February 4th, 2020

Via electronic submission

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

Re: Federal Interest Rate Authority, Notice of Proposed Rulemaking (FDIC RIN 3064-AF21)

Financial Innovation Now (FIN) appreciates the opportunity to comment on the Federal Deposit Insurance Corporation's (FDIC) proposed rulemaking on Federal Interest Rate Authority (proposal).[1]

FIN is an alliance of technology leaders, including Amazon, Apple, Google, Intuit, PayPal, Square, and Stripe.[2] We are working together on policies that will help modernize the way consumers and businesses manage money and conduct commerce. We believe technology plays a central role in the democratization of finance and have brought to market some of the most innovative and secure financial technology products available to consumers and small businesses today. From real-time peer-to-peer payments to new lending services, we strive to meet customer demand for digital tools that solve many kinds of financial challenges. In many cases we do this in cooperative partnership with traditional financial services providers who likewise recognize our mutual strengths.

FIN supports the FDIC's proposal and FIN agrees that federal law holds that national banks may charge interest at the rate permitted in the state where the bank is located. This long-standing doctrine is critical to making credit more accessible nationwide. FIN member companies often partner with financial institutions to make capital available on a national basis to small businesses, many of which are underserved.

The costs of payment systems, reputation building, and loans have often excluded small businesses from full participation in the financing market. But now, new technologies are allowing small businesses (and micro-businesses) and workers to more easily take instant digital payments from customers online and on Main Street. Amazon, for example supports over two million third party sellers, many of which are small businesses. Moreover, services such as "AmazonPay" and "Pay with PayPal" are tools that help small businesses earn credibility, expand their customer base, and accept

[1] FDIC, Federal Interest Rate Authority, 84 Fed. Reg. 66845 (December 6, 2019).
[2] For more information regarding FIN's policy priorities and principles, please visit www.financialinnovationnow.org.

card payments safely and securely online. Small businesses are also using innovations in payroll technology, inventory management, sales and data analytics, shipping logistics, and rewards programs, all of which make basic elements of running a business faster and less expensive.

The integration of the above technologies into a small business operation can facilitate fast and convenient access to capital. For example, Intuit's QuickBooks Capital platform enables small businesses to share financial information from their QuickBooks accounting software with financing partners so the small businesses can easily and quickly apply for the financing they need to grow their businesses. Intuit recently announced that it is offering its own lending product – utilizing this QuickBooks information. PayPal and Square utilize merchant card payment information, in partnership with a commercial bank, to facilitate working capital loans for small businesses. The use of these alternative data sources is valuable when assessing the whole picture of the small business and has been a driving force in enabling access to credit for small businesses that may not have access through traditional sources.

Traditional small business lending processes are paper intensive, manual, and time consuming.[3] The technology integrations of FIN member companies, in contrast, enable small businesses to utilize their data in the application and underwriting process, enabling streamlined processing and typically more favorable outcomes for the small business (e.g. lower rates, higher rate of approvals). Financing is made available to small businesses when it is most needed, and funds are made available immediately or within one business day. Square Capital has facilitated $5.5 billion in combined merchant cash advances and loans to more than 275,000 small-business customers. By lending between $500 - $250,000 businesses of all sizes are eligible for a Square Capital loan.[4] Square has also been able to offer capital at amounts far lower than what has been available to small businesses from traditional lenders—Square's average small business loan size is approximately $6,000.[5] Intuit's QuickBooks Capital platform has helped thousands of small businesses gain access to over $700 million in capital, and its own loan product, over the past two years, has funded over $500 million for small businesses;[6] and, as of 2019, PayPal has provided more than $10 billion in funding through more than 650,000 loans to more than 225,000 small businesses around the world.[7]

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[3] *See* Karen Gordon Mills and Brayden McCarthy, *The State of Small Business Lending: Innovation and Technology and the Implications for Regulation, Working Paper 17-042*, HARVARD BUSINESS SCHOOL, (2016) http://www.hbs.edu/faculty/Publication%20Files/17-042_30393d52-3c61-41cb-a78a-ebbe3e040e55.pdf.
[4] *See* Square, *Grow Your Company with Our Small Business Loans*. Retrieved from https://squareup.com/us/en/capital/access
[5] According to the 2017 Survey of Terms of Business Lending, the average small business loan size from large national banks is approximately $593,000.
[6] *See* Rania Succar, *$500 Million Reasons to Use the Quickbooks Financing Platform*, https://quickbooks.intuit.com/blog/news/500-million-reasons-use-quickbooks-financing-platform/. *See also* Q1 2020 Press Release, https://investors.intuit.com/news/news-details/2019/Intuit-Grows-Total-Revenue-15-Percent-in-First-Quarter-Small-Business-Online-Ecosystem-Revenue-Grows-35-Percent/
[7] *See* Darrell Esch, *Ten Billion Dollars and Counting: Helping Small Businesses Globally,* PAYPAL, (May 19, 2019), https://www.paypal.com/stories/us/ten-billion-dollars-counting-helping-small-businesses-globally. *See also* Usman Ahmed, Thorsten Beck, Christine McDaniel, and Simon Schropp, *Filling the Gap: How Technology Enables Access to Finance for Small- and Medium-Sized Enterprises*, INNOVATIONS, Vol. 10/No.3/4, MIT Press, (2015), http://www.mitpressjournals.org/doi/pdf/10.1162/inov_a_00239. ("Filling the Gap Paper")

