POLICY-ENHANCED IMPACT INVESTING

CASE STUDY: RESPONSIBLE BUSINESS LENDING COALITION

INTRODUCTION

Small businesses offer economic opportunity to many Americans, providing nearly half of total private sector jobs in the country. Though access to finance is critical to small business success, many struggle to secure affordable credit. Promising technological innovation is presenting new opportunities for small businesses to access the capital they need to grow and thrive, but predatory lending tendencies are on the rise. Despite the promise that technology can unlock better options for small businesses, some financial products have been found to have exorbitant costs, unclear terms, and deceptive marketing. Press coverage in Forbes and Businessweek feature headlines such as: "Predatory Lending Machine Crushing Small Businesses Across America."[1]

In response to these practices, a diverse group of non-profit and for-profit lenders, investors, and small business advocates have come together as the Responsible Business Lending Coalition (RBLC) to advocate for more responsible lending practices. The RBLC has become a force in the small business lending ecosystem, championing transparency, fairness, and accountability norms and standards in the industry.

This case study explores the motivations that propel the RBLC and examines the strategies it employs to create change. Through coalition building and legislative advocacy, the RBLC has spearheaded efforts to enhance regulatory frameworks and promote a culture of responsibility within the financial sector.

THE SMALL BUSINESS LENDING LANDSCAPE

Small businesses form the backbone of the American economy, providing nearly half of all private sector jobs across the country. These enterprises not only deliver essential services to their communities but also create critical pathways to economic mobility for entrepreneurs. Their success or failure ripples through local economies, affecting employment, growth, and community stability.

THE TECHNOLOGY PARADOX

The rise of fintech lending has transformed the lending landscape, bringing both opportunities and challenges. On the positive side, technology has streamlined loan processing, reduced paperwork burdens, and expanded access to capital for traditionally underserved businesses. New approaches to credit assessment and the geographic expansion of lending markets have made it possible for more businesses to secure funding than ever before. However, these advances have been accompanied by serious problems. Many small businesses now face exorbitant and often hidden financing costs, while unclear or intentionally deceptive terms make it difficult to understand the true cost of borrowing. Aggressive and misleading marketing tactics have become commonplace, and some lenders have created debt traps that can force businesses into bankruptcy. These predatory practices disproportionately affect vulnerable communities, undermining the very promise of financial innovation.

[1]Shady Loans Are Bankrupting America's Small Businesses - November 26, 2018 Issue (bloomberg.com)

THE REGULATORY GAP

Unlike consumer lending, small business financing operates in a troubling regulatory grey area. The sector lacks mandatory disclosure requirements and has limited oversight of lending practices. There is no standardized way for businesses to compare different financing options, and minimal protection exists against predatory collection practices. This regulatory vacuum has left small businesses vulnerable to exploitation at a scale that threatens their survival.

THE MARKET FAILURE

This situation has created a significant market failure in small business lending. Responsible lenders struggle to compete against companies using deceptive marketing practices, while small businesses find it nearly impossible to effectively compare their financing options. The scale of this problem is staggering: potentially harmful "merchant cash advances" have grown to more than six times the volume of traditional SBA lending for loans under $250,000. This explosive growth of predatory practices threatens to overwhelm responsible lending alternatives.

