September 22, 2020

Robert E. Feldman
Executive Secretary
Attention: Comments
Federal Deposit Insurance Corporation
550 17th Street, N.W.
Washington, D.C. 20429

By electronic submission to Comments@fdic.gov

Re: Request for Information on Standard Setting and Voluntary Certification for Models and Third-Party Providers of Technology and Other Services; RIN 3064–ZA18

Dear Sirs and Madams:

The Online Lenders Alliance (OLA) welcomes the opportunity to respond to the request for information (RFI) issued by the Federal Deposit Insurance Corporation (FDIC) to solicit comments and information on a voluntary certification model for third-party providers of technology.

OLA applauds the FDIC for issuing the RFI as part of its commitment to supporting innovation and recognizing the potential that bank/third-party vendor arrangements can play in offering new products and services. We believe that there are many opportunities for FDIC-supervised banks to leverage innovative technologies in a safe and sound manner that will support the expansion of financial services across the United States.

I. About OLA and its Members

OLA represents the growing industry of innovative companies that develop and deploy financial technology, including proprietary and innovative underwriting methods, big data analytics, and non-traditional delivery channels, to offer online consumer loans and related products and services. OLA's members include online lenders, vendors and service providers to lenders, consumer reporting agencies, payment processors, and online marketing firms.

Fintech companies have pioneered innovative online techniques for advertising and marketing, preventing and managing fraud risk, underwriting and managing credit risk, servicing loans, and conducting collection activities in a manner that is fair and transparent to consumers seeking to obtain a loan over the Internet. Online loans are unsecured personal loans ranging from $300 to $10,000 with terms that vary from two weeks to three years. Lines of credit are also offered by our lenders and are the most popular amongst consumers. Online lenders provide benefits to consumers, particularly those in underserved communities, with fast, safe, and convenient choices that simply are not available through traditional lending markets.

Many OLA members provide technology services to FDIC-supervised banks to facilitate the banks' extension of credit – generally unsecured, small-dollar loans in amounts less than $5,000 – to consumers. Many of these consumers are non-prime individuals (those with credit scores below 680). By using fintech companies such as OLA members financial institutions are in a better position to serve the needs of their customers. This letter provides information regarding bank-fintech third party vendor arrangements and the benefits that a voluntary certification program could provide in supporting these efforts.

II. Bank-Fintech Third Party Vendor Agreements Produce Substantial Benefits to Consumers

Banks increasingly are working with fintech companies and relying on fintech companies' services to deliver financial products and services using innovative technologies. These arrangements enable banks to deliver products and services to a broader customer base with greater efficiency and less risk to consumers and the banks themselves.

The benefits to consumers are substantial. Fintech companies offer customers simple and convenient features, including easy-to-use web and mobile interfaces to apply for credit and make payments.

Financial services innovation has been stimulated through banks working with fintech companies. Banks that collaborate with fintech companies are able to develop innovative technologies that better address the needs of customers. As just one example, many fintech companies provide banks with technological tools to improve their data and data management techniques in credit underwriting, as well as their marketing, sourcing, and ability to fulfil consumer's credit demands.[1] Fintech companies also leverage artificial intelligence and machine learning, using their proprietary algorithms to help banks evaluate, offer and service loans to those consumers.

The Center for Financial Services Innovation, in a comment letter to the FDIC, characterized these relationships as a "win-win-win" for all involved, especially consumers. The bank wins because it can serve a broader and deeper segment of the consumer market than it otherwise could.[2] The fintech company wins by creating an opportunity to facilitate the offering of products to consumers at rates that are economical and permissible, given the bank's involvement as the lender. Consumers win because they get access to high-quality credit that

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[1] *See* U.S. Dep't of Treasury, A Financial System That Creates Economic Opportunities, Nonbank Institutions, Fintech, and Innovation, Report to President Donald J. Trump, Executive Order 13772 on Core Principles for Regulating the United States Financial System [hereinafter "Treasury Fintech Report"], July 2018, at 86, *available at*: https://home.treasury.gov/sites/default/files/2018-07/A-Financial-System-that-Creates-Economic-Opportunities---Nonbank-Financi....pdf.

