



**TESTIMONY BEFORE THE UNITED STATES
HOUSE COMMITTEE ON SMALL BUSINESS
BY
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ON
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Good afternoon Chairwoman Velázquez, Ranking Member Chabot, and Members of the Committee.

I am pleased to join you today to discuss the need for transparency in the small business lending marketplace. My name is Luz Urrutia, and I am the CEO of Accion Opportunity Fund and Opportunity Fund.¹ Opportunity Fund is a Community Development Financial Institution (CDFI) and the nation's leading nonprofit microlender to small businesses. I have served as an expert in small business and consumer finance on a number of government-appointed boards and commissions, including the Consumer Financial Protection Bureau (CFPB) Consumer Advisory Board and the Consumer Advisory Council of the Federal Reserve Bank. My entire career has been focused on financial services, with the bulk of my experience devoted to serving underserved populations across all parts of society - from unbanked/underbanked immigrants, to the previously banked, to small business owners. From my experience, leveraging data analytics and technology are critical to expanding access to responsible and affordable financial products for underserved small businesses and positively impacting customer behavior.

At Opportunity Fund, we believe that small amounts of money and the right financial advice can help people make permanent and lasting change in their own lives—driving economic mobility and building stronger communities. Our strategy combines microloans for small business owners with New Markets Tax Credit (NMTC) investments in high-impact community infrastructure projects. Last year alone, we deployed nearly \$120 million in capital to over 3,200 small businesses loans across the nation.

¹ McShane, Caitlin and Katie Mounts, *Opportunity Fund and the Accion U.S. Network Combine Efforts to Drive Small Business Access to Credit and Advisory Services in the U.S.*, March 11, 2020: https://www.opportunityfund.org/wp-content/uploads/2020/03/Accion-Opportunity-Fund-Combination_Press-Release_FINAL-1.pdf

The financing gap for American small businesses is immense and growing. Prior to COVID-19, small businesses, primarily minority, immigrant, low-to-moderate income and women-owned, were already facing significant challenges when trying to access responsible and affordable capital. The small dollar lending market gap for small businesses was estimated at \$87 billion for loans less than \$100,000. Mainstream financial institutions do not generally lend to underserved small businesses for a variety of reasons—credit boxes, size of loan, industry, profitability, etc.

In place of lending directly to small businesses, banks prefer to provide lines of credit to CDFIs, such as Opportunity Fund, under the Community Reinvestment Act (CRA) and, in turn, we do the lending.

Since the Great Recession many banks left communities, and online lenders—some responsible but many bad actors—stepped in to fill the gap left by the banks. Post-COVID, the lending landscape will be dramatically altered. Banks will further tighten their credit boxes and reduce their appetite for risk, and many for-profit, non-bank lender Fintechs and Merchant Cash Advance providers will retrench or fail due to their own capital structures and increased portfolio losses. A number of online lenders have already been acquired by other organizations and there are probably more acquisitions of Fintechs in discussion. The result will be that underserved small businesses that already faced significant challenges accessing responsible capital will have an even bigger struggle to access capital to help them weather the storm that is COVID-19.

To meet this significant capital need, Opportunity Fund believes that we must continuously innovate and collaborate with other responsible Fintechs in the private sector, along with our nonprofit community partners, to bring access to responsible capital to entrepreneurs across the United States. One of the ways we do this is through our partnership with LendingClub and Funding Circle—two leading Fintech lenders—to increase small business owners’ access to transparent, affordable, and responsible credit. We are also founding members of the Responsible Business Lending Coalition (RBLC), a coalition of nonprofit and for-profit lenders, investors, and small business advocates that share a commitment to transparency and innovation in small business lending. I want to thank the Chairwoman for introducing the Small Business Lending Disclosure and Broker Regulation Act of 2020, which will bring protections from irresponsible lending practices to small businesses across our nation.

Why transparency in lending matters

Individual consumers are protected by the Truth in Lending Act, which requires transparent disclosure of loan terms, fees and annual percentage rates (APR) of loans. Small businesses,

however, are not covered by this law, leaving them vulnerable to misleading or irresponsible lending practices.

Opportunity Fund has analyzed a detailed dataset of alternative loans held by small business owners who came to us in hopes of refinancing.² We found that the unregulated lenders we studied were charging an average APR of 94%, with an average monthly loan payment that was nearly double the borrowers' net incomes. One loan was priced at an astounding 350% APR. The short terms and extraordinary high costs of these loans put many small business owners in a crushing cycle of debt.

