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Key dimensions of the small business lending landscape

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1. Introduction

Section 1071 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) amended the Equal Credit Opportunity Act (ECOA) to require financial institutions to compile, maintain, and submit to the Bureau certain data on credit applications by women-owned, minority-owned, and small businesses. These data include the census tract of the business and the race, sex, and ethnicity of the principal business owners, in addition to a number of other data points.¹ Congress enacted Section 1071 for the purpose of facilitating enforcement of fair lending laws and enabling communities, governmental entities, and creditors to identify business and community development needs and opportunities for women-owned, minority-owned, and small businesses. The Bureau has interpreted Section 1071 to mean that obligations for financial institutions to collect and submit data “do not arise until the Bureau issues implementing regulations and those regulations take effect.”²

The Bureau is in the early stages of considering how best to implement the Section 1071 mandate. As one step in this rulemaking process, the Bureau is learning about the small business lending market, including lending to women-owned and minority-owned small businesses. This paper reflects the initial findings of the Bureau’s research, providing a preliminary understanding of the small business lending environment, with a particular emphasis on lending to women-owned and minority-owned small businesses. The Bureau hopes to engage in a dialogue with stakeholders about the small business lending market and the

¹ Dodd-Frank Wall Street Reform and Consumer Protection Act (DFA), Pub. L. 111-203, section 1071, 124 Stat. 1376 (2010) (section 704B of the Equal Credit Opportunity Act was added by section 1071 of the DFA) (codified at 15 U.S.C. 1691c-2).

² See Letter from Leonard Kennedy, General Counsel, CFPB, to Chief Executive Officers of Financial Institutions under Section 1071 of the Dodd-Frank Act (April 11, 2011) *available at* <https://www.consumerfinance.gov/policy-compliance/guidance/implementation-guidance/general-counsel-letter-regarding-section-1071-dodd-frank-act/>

issues that will need to be addressed as the Bureau moves forward to implement Section 1071 of the Dodd-Frank Act.

As an initial step in this process, the Bureau held a field hearing on May 10th, 2017 and subsequently released a Request for Information (RFI) regarding the small business lending market; in reviewing comments, we aim to augment the Bureau's expertise in this space.

Our preliminary research suggests the following conclusions:

- Small businesses play a key role in fostering community development and fueling economic growth both nationally and in their local communities. Women-owned and minority-owned small businesses in particular play an important role in supporting their local communities. To contribute meaningfully to the U.S. economy, small businesses – and especially women-owned and minority-owned small businesses – need access to credit to smooth business cash flows from current operations and to allow entrepreneurs to take advantage of opportunities for growth.
- Data on how small businesses engage with credit markets are incomplete. A number of data sets exist; however their value with respect to understanding credit access, particularly for small women-owned and minority-owned businesses, is limited both by scope and frequency. Definitional inconsistencies and a lack of data granularity result in a limited picture of the relationships between small businesses and financial institutions.

In some cases, existing data are dated and therefore may not be representative of current market dynamics. Nevertheless, we use this data in an attempt to synthesize available metrics in order to better understand the small business lending industry. Where appropriate, we discuss the limitations of existing data sets to describe the small business lending marketplace.

The remainder of this paper is arranged into four additional sections, followed by a brief conclusion. We invite interested parties to either respond to this paper, or use this paper as a means to frame their responses to our small business lending RFI.

Section 2 discusses the importance of small, women-owned, and minority-owned businesses to the U.S. economy while suggesting the complexities of defining this market. This section also provides an overview of the various set of definitions used to classify a business as “small”. We

further discuss existing surveys and their limitations with respect to quantifying the contribution of small, women-owned, and minority-owned businesses to the economy.