[2] Bank-fintech partnerships also allow "smaller and more rural banks to broaden the set of products and services they can offer to consumers and small businesses in their communities." Center for Financial Services Innovation, Comment Letter on FIL-50-2016 Proposed Guidance for Third-Party Lending (Oct. 27, 2016), *available at*: https://cfsinnovation.org/research/cfsi-comment-letter-on-proposed-guidance-for-third-party-lending/.

they otherwise would not. All of this equates to greater competition among providers and lower costs of credit, resulting in more options and access to credit for consumers.[3]

III. Banks Working with Fintech Companies Will be Key to Facilitating Small-Dollar Lending

Many banks lack the technical expertise to market, underwrite, originate, service, and collect small-dollar loans. They bridge these gaps by working with a fintech company. Fintech companies have spent years developing innovative technology and analytics for these specific credit processes. A bank that works with a fintech company is able to use these technologies to reach consumers who otherwise may not be able to access credit, including borrowers who live in so-called "banking deserts" with few or no brick-and-mortar bank branches.[4] In addition, a borrower of lesser credit quality, whether a thin credit history or no credit history, can benefit from the greater use of non-traditional credit information employed by fintech companies to underwrite small-dollar credit.

It often is not economically viable for large U.S. banking organizations to engage directly in small-dollar lending. Recent attempts by banks to enter into the small-dollar lending market historically served by innovative marketplace lenders have been largely unsuccessful.
For example, in 2008 the FDIC launched its Small-Dollar Loan Pilot Program, which was a case study designed to illustrate how banks can profitably offer affordable small-dollar loans. The program's low participation rates only highlighted the banking industry's challenges with this market. Loans were capped at $1,000, and origination and other upfront fees plus interest charges were capped at a 36 percent APR. A year into the program, the FDIC increased the maximum loan amount to $2,500 following requests from the participating banks. During the two-year pilot program, 18,163 of the 34,400 loans made were under the original cap of $1,000, and the average loan amount was roughly $700.[5] The program proved to be largely unprofitable for banks, as most used the program to drive consumers into fee-based checking accounts where they could be subject to overdraft and insufficient funds fees. The program also demonstrated that a 36 percent APR cap on small-dollar loans was unworkable for most banks.

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[3] The FDIC, in proposed examination guidance for third-party lending programs, echoed these sentiments: "Third-party lending arrangements may provide institutions with the ability to supplement, enhance, or expedite lending services for their customers. Engaging in third-party lending arrangements may also enable institutions to lower costs of delivering credit products and to achieve strategic or profitability goals." FDIC, Examination Guidance for Third-Party Lending, July 29, 2016, *available at*: https://www.fdic.gov/news/news/financial/2016/fil16050a.pdf.

[4] *See* Julapa Jagtiani and Catharine Lemieux, Working Paper No. 17-17, Fintech Lending: Financial Inclusion, Risk Pricing, and Alternative Information, Federal Reserve Bank of Philadelphia, July 6, 2017, at 34-37, *available at*: https://www.philadelphiafed.org/-/media/research-and-data/publications/working-papers/2017/wp17-17.pdf.

[5] FDIC Quarterly, A Template for Success: The FDIC's Small-Dollar Loan Pilot Program, 2010, Vol. 4, No. 2, *available at*: https://www.fdic.gov/bank/analytical/quarterly/2010-vol4-2/fdic-quarterly-vol4no2-smalldollar.pdf.

Accordingly, the bank-fintech model is often the most readily available way to reach consumers in need of small-dollar loans. The FDIC should be commended for issuing its "Interagency Guidance for Responsible Small-Dollar Loans"[6] Coupled with a certification for third-party technology providers, banks will benefit from the technical expertise fintech companies provide, as well as from funding from the fintech company to share the banks' credit risk. This will encourage banks that work with fintech companies to deploy their own capital to make loans that they otherwise would not have made, thereby expanding the bank's customer base and providing broader access to credit for consumers.

