650 California Street, 12th Floor • San Francisco, CA 94108

January 22, 2019

Robert E. Feldman
Executive Secretary
Attention: Comments, Federal Deposit Insurance Corporation
550 17th Street NW, Washington, DC 20429

RE: RIN 3064–ZA04 – Request for Information on Small Dollar Lending

Chairman McWilliams:

Affirm, Inc. (Affirm) is pleased to submit the following comments in response to the Federal Deposit Insurance Corporation's (FDIC) Request for Information on Small-Dollar Lending. We encourage the FDIC to continue to foster innovation within the banking system by providing guidance and certainty to ensure appropriate bank partnerships can continue to serve the needs of consumers nationwide. Affirm is also a member of the Marketplace Lending Association, which has separately provided comments to the FDIC on behalf of its members.

About Affirm

Affirm is a financial technology company that partners with Cross River Bank, a New Jersey State Chartered Commercial Bank, member FDIC (Cross River Bank), to provide point-of-sale installment finance solutions at a variety of retailers from sectors including furniture and homewares, apparel, consumer electronics, and travel. When a consumer wants to make a purchase at a merchant partner, the consumer is given an option during the checkout process to apply for and, if approved, finance the purchase with a loan originated and funded by Cross River Bank through the Affirm platform.

Our goal is to offer consumers a quick, simple, and transparent alternative to credit cards. The consumer receives an instant credit decision during the checkout process. At that time, we show the consumer exactly what they will pay over the full loan term, including the total amount of interest, if they opt for the loan. Loans made through the Affirm platform are closed-end installment loans with simple, daily accruing interest, APRs between 0-30%, and no fees charged to the consumer -- no origination fees, prepayment fees, late fees, or other fees are ever charged to the consumer. We never charge more than the amount shown to the consumer up front, and we do not charge any additional interest such as deferred or compounding interest.

Loan terms generally range from 3-48 months, with $800 as the average loan amount. To date, Cross River Bank has originated loans to over 2 million consumers through the Affirm platform, with more than $2 billion of loan volume in 2018, and over 95% of the loans facilitated have been for loan amounts of $5,000 or less.

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17. What role should the FDIC play, if any, in supporting innovations that enhance banks' abilities to offer responsible, prudently underwritten small-dollar loans? Are there specific barriers that prevent banks from implementing such technologies or innovations?

As part of its business model, Cross River Bank has partnered with leading technology companies like Affirm to leverage their expertise in order to provide cost-efficient and consumer friendly products and services across the country. Pursuant to this model, Affirm performs services for loans originated by Cross River Bank, including the use of technology to support the merchant integration, application processing, instant underwriting, and servicing of Cross River Bank's loans. As such, the bank partnership model provides Cross River Bank and Affirm with the ability to offer streamlined and cost efficient products to consumers nationwide, pursuant to Cross River Bank's New Jersey bank charter.

The ability of Affirm and Cross River Bank to leverage the cost efficiencies and expertise of its partnership has allowed us to provide transparent lower dollar point-of-sale loans to consumers at a lower cost than traditional products in the small dollar loan space, like rent-to-own, check cashing, and payday lending. However, in order for us to continue to offer these lower cost, below 30% APR and no fee products to consumers, we believe the FDIC and other regulators can do more to support banks and their ability to partner with nonbank fintech companies like Affirm.

First, the FDIC regulators should use its authority to address the challenges and uncertainties raised by the 2015 decision in the 2nd Circuit, *Madden v. Midland Funding, LLC*. Fallout from the *Madden* decision continues to create market uncertainties that harm the viability of the bank partnership model and, in turn, the provision of more competitive and consumer-friendly products to all consumers. A reaffirmation from the FDIC of the powers of FDIC supervised banks to sell loans under Section 521 of the Depository Institutions Deregulation Act of 1980 (DIDA) would provide market certainty, increase liquidity, and make credit more affordable for borrowers nationwide.

Second, we encourage the FDIC to finalize the proposed FIL-50 Third Party Lending Guidance to help provide clarity to banks on how to manage appropriate and responsible third-party lending arrangements, and to address unnecessary "true lender" uncertainty that has arisen from certain older abusive payday lender bank partnerships. As discussed in the 2018 Treasury report on fintech: "Treasury recognizes that partnerships between banks and marketplace lenders have been valuable to enhance the capabilities of mature financial firms. . . . Appropriately designed lending partnerships can leverage advantages from both banks and fintechs to improve upon the currently provided products. Treasury recognizes that these existing bank partnership arrangements have generally enhanced the provision of credit to consumers and small businesses." *A Financial System that Creates Economic Opportunities: Nonbank Financials, Fintech, and Innovation* (July 2018) (Treasury Report) at 11, 91-92.

Finalizing the FIL-50 guidance will help provide certainty to the bank partnership model and ensure responsible bank partnerships are encourage and able to provide highly regulated and transparent consumer friendly financial products that can compete nationwide.

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We appreciate the opportunity to comment on these important issues. By providing certainty through policy and oversight, the FDIC has the opportunity to support responsible and transparent bank partnership models that provide competitive, bank regulated small dollar lending options to consumers.

Very truly yours,

AFFIRM, INC.

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