

EMANUEL CLEAVER, II
FIFTH DISTRICT, MISSOURI

FINANCIAL SERVICES COMMITTEE
HOUSING AND INSURANCE SUBCOMMITTEE
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Congress of the United States
House of Representatives

June 22, 2017

Mr. Sasha Orloff
CEO
LendUp
225 Bush St, 11th Floor
San Francisco, CA 94104

Dear Mr. Orloff:

I am writing to seek information about your company's approach to fair customer treatment and avoiding potentially discriminatory practices.

Many Americans looking to launch or grow their small business need affordable access to credit. Helping small businesses thrive is a critical way to help create jobs and build thriving communities. While FinTech lending can create the opportunity for more small business credit, I'm concerned that some FinTech lenders may be trapping small business owners in cycles of debt or charging higher rates to entrepreneurs of color.

I have recently launched a review into FinTech small business lending. I am particularly interested in payday loans for small businesses, also known as "merchant cash advance." The payday loan industry has often targeted communities of color with high rates and fees, and Congress needs further information that small business payday lending is operating with transparency and free of discrimination.

Current law does not provide certain protections for small business loans, compared to other consumer laws. For example, consumers are able to obtain a clear disclosure of rates and fees under the Truth in Lending Act. However, small business borrowers typically don't have these protections.

While small community banks and credit unions are subject to supervision for compliance with anti-discrimination laws, nonbank FinTech lenders aren't subject to the same level of scrutiny.

As part of this inquiry, I request that you please provide responses to the following questions:

Company Profile

1. What products do you offer to small businesses? Do you offer any product that is repaid based on future credit card receivables?
2. In 2016, what was your overall origination on products marketed to small businesses? What was the median APR (including fees)?

PLEASE REPLY TO:

2335 RAYBURN HOB
WASHINGTON, DC 20515
(202) 225-4535 (PHONE)
(202) 225-4403 (FAX)

101 WEST 31ST STREET
KANSAS CITY, MO 64108
(816) 842-4545 (PHONE)
(816) 471-5215 (FAX)

211 WEST MAPLE AVENUE
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(816) 833-2991 (FAX)

1923 MAIN STREET
HIGGINSVILLE, MO 64037
(660) 584-7373 (PHONE)
(660) 584-7227 (FAX)

Protecting Borrowers from Discrimination

3. What is your typical approach to ensuring that people of color, women, and other protected classes are not subject to higher interest rates or denial rates, compared to similarly-situated borrowers?
4. In your analysis, do you use publicly-available data to help proxy for race and ethnicity?^[1]
5. What percentage of your loan and advances are originated to borrowers of color? Women?
6. For originations in 2016, what was the typical rate charged to borrowers of color compared to your overall borrower population?

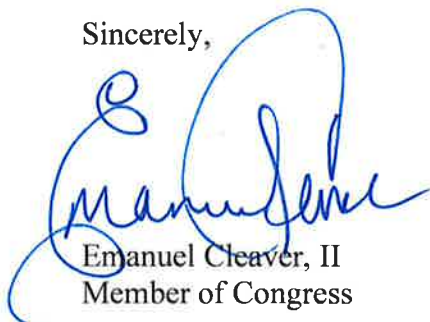
Transparency and Sunshine in Lending

7. Do you provide disclosures, similar to what is required under the Truth in Lending Act, to small business borrowers?
8. What is your typical fee schedule for your small business lending products?
9. Do your lending agreements require borrowers to resolve disputes through arbitration?
10. Do you typically pull a consumer credit report when originating small business loans? Do you furnish credit information to credit reporting agencies upon loan repayment?

Thank you in advance for providing responses to these questions no later than August 10, 2017. We look forward to working closely with you to protect small business borrowers from discrimination and unfair practices.

If you have any questions, please contact my Chief of Staff John Jones at (202) 225-4535.

Sincerely,



Emanuel Cleaver, II
Member of Congress

^[1] See, for example, <https://www.consumerfinance.gov/data-research/research-reports/using-publicly-available-information-to-proxy-for-unidentified-race-and-ethnicity/>