

# Small Business Borrowers' Bill of Rights

## Attestation Form for Lenders and Credit Marketplaces

### Summary of Attestation

My organization actively supports and adheres to the *Small Business Borrowers' Bill of Rights* and abides by all of the practices described in the attached Attestation Worksheet. Check all that apply

- The Right to Transparent Pricing and Terms
- The Right to Non-Abusive Products
- The Right to Responsible Underwriting
- The Right to Inclusive Credit Access
- The Right to Fair Collections Practices

Note: You must be able to truthfully check all five boxes to be eligible to be posted on the Small Business Borrowers' Bill of Rights Website.

### Terms of this Attestation

- a. I have read and understand the *Small Business Borrowers' Bill of Rights*, including the associated Frequently Asked Questions.
- b. I have completed the attached Attestation Worksheet, indicating in writing that my organization abides by all of the enumerated practices.
- c. By completing this Attestation Form and attesting that my organization abides by all of the enumerated practices in the attached Attestation Worksheet, I consent to this Attestation Form and my organization's logo being posted on the Small Business Borrowers' Bill of Rights Website.
- d. I understand that this Attestation Form and my organization's logo may be removed from the Small Business Borrowers' Bill of Rights Website if my organization does not complete and submit an updated Attestation Form within one calendar year from the date of my signature below, and each successive year thereafter.
- e. I agree, on behalf of my organization, that my organization assents to and will be bound by the Terms of Use for the Small Business Borrowers' Bill of Rights Website.
- f. Anyone with questions for my organization regarding this Attestation Form completed by my organization can contact the following individual (include name, title, email address, and phone number):  

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- g. I attest that the information above is accurate and represents the standard practices for all financing products and services offered through my organization to small businesses. Furthermore, I hereby certify that I am authorized to sign this Attestation Form on behalf of my organization.

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Organization Name

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Chief Executive Signature

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Chief Executive Name

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Date

## APPENDIX: ATTESTATION WORKSHEET

For an organization to attest that it abides by the *Small Business Borrowers' Bill of Rights*, its chief executive must complete this Attestation Form by signing the Attestation Form and indicating in the check boxes provided that his or her organization abides by each of the practices set forth below.<sup>1</sup>

Questions regarding completing the form can be directed to [BBOR@smallbusinessmajority.org](mailto:BBOR@smallbusinessmajority.org).

### The Right to Transparent Pricing and Terms

#### Transparent Rate

- Disclose an annualized interest rate or APR.
- Interest rate is defined as all scheduled or periodic financing costs, other than upfront costs, expressed as a percentage of the projected outstanding principal and annualized.
- For a rate to be called APR, Annual Percentage Rate, it must also include upfront and anticipated financing and non-financing charges such as fees related to origination, processing, and closing.
- For lines of credit or other open-ended types of financing, rates must be calculated with reasonable assumptions about use, including assuming that the borrower draws the full amount on the origination date, and makes the minimum payments required.
- If a rate is promotional or introductory, the term sheet or its equivalent should clearly state this, and how the rate could change in the future.
- If the financing does not amortize, an equivalent annualized interest rate or APR should be calculated. Interest rates and APR are a percentage of outstanding principal balance, not the original financing amount.

#### No Hidden Fees

- Disclose all upfront and scheduled charges.

#### Plain-English Terms

- Describe all key terms in an easy-to-understand manner, including the loan amount, payment amount and frequency, collateral requirements, and the cost of prepayment.
- If prepayment requires paying financing charges, other than those associated with the specific term the financing was actually used for, this must be disclosed as a prepayment penalty or fee. At the time of payoff, if a fixed repayment amount is charged, with or without a discount, the remaining contractual payments should be disclosed as a prepayment penalty or fee.

#### Clear Comparison

- Present all of these pricing and other key terms clearly and prominently, in writing, to the borrower when the loan offer is summarized for the borrower and whenever a term sheet, offer summary, or equivalent is provided.