FORMATION AND MOTIVATION OF THE RBLC

KEY PLAYERS

- **Responsible Business Lending Coalition:** a network of non-profit and for-profit lenders, investors, and small business advocates that share a commitment to innovation in small business lending and serious concerns about the rise of irresponsible small business lending.
- **Community Investment Management:** an institutional impact investment manager that provides strategic debt capital to demonstrate and scale responsible innovation in lending for underserved communities.
- **Aspen Institute's Business Ownership Initiative:** a civil society initiative that works closely with micro and small business practitioners and the institutions that invest in them around the US to build knowledge and strengthen practice by exploring innovation, conducting research, evaluating new ideas, and supporting leaders.
- **Small Business Majority:** a national small business organization of more than 85,000 members that empowers America's diverse entrepreneurs to build a thriving and equitable economy.
- **National Association for Latino Community Asset Builders:** a national network of more than 200 mission-driven organizations focused on small business development, financial capability, and equitable neighborhood development in 46 states, DC, and Puerto Rico that are anchor institutions in geographically and ethnically diverse Latino communities.
- **National Community Reinvestment Coalition:** a network of organizations and individuals dedicated to creating a nation that not only promises but delivers opportunities for all Americans to build wealth and live well.
- **Camino Financial:** an online finance company offering business loans and solutions to help small businesses grow.
- **LendingClub:** a financial services company that was the first peer-to-peer lender to register its offerings as securities with the Securities and Exchange Commission, and to offer loan trading on a secondary market.
- **Bluevine:** a banking platform that offers a financial operating system for startups and small businesses.
- **Accion Opportunity Fund:** a fund that provides financial support and loans for small businesses that advance racial, gender, and economic justice for all.
- **Opportunity Finance Network:** a national network of mission-driven financial institutions investing in rural, urban, and Native communities across America.

SMALL BUSINESS BORROWERS' BILL OF RIGHTS

The challenging landscape outlined above prompted a diverse coalition of stakeholders to take action through the creation of the Responsible Business Lending Coalition (RBLC). They came together with shared concerns about the rise of predatory lenders targeting small businesses across the United States. Working together, group members hashed out a set of practices to define responsible small business financing: the Small Business Borrowers' Bill of Rights.

Their efforts reflected the experience and perspectives of the diverse organizations represented, which included impact investors, lenders, civil society organizations, and more. Leaders from the impact investment and microfinance communities drew on their experience in international microlending, where a similar dynamic of predation had led to the development of the "Client Protection Principles"[2] (a set of standards for the microfinance sector) and the SMART Campaign. Fintech lenders shared their expertise in new lending technologies to help distinguish responsible innovation from irresponsible practices. Community Development Financial Institutions (CDFIs) shared practices and innovations applied by those lending to lower-income and disadvantaged users. The group also incorporated feedback from experts in financial inclusion and financial crises, including Michael Barr, now Vice Chair for Supervision of the Board of Governors of the Federal Reserve System.

The Small Business Borrowers' Bill of Rights sets out twenty-four specific practices that are applicable across a wide range of different products, business models, and structures. All parts of the Bill are designed to ensure fairness, transparency, and responsibility in small business financing. The Bill features a set of six fundamental rights for every small business owner:

The Right to Transparent Pricing and Terms. A borrower has the right to have the cost and terms of any financing being offered presented to them in writing and in a form that is clear, complete, and easy to compare with other financing options, so they can make the best decision for their business.

The Right to Non-Abusive Products. A borrower has the right to expect that the financing products offered by a lender will not trap his/her business in an expensive cycle of re-borrowing.

The Right to Responsible Underwriting. A borrower has the right to expect that a lender is offering financing based on underwriting practices that assess the ability of the borrower's business to succeed and repay.

The Right to Fair Treatment from Brokers. A borrower has the right to honest, transparent, and impartial communications with a broker regarding loan options, conflicts of interest, fees, and the financing options available.

The Right to Inclusive Credit Access. A borrower has the right to fair and equal treatment when seeking a loan including protections guaranteed under the Equal Credit Opportunity Act.

The Right to Fair Collections Practices. A borrower has the right to be treated fairly and respectfully through-out a collections process and the right to protections like those guaranteed under the Fair Debt Collection Practices Act.

[2]CGAP-Technical-Guide-Implementing-the-Client-Protection-Principles-A-Technical-Guide-for-Investors-Jan-2011.pdf

MOVEMENT BUILDING AND LEGISLATIVE ADVOCACY

The Small Business Borrowers' Bill of Rights was the right place to start, but the RBLC recognized that more industry and nonprofit leaders needed to sign on for it to have sector-wide impact. The group started to discuss the Bill at public events and present it at various industry engagements. Those efforts delivered results and today, over 100 organizations have signed on to the Small Business Borrowers' Bill of Rights. Lenders attest that they adhere to all of the practices it outlines and organizations that are not lenders sign as "endorsers," indicating their belief in these standards. Some endorsers include the National League of Cities, the National Urban League, the American Fintech Council, and the United States Hispanic Chamber of Commerce. The coalition has also influenced industry practices beyond the small business lending sector. In response to the traction visibility generated by RBLC's work, even large lenders that have not signed the Small Business Borrowers Bill of Rights have demonstrated improved practices such as voluntarily disclosing APRs.

