fees foot the bill for any loan losses, an SBLC award process requires careful vetting and exhaustive scrutiny.

When you testified to the House Committee on Small Business on March 23, 2023, you said, "*I know that the SBA has a rigorous application process for the SBLC program...*" According to SBA's own regulations, an SBA Supervised Lender applicant must submit a written plan containing information about the organization as well as its current and proposed lending activities.³ Capital adequacy is required to be demonstrated in this plan. However, in its most recent earning calls, the CEO of Funding Circle stated that 7(a) lending "...would require a significant amount of capital. I mean you saw the losses in the U.S. this last year were \$33 million. Going forward, we would have to [further fund and capitalize Funding Circle US]...and we don't believe it's the best use of our capital to invest in those loans in the U.S."⁴ It is

¹ John Reosti, *SBA forges ahead with Funding Circle license despite pushback*, AMERICAN BANKER (April 4, 2024). <https://www.americanbanker.com/news/sba-forges-ahead-with-funding-circle-license-despite-pushback>

² *Id.*

³ 13 CFR § 120.470 (2024).

⁴ Funding Circle Full Year Results, Audio Webcast Transcript (Mar. 7, 2024). https://fch-12917-s3.s3.eu-west-2.amazonaws.com/live/4717/0982/2261/Funding_Circle_-_Transcript_20240307.pdf

irresponsible for the SBA to have issued a new SBLC license to Funding Circle at a time when their own CEO was announcing its departure from the U.S. market as a result of its net operating losses, and publicly questioned the financial viability of its U.S. business.

Notably, the questions about Funding Circle's financial viability were apparent during the SBLC license application period, when Funding Circle's half-year performance report showed a \$16.6 million net operating loss on June 30, 2023.⁵ Clearly, these issues are not new. The business has been compounding losses for years - reporting a pre-tax loss of \$33.2 million in 2023 and \$12.9 million in 2022.⁶ It is deeply concerning that the SBA is doubling down on awarding an SBLC license to a company that has been, and continues to be, in such a weak financial position. If the company has been unable to properly manage its balance sheet in the past, it should not have been granted the privilege to make government-guaranteed loans.

It is unconscionable that the SBA issued an SBLC license to a non-depository financial institution looking to grow its way into profitability on the back of the American taxpayer, especially to a company that held a central role in lobbying to lift the SBLC moratorium. The news that Funding Circle is now considering offers to sell its U.S.-based operations only raises further questions about how forthcoming it was in its application to the SBA. Granting Funding Circle an SBLC license now would set a troubling precedent on setting a monetary value for this government-backed license and its potential use in enticing buyers.

To that end, we request that the SBA provide a briefing to the Committees of jurisdiction in both the House and Senate, and for the SBA to immediately revoke Funding Circle's SBLC license. We also ask that you provide the Committees of jurisdiction in both the House and Senate the following:

1. Funding Circle's complete written application to become an SBLC licensee, including all attachments.
2. How many instances an entity had been approved for an SBLC license that demonstrated a net operating loss in its financial statements at the time of application.
3. Any documentation supplied by Funding Circle as part of its application regarding its plans to sell the SBLC license.
4. Any communications between Funding Circle and the SBA after the company's CEO stated on a March 23rd earnings call that they will not provide sufficient capital to get the U.S. operations fully functioning within the 7(a) program.
5. The date upon which Funding Circle's application was given the initial award for the SBLC license and the date at which point the complete application was submitted to SBA, including a copy of the signed SBA Form 750.
6. The ranking and names of all other SBLC applicants that did not receive an SBLC license in the most recent application process.

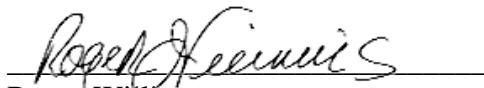
⁵ News Release, Funding Circle, Half Year 2023 Results (Sep. 7, 2023).

⁶ Kathryn Gaw, *Funding Circle to offload US business after losses widen*, ALTERNATIVE CREDIT INVESTOR (Mar. 7, 2024).

7. The voting records of all votes taken in the most recent application process by the five SBA personnel identified in SBA's Rule titled, "Small Business Lending Company Application Process" (88 FR 32623) who make final determinations on SBLC applications.

Until our concerns are alleviated and we are confident that the SBLC license will not put the integrity of SBA's flagship lending program at risk, the Administration should not allow Funding Circle to enter the 7(a) program.

Sincerely,



Roger Williams
Chairman
House Committee on Small Business



Joni K. Ernst
Ranking Member
Senate Committee on Small Business
And Entrepreneurship