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September 29, 2015

Ms. Laura Temel
Attention: Marketplace Lending RFI
U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Room 1325
Washington, DC 20220

Re: Public Input on Expanding Access to Credit through Online Marketplace Lending

Dear Ladies and Gentlemen:

The Independent Community Bankers of America (ICBA)¹ appreciates the opportunity to provide comment on the Department of the Treasury's Request for Information, *Public Input on Expanding Access to Credit through Online Marketplace Lending* (RFI). ICBA supports establishing an extensive regulatory risk framework for nonbank lenders who provide loan products to consumers and small businesses. As a new source of credit for underserved business and consumer borrowers, these nonbank lenders are one of the greatest sources of risk to borrowers who lack access to traditional banking services or are seeking to engage in excessive leverage. The U.S. Treasury should support broad and effective national origination and servicing standards for the loan products offered by these online marketplace participants to ensure that the end users of these loan products of last resort are not unfairly targeted with burdensome debt instruments with harmful costs and features.

Request for Information

The Treasury is seeking to study the impact of nonbank online marketplace lending to consumers and small businesses with regard to the growth of the lending platforms that are emerging and the lack of any meaningful regulatory framework. Online marketplace

¹ The Independent Community Bankers of America®, the nation's voice for more than 6,000 community banks of all sizes and charter types, is dedicated exclusively to representing the interests of the community banking industry and its membership through effective advocacy, best-in-class education and high-quality products and services.

With 52,000 locations nationwide, community banks employ 700,000 Americans, hold \$3.6 trillion in assets, \$2.9 trillion in deposits, and \$2.4 trillion in loans to consumers, small businesses, and the agricultural community. For more information, visit ICBA's website at www.icba.org.

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lending uses historical consumer lending data to provide risk-adjusted credit opportunities to consumers and small business owners in a quick, rapid-fire manner where loan origination takes place with little or no underwriting and is targeted to prospective borrowers who are generally credit challenged or lack sufficient access to funding sources from traditional banking institutions. Online marketplace lending serves borrowers of limited means who generally lack liquidity, sufficient business experience, and traditional opportunities to access the consumer debt markets and generally have a pressing need for immediate funding. Platform operators represent private investors sourced from the private equity markets and peer-to-peer brokers that match investors seeking credit investment opportunities with borrowers in need of immediate liquidity. Loans are generally short to medium term with maximum funding amounts ranging from \$1,000 to more than \$100,000. Interest rates and fees generally reflect the elevated risk and lack of underwriting associated with the business model and often are consistent with the debt service obligations of a deep subprime borrower.

ICBA's Comments

ICBA is very concerned with the rapid growth of online marketplace lending and its associated information gathering activities. The online marketplace lending segment can prey on the most vulnerable and misinformed small dollar borrowers with easy access to meaningful loan amounts that can be approved in a very short period of time with terms that reflect little regard for quality underwriting and prudent risk assessment. Online marketplace lenders mitigate the risks associated with their investments exclusively by quantitatively categorizing prospective borrowers based on their consumer credit scores and other pre-determined borrower metrics. The attractiveness of the platform for investors is the high yield return, which considers little with regard to the consumer's ability to afford the payments associated with the loan both at loan inception and under potential pro forma stress scenarios. The investor focuses more on the prospect of outsize yield on investment and is generally concerned with the ability of the lender to recoup invested capital and realize an acceptable return when compared to the risk undertaken.

Ventures similar to these online marketplace lending platforms always promise attractive returns for investors while providing liquidity to grow small business in underserved and emerging markets. However, these ventures never contemplate economic recessions, hardships, and the impact of deteriorating economic conditions on a borrower's ability to appropriately manage a loan contract that he or she has limited ability to understand. Even more problematic in the array of business models being created in this space is the packaging of loans into investment vehicles for sale to often unsophisticated investors who are promised unrealistic returns on invested capital.

ICBA recommends that the Treasury fully invest its resources in understanding the impact of these lending products on consumers and small businesses when economic conditions are not optimal and the country is fully involved in economic recession. These lending products are touted as crucial to increasing economic development in emerging and underserved communities across the country when the economic picture is

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bright and financial markets are eager to extend credit. However, as with all economic cycles, once conditions place undue strain on a borrower's ability to properly service the debt, loans default, communities suffer, investors lose money, and the foundations around the traditional underwriting practices of a community bank become much more relevant.

Once the Treasury has fully assessed the impact of online lending marketplace loan products on the lender, investor, and borrower, the Treasury, with the help of the banking agencies, the SEC and the CFPB, should design, institute, and manage regulations that are no less stringent than the regulations faced by community banks with regard to safety and soundness standards and consumer protection laws including the Truth in Lending Act, the Equal Credit Opportunity Act, the Fair Credit Reporting Act, the Fair Debt Collection Practices Act and the fair lending laws. Without a system of regulations that seek to ensure that borrowers have a complete understanding of what contractual relationships they are agreeing to adhere to, as well as sufficient capital standards that ensure that lenders are able to properly service troubled loans in difficult economic environments, this emerging lending channel could bring harm to many consumers and small businesses across the nation.

To help avoid a lending meltdown similar to the one that precipitated the Great Recession and to provide incentive for online marketplace lenders to make safe and sound, affordable loans, platform operators and their funding banks, if they are securitizing their loans by issuing asset-backed securities, should be subject to the Dodd-Frank Act risk retention requirements and should retain not less than five percent of the credit risk of the securitized asset. Regulators should check the arrangements between the funding banks and the platform operators to see if both parties are observing all of the banking regulations including guidance concerning loan concentrations and the use of third party service providers. And as the General Accountability Office observed in its report on P2P banking, a primary federal regulator should supervise online marketplace platform operators.

As an alternative to allowing the use of reckless lending practices by inexperienced nonbank lenders with little incentive to care about the success of their borrowers, the Treasury should work with ICBA to mitigate the regulatory burden currently faced by community banks as they struggle to adopt a capital and supervisory framework that unduly discourages risk in lending to local communities. Community banks have been caught in the crossfire of new capital standards designed to prevent the largest too-big-to-fail megabanks from taking excessive risks at the expense of the taxpayer. Community banks have been overwhelmingly burdened by increased regulation that impairs their ability to deploy capital for small business lending. Rather, these institutions have been forced to invest their capital in the most conservative and plain vanilla loan products or invest capital in extensive compliance systems that serve to protect consumers.

Unlike the emerging online lending marketplace that is in its infancy, community banks are in the business of taking and managing risk by engaging in common sense underwriting that allows for the creation of lending products specifically tailored to the needs of the customer. Community banks have practiced a tried and true business model

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for many years that is designed to weather the most severe economic conditions because they are adept at practicing prudent underwriting while holding healthy levels of high quality capital.

ICBA appreciates the opportunity to comment on this RFI. If you have any questions or would like additional information, please do not hesitate to contact me at james.kendrick@icba.org or (202) 659-8111.

Sincerely,

/s/

James Kendrick
Vice President, Accounting & Capital Policy

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