ADVOCATING FOR LEGISLATIVE AND REGULATORY CHANGE

In addition to building industry consensus, the RBLC has realized the importance of incorporating the Small Business Borrowers' Bill of Rights into law. Although responsible actors in the market were signing onto the bill, debt traps and misleading pricing continued in the market. For example, the Wall Street Journal recently published an article titled, "Easy Finance Sources Pushed Some Small Businesses into Bankruptcy."[3] The volume of the "merchant cash advance" financing described in the Wall Street Journal's exposé was over six times the volume of traditional SBA lending nationwide, for the amounts below $250,000 that most "Main Street" scale businesses rely on.[4]

Although legislative efforts can be complex and take significant time to advance, the RBLC's efforts have already resulted in legislation in California and New York. Additionally, the RBLC has active legislation in Illinois, Maryland and New Jersey, and they continue to advocate for more transparency at the federal level for small business lending.

CALIFORNIA

The first legislative success of the Responsible Business Lending Coalition came in California in 2018. The Responsible Business Lending Coalition engaged over 500 chambers of commerce, community groups, civil rights groups, and lenders to support Bill 1235 (the Small Business Truth in Lending Act), which was modeled after the first of the six rights that make up Small Business Borrowers' Bill of Rights: the Right to Transparent Pricing and Terms. The bill applied transparency standards to small business financing based on the federal Truth in Lending Act, which has required transparent pricing in lending to consumers since 1968. Today, companies financing small businesses in California are required to disclose APRs, the total cost of capital, and other key terms, so that small business owners can "comparison shop" and make informed financing choices.

[3]An Easy Financing Source Pushes Some Small Businesses Into Bankruptcy - WSJ
[4]Merchant cash advance and online business lending reached an estimated $19 billion by 2019, according to the CFPB. See page 10, cfpb_1071-final-rule.pdf (consumerfinance.gov); Analogous SBA lending that year totaled $3 billion. https://careports.sba.gov/views/7a504Summary/Report.

This disclosure should create price competition among financing companies. Financing companies had been competing on speed, ease, and their ability to obfuscate costs because users could not compare them easily. Finance companies in California now need to compete on price more explicitly, with competition lowering the cost of credit, and catalyzing innovations that can further reduce costs for small businesses. RBLC estimates that the bill has saved 127,000 small businesses as much as $2.9 billion per year in unnecessary interest charges and fees. Since 2018, California's legislature has passed three additional small business financial protection bills supported by the Responsible Business Lending Coalition, all on a bipartisan basis.[5]

NEW YORK

Following California's success, similar legislation was enacted in New York, further solidifying the movement's impact and setting a precedent for other states. In December 2020, a similar piece of legislation was enacted in New York to regulate online small business lending practices known as the New York Small Business Truth in Lending Act. The New York law was inspired by the Responsible Business Lending Coalition's Small Business Borrowers' Bill of Rights and extended Truth in Lending transparency standards to small business financing.

FEDERAL EFFORT

At the Federal level, the Responsible Business Lending Coalition has focused on enabling lending by improving access to data. Data enables more effective assessments of ability to repay, enabling more lenders to underwrite.

FUTURE GOALS

The RBLC's impressive achievements have been realized despite limited financial resources and a heavy reliance on volunteer efforts. Until recently, the RBLC did not have dedicated staff and was only funded by limited dues from its 10 members. Those limitations have prevented the coalition from expanding its activities, reaching more stakeholders, and implementing additional advocacy and educational initiatives. Addressing those limitations is particularly relevant to growing the RBLC's legislative impact. While the state legislative efforts have been universally bipartisan, the RBLC have struggled with the more polarized environment of Washington DC and with advocating in all states contemplating policies. To enact responsible lending bills in more states, the organization needs more resources, more feet on the ground, and greater local engagement. Furthermore, in the federal environment, the organization is facing better organized, better resourced opponents from a sector with a lot to lose in the face of responsible lending regulations. To meet these challenges and continue building the movement for responsible small business lending, the RBLC is:

- **Building the Team**. In 2024, the RBLC brought on its first Executive Director, Louis Caditz-Peck. This marks the beginning of a shift from a volunteer-led program to dedicated leadership. Caditz-Peck was one of the lead original authors of Small Business Borrowers' Bill of Rights, and brings expertise from the fintech, CDFI, bank, and nonprofit sectors.
- **Expanding Industry Engagement.** The RBLC plans to open membership beyond the ten current members (which together represent over 1,000 organizations). Allowing new categories of members, establishing an investors council, and hosting public events will enable more organizations to become part of the movement. Growing the number of coalition members and deepening industry engagement will enhance the movement's impact.
- **Enhancing Financial Capability.** The RBLC is facing active opposition from financing companies that would prefer not to adhere to the Small Business Borrowers' Bill of Rights. To respond to that opposition adequately, RBLC members have stepped up their contributions and increased fundraising activities, including seeking grant support from impact investors and foundations.

[5]See STATEMENT: passage of SB 33 - RESPONSIBLE BUSINESS LENDING COALITION (borrowersbillofrights.org); Taking 'Junk Fees' Out With The Trash: Following California's Lead (forbes.com); California Enacts Stronger Financial Protections for Consumers - The Santa Barbara Independent;

LESSONS FOR INVESTORS

Community Investment Management (CIM)'s engagement with the RBLC exemplifies how impact managers can use their voice to drive ecosystem change and create greater impact through dedicated advocacy and strategic collaboration that remains in line with their primary investment activity. The Responsible Business Lending Coalition has provided CIM another vehicle for driving financing inclusion, amplifying CIM's direct investments in small business financing. As the RBLC expands its reach and resources, CIM's example serves as a call to action for other impact managers to support and engage in similar efforts, amplifying the impact of responsible business lending across the nation and potentially on a global scale in a responsible way. RBLC organized industry and nonprofit support to pass the Taxpayers First Act provision, which requires the IRS to make tax data available for digital underwriting. This Act promotes digital innovation and increases access to responsible capital.

The Federal Government has also incorporated standards from the Small Business Borrowers' bill of Rights into regulation on two further occasions: the Treasury's State Small Business Credit Initiative (SSBCI), including the CA Rebuilding Fund (2020), and as a requirement for CDFIs (2022).

POLICY-ENHANCED
IMPACT INVESTING

ABOUT POLICY ENHANCED IMPACT INVESTING

Policy-Enhanced Impact Investing represents a strategic partnership between Blue Haven Initiative, a pioneering single-family office dedicated to impact investing, and LAVA Strategies, a leading public affairs firm with a proven track record in policy advancement. This collaboration uniquely combines Blue Haven's expertise in deploying capital for both financial returns and positive social change with LAVA's deep experience in shaping policy across issues like climate action, cannabis regulation, and marriage equality. Together, they are building a community of impact investors and family offices interested in maximizing their societal impact by aligning investment, philanthropic, and political capital with policy opportunities. The partnership offers participants access to campaign-focused investment recommendations, relationship-building opportunities with policymakers, and collaborative learning experiences to help investors effectively engage in policy work as a tool for amplifying impact.

BLUEHAVEN
INITIATIVE

BLUE HAVEN INITIATIVE

Blue Haven Initiative (BHI) is a single-family office dedicated to putting wealth to work for competitive returns and positive social and environmental change. The team takes a total portfolio approach to impact investing and deploys capital across asset classes. Where markets aren't as efficient, Blue Haven leverages strategic philanthropy, catalytic capital, and policy levers. As pioneers in the field, BHI has continuously evolved its strategies to maximize impact, and its efforts with Policy-Enhanced Impact Investing are a natural outgrowth of its strategy.

LAVA
STRATEGIES

LAVA STRATEGIES

LAVA Strategies is a government consulting and public affairs firm founded by consultants who have been at the forefront of advancing policy over the last 15 years. LAVA has a proven track record of winning legislative campaigns in climate and clean energy, cannabis regulation, marriage equality, and increasing access to mental health services. For more information contact jennifer@lavastrategies.com.