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<sup>1</sup> The term "loan" and related terms used here such as "lending" are intended to be interpreted in the broadest sense possible so as to include loans, lines of credit, merchant cash advances, and similar products offered and provided to U.S. small businesses, whether or not such credit products are characterized legally or otherwise as loans. Similarly, the terms "lender" and "borrower" are intended to be interpreted in the broadest sense possible so as to include, in the case of lenders, credit marketplaces that facilitate loans on behalf of lenders, cash advance providers, and all manner of persons providing loans to U.S. small businesses or evaluating the creditworthiness of such small businesses in connection with providing a loan, and, in the case of borrowers, all U.S. small businesses who seek or obtain a loan.

## The Right to Non-Abusive Products

- No Debt Traps
  - If the borrower is unable to repay an existing loan, extend new credit only if due diligence indicates that the borrower’s situation has changed, enabling them to repay the new loan.
  
- No “Double Dipping”
  - In a refinance, renewal, or modification, fixed charges or a fixed repayment amount should be assessed only on new capital provided to the borrower. If the borrower is required to pay off existing financing with the lender, replacing the paid off amount does not represent new capital. Interest can continue to be charged periodically on outstanding financing.
  - Loan workouts are an exception to the above. If a troubled borrower is provided a lower payment, longer repayment terms, or other assistance, reasonable fees may be charged to cover costs incurred by the lender associated with the workout.
  
- No Hidden Penalties
  - Charge interest only on the time period that the loan remains outstanding. If the borrower pays off a loan early, do not charge interest or periodic costs associated with the remaining period of the loan, unless such costs have been clearly disclosed, prior to making the loan and specifically disclosed at the time of payoff, as a prepayment penalty or fee.
  
- Pressure Free
  - Allow potential borrowers to consider their credit options free from pressure or artificial timelines.
  
- Prompt Prepayment Assistance
  - If a borrower seeks to prepay a loan, provide any information required for the prepayment within two business days of the borrower’s request.

## The Right to Responsible Underwriting

### Believe in the Borrower

- Offer financing only with high confidence that the borrower can repay its *entire* debt burden without defaulting or re-borrowing.

### Alignment of Interests

- Lenders who receive repayment from directly the borrower's gross sales must also verify, through documents, data from third parties, and/or due diligence, that the borrower can repay all indebtedness and remain profitable, or that it has a credible path to profitability. Lenders must not rely on an ability to be paid, regardless of the borrower's profitability, to make loans that the borrower cannot afford.

### Right-sized Financing

- Size loans to meet the borrower's need, rather than to maximize the lender's or broker's revenue. Seek to offer the borrower the size of loan that they need, rather than offering the maximum amount they qualify for.

### Responsible Credit Reporting

- Report loan repayment information to major credit bureaus and consult the borrower's credit data when underwriting a loan. Such reporting enables other lenders to responsibly underwrite the borrower and helps the borrower build a credit profile that may facilitate access to more affordable loans in the future. Lenders must inform the borrower and any guarantors if they intend to report loan repayment performance to guarantors' credit bureaus only in certain circumstances, such as after a default.
- Lenders should report to the major business or consumer credit bureaus, including balances, dates, and payment activity, from the beginning of the borrower's obligation.

## **The Right to Inclusive Credit Access**

### Non-Discrimination

- Respect the letter and intent of fair lending laws, including the Equal Credit Opportunity Act. Do not discriminate against small business owners on the basis of race, color, religion, national origin, sex, marital status, age, sexual orientation or identity, or any other protected class. Lesbian, Gay, Bisexual and Transgender (LGBT) small business owners deserve the same protection when seeking or obtaining credit.

## **The Right to Fair Collection Practices**

### Fair Treatment

- Abide by the spirit of the Fair Debt Collection Practices Act and provide borrowers similar protections as described in that Act.

### Responsible Oversight

- Diligently vet and oversee the collections practices of third-party collectors and debt buyers. Do not work with collectors or debt buyers who fail to treat borrowers fairly.

### Accurate Information

- Transmit accurate, current, and complete information about the loan to third-party collectors and debt buyers.