Take for example Deanna Irish, owner of Wine Tour Drivers in Sacramento, California. Deanna took a \$25,000 online loan which ended up costing her \$2,000 a month due to the exorbitant fees associated with the loan. To get out from under the crushing debt, Deanna was able to refinance with Opportunity Fund, which cut her payment from \$2,000 a month to \$900. She has since been able to completely pay off the loan with us.

These high rates paid by entrepreneurs are not only unfair, they are also often hidden under layers of misinformation—if disclosed at all. Federal Reserve research finds that small businesses are often misled by disclosures quoting non-APR rates.³ The inability to compare prices on an apples-to-apples basis stymies free market competition that could lower prices and spur financial services' innovation. Transparency in commercial financing would help level the playing field for American entrepreneurs.

Right now, in the face of a public health and economic crisis sparked by COVID-19, small businesses are in peril. This transparency could not come at a better time. According to the National Bureau of Economic Research, 2.2 million small businesses closed between February and May. Black, Latinx and immigrant-owned businesses bore the brunt of the pain.⁴

In addition, staffing firm Homebase found that the recovery that began in April essentially flat-lined in August with more than 20% of small businesses across the nation remaining

² Weaver, Eric, Gwendy Donaker Brown, and Caitlin McShane, *Unaffordable and Unsustainable: The New Business Lending on Main Street*, Opportunity Fund, May 2016: www.opportunityfund.org/wp-content/uploads/2019/09/Unaffordable-and-Unsustainable-The-New-Business-Lending-on-Main-Street_Opportunity-Fund-Research-Report_May-2016.pdf

³ Federal Reserve Board, *Uncertain Terms: What Small Business Borrowers Find When Browsing Online Lender Websites*, 2019: www.federalreserve.gov/publications/files/what-small-business-borrowers-find-when-browsing-online-lender-websites.pdf

⁴ Fairlie, Robert, *THE IMPACT OF COVID-19 ON SMALL BUSINESS OWNERS: EVIDENCE OF EARLY-STAGE LOSSES FROM THE APRIL 2020 CURRENT POPULATION SURVEY*, National Bureau of Economic Research, June, 2020: <https://www.nber.org/papers/w27309.pdf>

shuttered. And according to data from Drexel University,⁵ small businesses with 50 employees or fewer lost nearly 18 million jobs between mid-February and mid-April, a 60% decline. Close to half of these jobs returned as states began to re-open, but then recovery stalled in mid-June. Indeed, reports show⁶ that when the pandemic eventually subsides, roughly one-third of New York City's 240,000 small businesses may never reopen.

As business owners search for ways to remain solvent, an uninformed financing choice could be the difference between survival and failure. For minority-owned, immigrant-owned, and smaller businesses who disproportionately apply for online financing, they would benefit the most from the ability to properly comparison shop.

The need for national legislation

Small business lending transparency is fundamental to the health of our economy and our recovery from this crisis. Opportunity Fund proudly endorses the Small Business Lending Disclosure and Broker Regulation Act of 2020, and we applaud Chairwoman Velázquez for her leadership introducing this legislation, which will bring common-sense transparency standards to small business financing in the United States. In fact, we project this bill will bring over \$3.8 billion in savings for nearly 800,000 small businesses annually⁷, including hundreds of millions in savings for over 158,000 minority-owned small businesses.

California and New York have already passed legislation mandating transparency in small business lending. These efforts should be applauded and should inform legislation at the national level. However, a piecemeal, state-by-state approach hampers innovation and our small business-driven economy. We need clear and consistent regulations across the country that protect all our small businesses equally and allow responsible lenders to innovate and create quality products and services. I encourage all of you, and our leaders in Congress, to work together to pass the historic Small Business Lending Disclosure and Broker Regulation Act of 2020.

⁵ Kurrman, Andre, *The Impact of COVID-19 on Small Business Employment and Hours: Real-Time Estimates with Homebase Data*, Drexel University, Aug. 5, 2020: http://www.andrekurmann.com/hb_covid

⁶ Wylde, Katherine and Natasha Avanesians, *A Call for Action and Collaboration*, Partnership for New York City: <https://pnyc.org/wp-content/uploads/2020/07/actionandcollaboration.pdf>

⁷ Responsible Business Lending Coalition, *Responsible Business Lending Coalition Endorses Small Business Lending Disclosure and Broker Regulation Act*, July 30, 2020: <http://www.borrowersbillofrights.org/rblcendorsesblendingandbrokerdisclosureact.html>

California Commercial Financing Disclosures - SB 1235

Approved with bipartisan support in 2018, SB 1235 was a first-in-the-nation truth in lending law for small businesses, and a significant step toward protecting California business owners from predatory lending practices. This law generated great momentum, which we are now seeing come to fruition both in New York and at the federal level.