Section 3 discusses how readily-available financing assists in the development and growth of small businesses. Using available data, we describe the types of lenders and various financing products they offer to small businesses. To aid our research, we rely on survey data to understand how small businesses engage with financial credit markets. In addition, we discuss the two important federal datasets from the Federal Financial Institutions Examination Council (FFIEC), the Consolidated Reports of Condition and Income (“Call Reports”) and the Community Reinvestment Act (“CRA”) data. Using these data, we analyze statistics on how certain depository financial institutions engage with businesses. Additionally, using available data and estimates provided by industry experts, we present the small business lending product landscape through estimated dimensions of dollar volume and account totals.

Section 4 describes the impact of the recent recession on the ability of small businesses to access credit. We identify the data gaps that limit our ability to fully understand the ramifications of the recession on small businesses.

Section 5 identifies the need for additional data and discusses how implementing the data collection described in Section 1071 of the Dodd-Frank Act may further understanding of the small business lending market.

2. An introduction to small, women-owned, and minority-owned businesses

2.1 Sizing the small businesses market

While it is well understood that small businesses play a pivotal role in the U.S. economy, there is little consistency in how they are defined. Answering the most basic question of “how many small businesses are in the United States” will differ depending on the small business definition employed. Various definitions of a small business have been used across the federal government, each of which was established for a different purpose. While federal definitions may be used to determine eligibility for a number of federal programs, industry definitions are typically used to operationalize lending and manage risks by the private sector. Conversations with a variety of financial institutions suggest there is little consensus on how they classify a business as small. Where data are available, we attempt to quantify the number of small businesses using frequently used sizing dimensions.

The Small Business Administration’s (SBA) industry-based size standards are among the most widely used federal definitions of what qualifies as a small business.³ These size standards

³ See 15 U.S.C. 632(a)(2) (authorizing the SBA to establish size standards that meet certain criteria). These size standards are used in addition to a base definition that the small business concern must be independently owned and operated and not dominant in its field of operation. 15 U.S.C. 632(a)(1). Section 1071 defines “small business” as having “the same meaning as the term ‘small business concern’” in the Small Business Act. Please see the Bureau’s

provide granular definitions of a small business, with size thresholds differing by the specific industry in which the business operates.⁴ Using the North American Industry Classification System (NAICS), the SBA generally establishes either an employee- or revenue-based size standard to define small business within each industry.⁵ The following sections quantify the number of small businesses in the United States based on the SBA's more general employee- and revenue-based definitions of a small business.⁶

2.1.1 Small businesses defined by number of employees

The number of employees at a business is one metric used by the SBA to qualify a business as small.⁷ This size standard approach is generally presented in terms of the average number of employees employed by a business over the prior 12 months.⁸ Where the SBA uses an employee-based size standard, it most frequently classifies businesses with fewer than 500 employees as small.⁹ However as discussed above, this size standard threshold varies depending on the specific industry. For example, size thresholds measured by number of employees range from 500 to 1,250 in the food manufacturing (NAICS 311) industries, and 100 to 250 in wholesaling industries (NAICS 423).¹⁰

Request for Information for further discussion of Section 1071's definition of small business, available on our website. See http://files.consumerfinance.gov/f/documents/201705_cfpb_RFI_Small-Business-Lending-Market.pdf.

⁴ 13 CFR 121.201; U.S. Small Bus. Admin., *Table of Small Business Size Standards* (Feb. 26, 2016), available at https://www.sba.gov/sites/default/files/files/Size_Standards_Table.pdf

⁵ 13 CFR 21.201; U.S. Small Bus. Admin., *Table of Small Business Size Standards* (Feb. 26, 2016), available at https://www.sba.gov/sites/default/files/files/Size_Standards_Table.pdf

⁶ Importantly, the SBA's industry-specific standards described above are primarily used by the SBA for federal contract purposes. In addition to SBA's industry-specific size standards, the Small Business Act mandates the SBA also use an alternative size standard to determine small business eligibility for the SBA's 7(a) general small business loan program and 504 asset-based loan program. This simpler alternative size standard defines "small businesses" as those with a tangible net worth of no more than \$15 million and average net income of no more than \$5 million after federal tax as measured over the two fiscal years prior to the date of application. See 15 U.S.C. 632(a)(5). This section was amended in 2010 as part of the Small Business Jobs Act and supersedes the SBA regulatory threshold amounts in 13 CFR 121.301(b).

