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Congress of the United States
House of Representatives

March 15, 2017

Mr. Richard Cordray
Director
Consumer Financial Protection Bureau
1275 First St. N.E.
Washington, D.C. 20002

Dear Director Cordray:

Thank you for the continued work of the Consumer Financial Protection Bureau (CFPB) to protect consumers from financial abuse and to fight discrimination in our financial markets. This work is invaluable, but we need the agency to fend off new potentially discriminatory lending models that are emerging online.

FinTech lending companies, also known as alternative small-business lending, are a fast-growing industry offering a new wave of innovation —and also pose many new risks. Over the past decade, there's been a very large increase of Silicon Valley start-ups and technology companies that are functioning like banks. The CFPB was created to protect consumers and borrowers from banks and non-bank practices that may have previously operated in the shadows of the system.

While the CFPB's primary focus is on protecting consumers, the Congress also gave clear authority for the agency to protect borrowers of small business loans from discriminatory practices. I am deeply concerned that some FinTech companies may be using algorithms that shut out hardworking individuals from communities of color from accessing affordable small business credit. The CFPB must use its authorities under the Equal Credit Opportunity Act to combat these abuses.

According to a Harvard Business School study exploring the promise and challenges of alternative small-business lending, there were some serious problems identified amongst these companies:

- **High costs.** Lenders commonly charge APRs (annual percentage rates) above 50% and can easily reach over 300%.
- **Double dipping.** Repeat borrowers incur additional fees each time they renew their loans.
- **Hidden prepayment charges.** Unlike traditional loans, many alternative lenders require payment of the full interest even when loans are repaid early.
- **Misaligned broker incentives.** Small-business loan brokers often recommend the most expensive loans because they earn the highest fees on those loans.
- **Stacking.** Multiple lenders provide loans to the same borrower, resulting in additional and hidden fees.

PLEASE REPLY TO:

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In addition to the facts laid out in this report, it is also evident that, historically in our country, we have witnessed numerous instances where discriminatory behavior has been directed toward African-Americans, other racial minorities or even minority-owned businesses within the auto-lending, home mortgage, and traditional banking industries. And too often in a "Wild West" economic environment, it can be the most vulnerable and least protected people or small businesses that can be taken advantage of by unsavory actors.

FinTech companies geared toward lending to small businesses by using certain biased algorithms for creditworthiness have the potential of charging disproportionately higher rates to minority-owned businesses. It is therefore important to determine if minority-owned small businesses are being charged higher rates, or if they have been subject to predatory fees by these FinTech firms.

For example, algorithms used by large technology firms have led to disturbing discriminatory outcomes. Researchers at Harvard found that ads for arrest records were significantly more likely to show up when users include search terms for distinctively black names or a Historically Black fraternity.[1] According to a study by Carnegie Mellon University researchers, Google's online advertising system showed ads for high-income jobs to men much more often than it showed them to women.[2]

Given the importance of ensuring our small business lending markets are free of discrimination, I am calling on your and the CFPB to vigorously investigate whether FinTech companies engaged in small business lending are complying with all anti-discrimination laws, including the Equal Credit Opportunity Act. I would also appreciate responses to the following questions:

(1) Section 1071 of Dodd-Frank amended the ECOA to require financial institutions to collect and maintain loan data for women-owned, minority-owned and small business credit applicants. When does the CFPB anticipate finalizing regulation and guidance to fully implement this provision?
(2) Has the CFPB engaged in any supervisory activities over FinTech small business lenders? If so, did the CFPB identify problems with their compliance with the ECOA?
(3) Will the CFPB solicit complaints from consumers, particularly those from communities of color, through its consumer complaint portal, who feel they have been discriminated against by a FinTech lender offering small business loans? If not, how can consumers formally submit a complaint?

For the health of our society and our economy, the CFPB must act quickly to combat any abuses by FinTech companies that may be charging minority borrowers predatory rates on small business credit. Thank you for your close attention to this issue.

Sincerely,

Emanuel Cleaver, II
Member of Congress

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[1] http://dataprivacylab.org/projects/onlineads/1071-1.pdf
[2] http://www.andrew.cmu.edu/user/danupam/dtd-pets15.pdf