Once fully implemented, SB 1235 will dramatically increase the transparency of financial products marketed to small businesses. We estimate that among the one million California small businesses that apply for capital annually, the approximately 400,000 who apply to online lenders will benefit the most, as they are more likely to receive non-transparent disclosures and overpay for credit.⁸ Both Opportunity Fund and the RBLC have worked tirelessly for the last two years to help inform the disclosure standard-setting process mandated by SB 1235.

New York Small Business Truth in Lending Act - AB 10118 / SB 5740

In July of this year, the New York State Legislature passed legislation, building on California’s SB 1235, to require clear and comprehensive disclosures from all commercial lenders. These requirements will allow small business owners to easily compare financing offers and make the best financial decision for their business at this critical time when small businesses need protection the most. The legislation is awaiting Governor Andrew Cuomo’s signature. Once implemented, we estimate New York small business owners will save between \$369 million and \$1.75 billion annually.⁹

Effective deployment of fintech solutions - one example

The ease of application, use of data analytics and digital reach of Fintechs hold much promise for expanding access to affordable credit for small businesses—if it is done in a transparent and responsible manner. For example, as mentioned earlier, Opportunity Fund launched a partnership with LendingClub, America’s largest online credit marketplace connecting borrowers and investors, and Funding Circle, the nation’s leading small business loan platform. Our goal is to

⁸ In January, 2020 RBLC submitted this [letter](#) to the CA Department of Business Oversight on the economic impact of implementing this law.

⁹ McShane, Caitlin, Responsible Business Lending Coalition, The Responsible Business Lending Coalition Applauds the Passage of New York State's Small Business Truth in Lending Act, July 24, 2020: <https://www.prnewswire.com/news-releases/the-responsible-business-lending-coalition-applauds-the-passage-of-new-york-states-small-business-truth-in-lending-act-301099503.html>

substantially increase small business owners' access to transparent, affordable, and responsible credit.

Through this partnership, LendingClub connects applicants looking for a small business loan on its platform to Opportunity Fund. Opportunity Fund leverages LendingClub's robust marketing efforts to acquire customers and Opportunity Fund uses its technology, data analytics and risk management to provide pre-qualified offers to underserved small businesses. For small businesses that need greater than \$100,000 or are Prime creditworthy customers, Opportunity Fund refers those borrowers to Funding Circle. This partnership has expanded efficient access to affordable credit to a much broader range of small businesses across the country that none of our three organizations could have funded on our own. Together, we have increased access to capital by delivering funding quickly to small business owners who may have been shut out by the traditional financial system or may have resorted to very high-cost loans —mostly businesses owned by minorities, women, and immigrant entrepreneurs—all with good repayment rates. To date, this partnership has generated nearly \$75 million in loans to over 2,100 small businesses.

One such small business owner who benefited from this new partnership is Nick Christo, the co-owner of My City Social, an online advertising and marketing firm based in Orlando, Florida. Nick borrowed from a few different alternative online lenders. The last one was so expensive it led him to search for a way out of a substantial debt load - and that's what brought him finally to Opportunity Fund, through our partnership with LendingClub. We refinanced that debt over a longer term, bringing monthly payments from \$17,000 down to \$5,000, which gave Nick's business back the cashflow it needed to continue operating.

As mentioned above, we strongly believe that the lending landscape will change dramatically post-COVID-19. Banks will probably take a more conservative approach to lending to many small businesses than pre-COVID. Many Fintechs and merchant cash advance firms may not survive because of their loss of clients and loan portfolio losses, leaving an even bigger gap for affordable and responsible capital available to underserved communities. Those that do survive and new entrants must be held accountable to treat their customers responsibly.

Because CDFIs are already reaching these underserved small businesses in rural and urban communities, we should be ready to step in to fill this bigger capital gap and also provide technical assistance and other services they will need. That's why it's imperative the CDFI industry be financially strong to help rebuild Main Street and revive the economy.

Broader capital support for small businesses

Lending transparency laws are a crucial step in supporting American small businesses, but they are only one piece in a set of necessary reforms to support a thriving small business sector. There are a number of other small business priorities and public-private sector partnerships that need attention from Congress. Namely:

Fully implementing Section 1071

While we know that small businesses need more transparent and affordable access to capital, what's less clear is exactly how capital needs for small businesses are currently being met and where the financing gap is most pronounced. The post-financial crisis retraction in business lending by banks created a market gap that has been filled by a variety of lenders—but there is no industry-wide dataset with which trends can be measured, practices can be analyzed, and key gaps can be identified and addressed. Initial results from Paycheck Protection Program (PPP) lending strongly indicate that entrepreneurs of color are not being well-served by mainstream institutions.