⁷ See 13 CFR 121.106 (How does SBA calculate number of employees)

⁸ U.S. Small Bus. Admin., *SBA Size Standards Methodology* (Apr. 2009), available at http://www.sba.gov/sites/default/files/size_standards_methodology.pdf.

⁹ 13 CFR 121.101 (What are SBA size standards). U.S. Small Bus Admin., *Summary of Size Standards by Industry Sector* (Feb. 26 2016), available at <https://www.sba.gov/contracting/getting-started-contractor/make-sure-you-meet-sba-size-standards/summary-size-standards-industry-sector> (discussing use of the 500-employee threshold).

¹⁰ See U.S. Small Bus. Admin, *supra* note 4 at pages 6 and 20.

According to the Census Bureau's 2012 Survey of Business Owners, there were roughly 27.63 million businesses in the United States.¹¹ Nearly all businesses (about 27.61 million, or 99.9 percent) would be considered small using the SBA's 500 employee threshold. Table 1 provides a more detailed distribution of the number of U.S. firms by the number of employees, including the distributions for women-owned¹² and minority-owned¹³ businesses.

¹¹ A 2014 estimate by the SBA suggests there are 28.8 million small businesses in the United States when using the 500 employee threshold. To calculate this statistic, the SBA relies on two data sources: the Statistics of U.S. Business and the Nonemployer Statistics, both by the U.S. Census Bureau. Importantly, these datasets measure the number of establishments, not firms in the United States, and therefore may over represent the number of businesses. From the Bureau of Labor Statistics, "an establishment is a single physical location where one predominant activity occurs. A firm is an establishment or a combination of establishments" and may be defined by its IRS identification number. See Bureau of Labor Statistics, *Establishment firm or enterprise: does the unit of analysis matter?*, (Nov. 2016) available at <https://www.bls.gov/opub/mlr/2016/article/establishment-firm-or-enterprise.htm>. For the remainder of the paper we will reference the Census's Bureau's 2012 Survey of Business Owners, which measures firms. The Survey of Business Owners classifies firms as "a business organization or entity consisting of one domestic establishment (location) or more under common ownership or control. All establishments are included as part of the owning or controlling firm." U.S. Census Bureau, *Survey of Business Owners & Self-Employed Persons: Methodology – 2012 Survey of Business Owners*, (last visited Feb. 27, 2017) available at <https://www.census.gov/programs-surveys/sbo/technical-documentation/methodology/2012-sbo-methodology.html>. The Survey of Business Owners is conducted every five years and was last conducted in 2012. For the statistics cited in this paper, see U.S. Census Bureau, *Statistics for All U.S. Firms by Industry, Gender, Ethnicity, and Race for the U.S., States, Metro Areas, Counties, and Places: 2012*, American Fact Finder, (last visited Mar. 27, 2017) available at https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=SBO_2012_00CSA01&prodType=table.

¹² See *infra* Section 2.3 (discussing the definition of women-owned business used by the Census Bureau).

¹³ See *infra* Section 2.4 (discussing the definition of minority-owned business used by the Census Bureau).

TABLE 1: U.S. FIRMS BY NUMBER OF EMPLOYEES

	Number of all firms	Percent of all firms	Number of minority-owned firms	Percent of all minority-owned firms	Number of women-owned firms	Percent of all women-owned firms
Total firms	27,626,360	100.00%	7,952,386	100.00%	9,878,397	100.00%
Non-employer*	22,810,999	82.57%	7,159,461	90.03%	8,976,226	90.87%
1-49 employees	4,598,336	16.64%	775,460	9.75%	880,443	8.91%
50-99 employees	116,988	0.42%	11,457	0.14%	13,324	0.13%
100-499 employees	82,313	0.30%	5,392	0.07%	7,583	0.08%
500+ employees	17,724	0.06%	616	0.01%	820	0.01%

Source: 2012 Survey of Business Owners, United States Census Bureau. Importantly, this survey measures firms.¹⁴

*The Census Bureau compiles statistics on all firms as well as all employer-firms. Non-employer statistics in Table 1 include 609,098 businesses that had no paid employees in the sampling month; however, these businesses may have had paid employees at other points throughout the sampling year.

