CFSi Center for Financial Services Innovation

October 27, 2016

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| Doreen Eberley | Mark Pearce |
| Division of Risk Management Supervision | Division of Depositor & Consumer Protection |
| FDIC | FDIC |
| 550 17th St. N.W. | 550 17th St. N.W. |
| Washington DC 20429 | Washington DC 20429 |

Re: FIL-50-2016 Proposed Guidance for Third-Party Lending

Dear Ms. Eberley and Mr. Pearce,

The Center for Financial Services Innovation (CFSI) is submitting this letter in response to the request for comments on the "Proposed Guidance for Third-Party Lending" issued by the Federal Deposit Insurance Corporation (FDIC) and published on July 29, 2016. Like you, we recognize the important role that access to high-quality financial products plays in helping consumers improve and maintain their financial health. We believe that finance can be a force for good in people's lives and that meeting consumers' needs responsibly is ultimately good for both the consumer and the provider.

CFSI is a national authority on consumer financial health. We believe that financial health comes about when a consumer's day-to-day financial systems enable them to build resilience and pursue opportunities. We lead a network of financial services innovators – banks and credit unions, the fintech community, processors, servicers, nonprofits, and community-based organizations – all committed to building higher quality products and services. CFSI informs, advises, and connects our network to seed innovation that will transform the financial services landscape. We see the pain points and the opportunities from both industry and consumer perspectives.

Through our consulting work, our Financial Capability Innovation Funds, and our Financial Solutions Lab, we have fostered innovative products and technologies that improve the financial health of consumers. Our vision is to see a strong, robust, and competitive financial services marketplace, where the diversity of consumer transaction, savings, and credit needs are met by a range of providers offering clear, transparent, and high-quality products and services at reasonable prices.

CFSI believes that responsible partnerships between banks and third-party lenders can be a win-win-win situation. Win #1: banks can continue to serve a broad and deep segment of their consumer market that they might not otherwise. Win #2: lenders have an opportunity to offer products and services to consumers they might not reach. And win #3: consumers get access to high quality credit they otherwise would not. Responsible partnerships especially 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.

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## Maintaining Access to Innovation

Financial markets and technologies continue to grow and evolve – and it's important that this growth and innovation be allowed to continue. The FDIC should work with other federal and state regulators to articulate a set of core principles that provide consistent guidance on how to set up bank and third-party partnerships that are safe and sound, that protect consumers, and that take advantage of innovations in business models, customer acquisition, and other technologies.

It is also important that banks be able to access and incorporate new technologies as these evolve. While existing third-party relationships may not suffer under this proposed guidance, it could seriously restrict new relationships. In particular, smaller start-up firms probably would not be able to reach new partnership agreements with banks. In turn, this could mean that banks would not have opportunities to leverage innovations in modeling or underwriting, customer acquisition, product customization, and so forth.

## Risk-Based Supervision

Risk-based supervision needs to be just that – based on the risk. The 12-month examination cycle seems to assume that, on its face, third-party lending is evidence of risk. The FDIC may want to start out with a 12-month examination cycle for some of these third-party relationships, but you should also be willing to dial this back or dial this up as you they see how these products and relationships perform.

It is also important to determine just how deeply these third-party risks extend. Some relationships are clearly third-party while the line becomes more blurred for others who provide a technology or platform. For example, could this guidance be interpreted to cover indirect vehicle loans, mortgages subsequently sold to Fannie Mae or Freddie Mac, or other more "traditional" lending arrangements (such as lines of credit)? The FDIC principles should provide guidance on where along the spectrum a relationship becomes third-party lending versus leveraging another technology.

Another element of risk is the bank's ability to make and sell loans that are considered valid when made. Any clarity the FDIC can provide along the lines of a bank's authority to sell or assign rights under a loan to a third-party would be welcome.

## Leveraging Comparative Advantages

The proposed guidance notes the importance of model risk management, and clearly there are potential Fair Lending issues that could arise when third parties use models to underwrite loans. One comparative advantage for banks using third parties is that these third parties have proprietary models that enable them to underwrite loans more deeply into the layers of credit quality, where there are thin file/no file consumers who are otherwise good credit risks. Potentially, there could be a number of intellectual property and proprietary information issues that might arise as banks perform the level of scrutiny that the FDIC suggests in the proposed guidance. Clearly, if banks knew the modeling formula, they wouldn't need the third-party relationship to begin with. We believe that it will be important moving forward for banks to be clear about the vendor management, legal, safety and soundness, and consumer protection compliance frameworks – but they also need opportunities to fairly offer a wide range of products and services that they may not be able to otherwise. This is especially true for smaller, community banks.

The rapid pace of technology improvements means that the financial services industry is constantly coming across new ways to improve consumer financial health. We believe innovation can best be leveraged when providers align business outcomes with customer outcomes. Thus, we are hopeful that the industry and the regulatory community will adopt the view that improving consumer financial health should be a success metric for the financial services industry. CFSI's Eight Ways to Measure Financial Health gives providers a way to gauge how their consumers are doing and whether products and services are improving consumer outcomes. We encourage the FDIC to consider consumer financial health outcomes as a measure of the success of third-party lending relationships.

## Conclusion

CFSI recognizes that some credit products often treat the symptoms of consumer credit issues rather than the cause of those issues. Credit isn't always the right solution and there are other products and policies to reduce people's need to borrow. The U.S. as a country needs policies that might serve as mediators for even needing credit to begin with, such as livable wages, work schedule policies, and family and sick leave policies for hourly and contingent workers. We recognize these are not within the scope of the FDIC, but they will be important elements in resolving the source of the need for some consumer loans. Nonetheless, for many people, access to high-quality credit – either directly or through third parties – can improve financial health by helping consumers manage liquidity or handle emergencies and weather shocks. We want there to be safe, affordable, and accessible products that help people end up better than when they started.

As always, if you have any questions about CFSI's comments we would be glad to provide answers and clarifications.

Sincerely,

*Jeanne M Hogarth*

Jeanne M. Hogarth
Vice President
Center for Financial Services Innovation