January 4, 2023

Diana Seaborn, Director
Office of Financial Assistance
U.S. Small Business Administration
409 Third Street NW
Washington, DC 20416

Re: RIN 3245-AH92, SBA-2022-0013-001, Small Business Lending Company (SBLC) Moratorium Rescission and Removal of the Requirement for a Loan Authorization

Dear Director Seaborn,

As a leading representative of America's 33 million small businesses, Small Business Majority submits these comments in response to the U.S. Small Business Administration's Proposed Small Business Lending Company (SBLC) Moratorium Rescission and Removal of the Requirement for a Loan authorization. The Agency's attempt to increase access to capital for minority and other under-resourced entrepreneurs is admirable, but the rules are not clear enough and do not properly address the process by which new licensees will be chosen nor the standards they will be held to. This could put small businesses searching for capital at risk.

Small Business Majority is a national small business organization that empowers America's diverse entrepreneurs to build a thriving and equitable economy. We engage our network of more than 85,000 small businesses and 1,500 business and community organizations to deliver resources to entrepreneurs and advocate for public policy solutions that promote inclusive small business growth. Our work is bolstered by extensive research and deep connections with the small business community that enable us to educate stakeholders about key issues impacting America's entrepreneurs, with a special focus on the smallest businesses and those facing systemic inequities.

Entrepreneurship is essential to a thriving and equitable economy. Yet, too many of our smallest businesses—especially those owned by people of color, women, rural business owners and other under-resourced communities—face significant hurdles accessing capital from banks and other traditional financial institutions.

Innovative forms of accessing capital will be integral to the success of current and future small businesses to come. While this proposed rule aims to achieve that by lifting the moratorium on licensing new SBLCs and opening the door to more other lenders, without additional guardrails and oversight, it remains unclear whether the rule will address market gaps.

It is true that some fintech lenders have had greater success lending smaller amounts of capital to a greater percentage of under-resourced small and by allowing them to participate as SBLCs, they could bring that same approach to 7(a) lending. However, the proposed rule does not require all new SBLCs to lend to under-resourced communities. In fact, the rule does more to impose additional restrictions on Mission-Based SBLCs than it does for regular SBLCs. While Mission-Based SBLCs must make "a certain percentage of the total number of loans in its identified capital market gap," similar language does not exist for other SBLCs. It appears that the rule is relying solely on Mission-Based SBLCs to fill market gaps as opposed to placing the responsibility on all SBLCs, mission-based or not, which would better support the intended goal of the rule.

The rule also does not provide information about how new licensees are chosen. How is SBA making these determinations and what are the criteria for awarding new licenses? In addition to recommending that mission-based lenders from Community Advantage are prioritized, we recommend that SBA look at the entirety of a lender's application portfolio to ensure that the lender upholds the principles of the Small

Business [Borrowers' Bill of Rights], particularly in disclosing annual percentage rate (APR) for all of their loans. This would help ensure that small businesses don't experience a "bait and switch" where they acquire a loan through a licensee and then receive marketing later through the same licensee that offers high-cost financing products that might harm their business.

SBA must do everything it can to guarantee it has the capacity to oversee all SBLCs so that small businesses can shop for capital safely. Some fintechs and lenders have already committed to protecting small business owners by signing the Borrowers' Bill of Rights, but many have not. Until all lenders are required to disclose the six fundamental financing rights that all small businesses deserve, SBA must be intentional about the restrictions they impose on new and existing lenders that offer SBA loans.

Small Business Majority supports the intended goal of this rule, but SBA must address the discrepancies outlined above. To ensure that the rule's intended purpose is fulfilled, SBA should identify the criteria the agency will be using to choose licensees, and as part of that, protect small businesses by choosing licensees that uphold the Borrowers' Bill of Rights. What's more, to achieve the goal of the rule, all SBLCs should be required to lend to underserved communities—the responsibility should not fall completely on mission-based SBLCs. These conditions will guarantee long-term, equitable, responsible capital is available to all small businesses.

Sincerely,

John C. Arensmeyer

John Arensmeyer
Founder & CEO, Small Business Majority