Of the 27.63 million businesses identified in the 2012 Census of Business, about 82.6 percent are non-employer businesses, or businesses without employees other than the owner.¹⁵ The overwhelming majority of women-owned and minority-owned businesses, approximately 99.99 percent for each group, have fewer than 500 employees. Further, a significant share of minority-owned (90.0 percent) and women-owned businesses (90.9 percent) are non-employer small businesses.

¹⁴ The Survey of Business Owners classifies firms as “a business organization or entity consisting of one domestic establishment (location) or more under common ownership or control. All establishments are included as part of the owning or controlling firm.” U.S. Census Bureau, *Survey of Business Owners & Self-Employed Persons: Methodology – 2012 Survey of Business Owners*, (last visited Feb. 27, 2017) available at <https://www.census.gov/programs-surveys/sbo/technical-documentation/methodology/2012-sbo-methodology.html>.

¹⁵ According to the U.S. Census Bureau, a non-employer business is one that has, “no paid employees and [is] subject to federal income tax.” See, U.S. Census Bureau, *Nonemployer statistics*, available at <https://www.census.gov/econ/nonemployer/>.

2.1.2 Small businesses defined by average annual receipts

A second approach used by the SBA is to establish the small business size standard by average annual receipts, or revenue.¹⁶ The most common size standard the SBA uses for average annual receipts is \$7.5 million; however, similar to the employee-size standards, the SBA adjusts the revenue thresholds based on industry.¹⁷ Again, there is wide variability by industry in this classification approach. For example, for industries within the personal and laundry services subsector (NAICS 812), the annual receipts threshold for businesses to be considered small may range from \$5.5 million to \$38.5 million.¹⁸

Table 2 presents statistics on the distribution of U.S. firms by average annual receipts from the 2012 Survey of Business Owners. The Census Survey of Business Owners average annual receipt categories do not allow us to calculate the number of businesses with receipts less than \$7.5 million, in accordance with the SBA's most common standard. However, the data do allow segmentation for those businesses with receipts under \$1 million as reported in the table below, providing estimates on the number of small businesses based on this threshold.¹⁹ From the 2012 Census Survey of Business, approximately 95 percent of all businesses had less than \$1 million in annual revenues.²⁰ Roughly 97.7 percent of all minority-owned businesses and 98.3 percent of all women-owned businesses were similarly under this \$1 million in annual receipts threshold.

¹⁶ 13 CFR 121.104 (“Receipts means all revenue in whatever form received or accrued from whatever source, including from the sales of products or services, interest, dividends, rents, royalties, fees, or commissions, reduced by returns and allowances.”).

¹⁷ See 13 CFR 121.101 (defining SBA size standards). See U.S. Small Bus. Admin., *Summary of Size Standards by Industry Sector* (Feb 26, 2016), available at <https://www.sba.gov/contracting/getting-started-contractor/make-sure-you-meet-sba-size-standards/summary-size-standards-industry-sector> (explaining the \$7.5 million threshold).

¹⁸ See U.S. Small Bus. Admin, *supra* note 4 at page 39.

¹⁹ The Census Bureau data allows for subdividing businesses by their annual receipts. The largest category “firms with sales/receipts of \$1 million or more” does not allow for a nuanced picture of small businesses above this threshold. While the data does include a number of smaller categories for businesses with less than \$1 million in receipts, we opted to use the \$1 million and less definition to most closely align with the SBA’s modal \$7.5 million average annual receipts threshold.