This access to capital has benefited small businesses that typically are not able to obtain financing from traditional lenders. QuickBooks Capital is able to successfully fund small businesses that have less annual revenue, slightly lower FICO scores and are younger in business than that of traditional lenders. Similarly, an analysis of PayPal's working capital loan program found that between October 2014 and March 2015 a significant percentage of PayPal's loans went to businesses in counties that had lost banks since the financial crisis, and nearly 35% of these loans went to low-and-moderate-income businesses, versus 21% of loans from traditional retail banks.[8] Additionally, 56 percent of loans issued through Square Capital went to women-owned businesses, compared to 18 percent of traditional loans and 37 percent of loans through Square Capital went to minority-owned businesses, compared to 27 percent of traditional loans;[9] and, over 85 percent of Square's small business loans are made outside of major metropolitan areas, exactly where they are needed most, as small business lending in rural communities has declined 50 percent since 2004.[10]

The Federal Reserve Bank of Philadelphia and the Federal Reserve Bank of Chicago recently released a study examining the data of one financial technology lender and found that lending activities have penetrated areas that could benefit from additional credit supply, such as those that lose bank branches…" and that "the use of alternative information sources has allowed some borrowers who would be classified as subprime by traditional criteria to…get lower priced credit...."[11]

The above advances in credit availability should be promoted and expanded. However, as the FDIC has recognized, recent developments have created uncertainty about the ability of technology companies to partner with banks when a loan is sold, assigned, or otherwise transferred. The result has harmed business credit availability and undermined economic activity in the United States, resulting in inconsistent opportunities depending on the location of a borrower, despite services being offered nationally via internet-enabled technology.[12]

This reduced credit availability is especially harmful to financial inclusion: affordable and safe access to credit should accessible to all small business owners who qualify regardless of where their business is located. For these reasons, FIN agrees with the FDIC's proposed rule.

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[8] *See* Ahmed et al. *Filling the Gap Paper, "*Online business loans seem to have stepped in to fill the SME funding gap left in the wake of the 2008 financial crisis. A high proportion of PPWC loans are disbursed in zip codes that have experienced a relatively steep decline in the number of traditional retail banks, nearly 25 percent of PPWC loans were disbursed in the 3 percent of counties that have lost ten or more banks since the 2008 financial crisis."

[9] Square Capital statistic: Based on an April 2018 survey of 6,397 respondents who have accepted a loan through Square Capital. Traditional loan statistic: SBA 7(a) Lending Statistics for Major Programs as of 7/13/2018.

[10] Simon, R., & Jones, C. (2017). Goodbye, George Bailey: Decline of Rural Lending Crimps Small-Town Business. Retrieved from https://www.wsj.com/articles/goodbye-george-bailey-decline-of-rural-lending-crimps-small-town-business-1514219515

[11] *See* Julapa Jagtiani and Catharine Lemieux, *Fintech Lending: Financial Inclusion, Risk Pricing, and Alternative Information*, FEDERAL RESERVE BANK OF PHILADELPHIA AND FEDERAL RESERVE BANK OF CHICAGO, (July 6, 2017), https://www.philadelphiafed.org/-/media/research-and-data/publications/working-papers/2017/wp17-17.pdf

[12] *See* Colleen Honigsburg and Robert J. Jackson, Jr., and Richard C. Squire, *How Does Legal Enforceability Affect Consumer Lending? Evidence from a Natural Experiment* THE JOURNAL OF LAW AND ECONOMICS, (August 2, 2017). Forthcoming. Available at SSRN: https://ssrn.com/abstract=2780215 or http://dx.doi.org/10.2139/ssrn.2780215. *See also* Peter Conti-Brown *Can fintech increase lending? How courts are undermining financial inclusion.* SERIES ON FINANCIAL MARKETS AND REGULATION, BROOKINGS, (April 16th 2019), https://www.brookings.edu/research/can-fintech-increase-lending-how-courts-are-undermining-financial-inclusion/

America’s small businesses should have easy access to safe forms of credit. The FDIC’s proposal will restore the valid-when-made principle and maintain a well-regulated option for bringing innovative capital access to underserved borrowers.

FIN commends the FDIC’s effort to promote regulatory consistency and financial access throughout the United States.

Respectfully submitted,

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