Section 1071 of the Dodd-Frank Act mandates that the Consumer Financial Protection Bureau collect data from providers of small business financing to create an ongoing, industry-wide dataset. Implementing Section 1071 would help create clear standards and provide a better understanding of the small business lending landscape. With this data, the CFPB could pinpoint key gaps in the market, connecting the right lenders with the right customers, and vice versa. This will drive competition and innovation in the market. In other words, Section 1071 is good for both industry *and* the small businesses we serve.

We can't truly know how to help those who are being left behind if we are not collecting data. The costs to fully comply and report under Section 1071 will be minimal as most lenders already collect a number of the proposed data points. Some may argue that data collection is burdensome and difficult. However, there are numerous examples of thriving markets in which financial institutions collect and report comparable information on a regular basis. For example, despite limited resources, nonprofit CDFIs across the country, including ours, collect and report data about our lending and customers to the CDFI Fund with the Department of the Treasury on an annual basis. Information reported includes transaction-level data such as amounts, terms and pricing as well as demographic information from small business borrowers, all in full compliance with lending regulations. If non-profit CDFIs can collect this type of data, the rest of the industry can certainly do this, too.

Allocating \$1 billion in emergency funding to the CDFI Fund

CDFIs ensure access to credit for impacted businesses, nonprofits, and individuals in our nation's low-income communities. As mission-driven organizations, CDFIs offer affordable loans, technical assistance, and other much-needed services to those who cannot find support elsewhere. Opportunity Fund, like many other CDFIs, is actively working with funders, investors, and the government to secure additional funding so that we can properly assist existing and new clients during the current crisis. However, much more is needed.

A supplemental appropriation of \$1 billion to the CDFI Fund will allow CDFIs across the country to leverage \$12 billion in capital that will be deployed to communities in need. This approach has been proven to work and is inline with the supplemental funding approved in 2009 through the American Recovery and Reinvestment Act, which allowed resources to be deployed quickly to CDFIs operating in low-wealth communities across the nation. This is a bipartisan-led effort as shown in the most recent [Senate sign-on letter in support](#).

Extending and Improving the Paycheck Protection Program (PPP)

As a PPP lender, we had the opportunity to work with small business borrowers directly and would like to provide feedback on enhancements to the program so that small business owners can better benefit going forward.

First, we must ensure remaining PPP funds go to the smallest, most vulnerable businesses. The program should allow very small businesses, many of whom are minority-owned, to take out a second PPP loan, if needed. Second, PPP loans under \$150,000 should be automatically forgiven, as they represent the smallest businesses that qualified and applied for aid. These businesses are the ones that need the most relief in order to get back on their feet. Finally, a minimum administrative fee of \$2,500 should be paid to PPP lenders on all PPP loans. Currently, the Small Business Administration (SBA) pays lenders 5% in fees for loans under \$350,000. Loans under \$50,000 would receive less than \$2,500. For example, Opportunity Fund's average PPP loan is \$15,000 and the average fee is \$750, an amount that doesn't cover the costs of processing these loans and working with the borrowers to ensure they can get approved. A minimum administrative fee of \$2,500 would make it so that more lenders are willing to make smaller loans, thereby increasing access to capital to the smallest and most vulnerable businesses.

Reauthorizing the State Small Business Credit Initiative

After the Great Recession, the State Small Business Credit Initiative (SSBCI) provided nearly \$1.5 billion to state-led small business financing programs with significant flexibility that promoted responsible lending and met local market needs. The program supported nearly \$8.4 billion in new small business loan capital and investments, which allowed each public dollar to be leveraged with more than \$5 in private sector capital.

Reauthorizing the program, with improvements, would allow states and responsible lenders to better serve more of the most vulnerable small businesses as our economy recovers, especially those hardest hit by COVID-19.

Closing

We believe lending transparency is vital to the success of American small businesses, and thus to our besieged economy. Transparent and responsible financing is not only vital to small business borrowers, it also encourages fair pricing and innovation in the lending market. Importantly, transparency in lending levels the playing field for the businesses that are most vulnerable—low-income, minority-, veteran-, or women-owned businesses that often cannot rely on traditional lenders for accessing capital.¹⁰

We urge the members of this Committee to continue demonstrating leadership on behalf of our nation's small business owners by supporting the Small Business Lending Disclosure and Broker Regulation Act of 2020 and taking up the other recommendations presented here today.

Thank you.

¹⁰ US Government Accountability Office, *SBA MICROLOAN PROGRAM: Opportunities Exist to Strengthen Program Performance Measurement, Collaboration, and Reporting*, Nov. 2019: www.gao.gov/assets/710/702731.pdf