²⁰ U.S. Census Bureau, *Statistics for All U.S. Firms with Paid Employees by Industry, Gender, and Employment Size of Firm for the U.S. and States: 2012 More Information 2012 Survey of Business Owners*, American Fact Finder, (last visited Feb 27, 2017), available at http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=SBO_2012_00CSA09&prodType=table/

TABLE 2: U.S. FIRMS BY SALES/RECEIPTS

	Number of all firms	Percent of all firms	Number of minority-owned firms	Percent of all minority-owned firms	Number of women-owned firms	Percent of all women-owned firms
Total firms	27,626,360	100.00%	7,952,386	100.00%	9,878,397	100.00%
Firms with sales/receipts up to \$99,999	20,993,485	75.99%	6,808,014	85.61%	8,729,829	88.37%
Firms with sales/receipts between \$100,000 and \$999,999	5,236,687	18.96%	960,646	12.08%	976,725	9.89%
Firms with sales/receipts above \$1,000,000	1,396,188	5.05%	183,726	2.31%	171,842	1.74%

Source: 2012 Survey of Business Owners, United States Census Bureau. Importantly, the Census Bureau defines firms differently from establishments.²¹

2.2 Economic impact of small businesses

Small businesses are critical to an innovative and dynamic economy, no matter how they are defined. Small businesses, when defined as having fewer than 500 employees, provide work for

²¹ The Survey of Business Owners classifies firms as “a business organization or entity consisting of one domestic establishment (location) or more under common ownership or control. All establishments are included as part of the owning or controlling firm.” U.S. Census Bureau, *Survey of Business Owners & Self-Employed Persons: Methodology – 2012 Survey of Business Owners*, (last visited Feb. 27, 2017) available at <https://www.census.gov/programs-surveys/sbo/technical-documentation/methodology/2012-sbo-methodology.html>.

almost half of all employees in the private sector.²² Estimates suggest these businesses have created two out of every three jobs since 1993.²³

A number of studies have been conducted on the economic benefits of small businesses to their business owners. In a 2015 Small Business Credit Survey of non-employer firms conducted in 26 states, 64 percent of respondents stated that their small business was their primary source of income.²⁴ A 2013 study by the Federal Reserve Bank of Atlanta found that counties with a higher percentage of their workforce employed by small local businesses exhibited positive trends with respect to local incomes, employment rates, and poverty rates.²⁵

One, more dated study attempted to quantify the community-level benefits of small businesses using data from the 1999 Census Population Survey. This study, conducted in coordination with the Bureau of Labor Statistics and SBA economists, found that small businesses (defined as firms with fewer than 500 employees) are more likely to hire employees with a high school diploma when compared to larger firms.²⁶ This same study also found that small businesses are more likely to hire individuals that, prior to their small business employment, received some form of financial assistance either from the government or relatives.²⁷

As will be discussed in later sections, we have a limited understanding about women-owned and minority-owned small businesses and their contributions to local economies given the scarcity of data.

²² JPMorgan Chase Institute, *The Ups and Downs of Small Business Employment* (Jan. 2017), available at <https://www.jpmorganchase.com/corporate/institute/report-small-business-payroll.htm>.

²³ U.S. Small Bus. Admin., Office of Advocacy, *An Analysis of Small Business and Jobs* (Mar. 2010), available at [https://www.sba.gov/sites/default/files/files/an%20analysis%20of%20small%20business%20and%20jobs\(1\).pdf](https://www.sba.gov/sites/default/files/files/an%20analysis%20of%20small%20business%20and%20jobs(1).pdf).

²⁴ Fed. Res. Banks of Cleveland, New York, Atlanta, Boston, Cleveland, Philadelphia, Richmond, St. Louis, *2015 Small Business Credit Survey: Report on Nonemployer Firms* (2016), available at <https://www.clevelandfed.org/community-development/small-business/about-the-joint-small-business-credit-survey/2015-joint-small-business-credit-survey.aspx>.