In sum, bank-fintech third party agreements facilitate the delivery of safe, lower cost, compliance-focused, and more convenient financial products and services to consumers and are subject to substantial regulatory oversight. These characteristics make bank-fintech third party vendor agreements an ideal vehicle for the extension of prudent small-dollar credit.

IV. Bank/Fintech Vendor Agreements are Subject to Robust Regulation and Oversight

Bank-fintech third party vendor agreements are subject to extensive oversight by federal and state banking agencies. The FDIC has published detailed guidance for banks to follow in managing these relationships and for agency supervisory staff to follow in exercising oversight of the relationships. This guidance states that a loan issued by a bank that benefits from the technology of a fintech vendor is subject to the same high level of scrutiny and regulation as any other loan. This oversight protects consumers and the financial system. In addition, many fintech companies are subject to federal and state lending and consumer protection regulations, including the Truth in Lending Act and Equal Credit Opportunity Act. Many fintech companies are also subject to the Electronic Funds Transfer Act, the Fair Credit Reporting Act, the Fair Debt Collection Practices Act, and the Bank Secrecy Act, among other laws.

V. A Voluntary Certification for Models and Third-Party Providers of Technology Could Help Support the Growth of New Products and Services

OLA believes that a voluntary certification program will foster innovation among traditional financial institutions by removing unnecessary regulatory impediments that banks must overcome when developing and deploying new technologies.

A voluntary certification program could reduce the regulatory and operational uncertainty that may prevent financial institutions from deploying new technologies or entering into vendor agreements with technology firms. The COVID pandemic has forced banks to adjust to a new environment that relies on greater use of technology. A certification program could serve as an

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6 Interagency Guidance for Responsible Small-Dollar Loans, May 2020 https://www.fdic.gov/news/financial-institution-letters/2020/fil20058.html

additional catalyst for more innovation to allow banks, particularly smaller community banks, to better serve their customers. These efforts could be particularly useful when applied to specific activities, such as credit underwriting and risk management, by certifying or assessing certain aspects of these models.

Offering one certification accepted universally would reduce the time and resources that banks must spend developing individual agreements. In the past these agreements have taken some OLA members as much as a year to 18 months to develop. A voluntary certification would reduce a major barrier to bank/third-party fintech agreements that require the vetting and oversight necessary to meet current compliance standards. Certifying or assessing certain aspects of a third-party provider's operations or establishing conditions for approval could greatly assist with the initial due diligence and ongoing monitoring elements undertaken by banks.

In particular, this initiative would help level the playing field for community banks with small budgets and few personnel to devote to technological innovation, thus enabling them to compete with larger financial institutions. Smaller banks face high start-up costs and barriers when developing new technologies. These costs could be mitigated by use of service providers who meet certain standards or achieve certification. These standards and certifications would not replace existing guidance; rather, they would provide a streamlined procedure for vendor management and due diligence.

In conjunction with the development of a certification program, OLA believes that an additional effort the FDIC should consider is streamlining the monitoring of third-party agreements that banks are required undertake on an ongoing basis. The FDIC should review the agency's supervisory and examination efforts to facilitate a financial institution's use of a certified model or a certified third-party providing technology service in their ongoing monitoring activities.

In conclusion, the OLA supports these efforts and looks forward to providing additional input once the FDIC has developed a proposed voluntary certification program. This initiative, in conjunction with ongoing efforts to support bank/fintech third-party agreements, will enable consumers to obtain much-needed credit.

We appreciate the opportunity to provide input on this important regulatory initiative. If you have questions or need additional information, please feel free to contact me at mjackson@oladc.org.

Respectfully submitted,

[redacted]

Mary Jackson
President and CEO