²⁵ This study defined small local businesses as those with less than 100 employees. Anil Rupasingha, *Locally Owned: Do Local Business Ownership and Size Matter for Local Economic Well Being?*, (Fed. Res. Bank of Atlanta, Discussion Paper, No. 01-13, 2013), available at <https://www.frbatlanta.org/-/media/documents/community-development/publications/discussion-papers/2013/01-do-local-business-ownership-size-matter-for-local-economic-well-being-2013-08-19.pdf>

²⁶ Headd, Brian. *The Characteristics of Small-Business Employees*. Monthly Lab. Rev., Apr. 2000, available at stats.bls.gov/opub/mlr/2000/04/art3full.pdf.

²⁷ *Id.*

2.3 Women-owned small businesses

While not as varied as the definitions for small businesses, there are differences in the ways in which a women-owned small business is defined.²⁸ The SBA, in regulations, defines a women-owned small business as a firm that is “not less than 51 percent unconditionally and directly owned and controlled by one or more women who are United States citizens,” and that meets the definition of small business concern set forth by the SBA.²⁹ The Census Survey of Business Owners provides a slightly different definition of women-owned or female-owned businesses of any size as those where women own 51 percent or more of the equity, interest or stock of the business.³⁰

Using the most recent data available from the 2012 Census Survey of Business Owners, there were approximately 9.9 million women-owned businesses of any size in the United States. In 2012, the number of women-owned businesses had increased 26.8 percent from 2007, when the prior iteration of this survey was conducted.³¹ Women-owned businesses account for approximately 36.3 percent of all non-farming, private sector firms. These businesses may be found in a variety of industry sectors, the most numerous being in the health care and social assistance program category, which accounts for about 16 percent of women-owned businesses.³²

The 2012 Survey of Business Owners data highlight that women-owned firms generated \$1.4 trillion in total receipts in 2012, representing a 33 percent increase from 2007.³³ Employer

²⁸ Section 1071 defines women-owned business as “a business—(A) more than 50 percent of the ownership or control of which is held by 1 or more women; and (B) more than 50 percent of the net profit or loss of which accrues to 1 or more women.” 15 U.S.C. § 1691c-2(h)(6).

²⁹ 13 CFR 127.200

³⁰ U.S. Census Bureau, *Survey of Business Owners & Self-Employed Persons: Methodology – 2012 Survey of Business Owners*, (last visited Feb. 27, 2017) available at <https://www.census.gov/programs-surveys/sbo/technical-documentation/methodology/2012-sbo-methodology.html>.

³¹ “Data have been collected every 5 years since 1972, for years ending in “2” and “7” as part of the economic census.” U.S. Census Bureau, *Survey of Business Owners* (2012), available at <https://www.census.gov/econ/overview/mu0200.html>.

³² Nat’l Women’s Bus. Council, *Fact Sheet on Women-owned Businesses* (2012), available at <https://www.nwbc.gov/facts/fact-sheet-women-owned-businesses>.

³³ U.S. Census Bureau, Statistics for All U.S. Firms by Industry, Gender, and Receipts Size for the U.S. and States: 2012 More Information 2012 Survey of Business Owners, American Fact Finder, (last visited Feb 27, 2017), available

women-owned businesses, defined by the Census Bureau as those women-owned firms with at least one employee, employed over 8.4 million workers and provided \$263.7 billion in salary, wages, and benefits to their employees in 2012.³⁴

Of the women-owned firms identified in the 2012 Survey of Business Owners, 91 percent were non-employer firms and nearly 100 percent had fewer than 100 employees. Ninety-eight percent had revenue under \$1 million; in comparison, 94 percent of male-owned firms³⁵ had revenue below that level.

The Survey of Small Business Owners is conducted every 5 years, with the most recent iterations being in 2007 and 2012. This limitation does not allow for a more dynamic, current understanding of how women-owned small businesses may react to changing economic conditions.

Given the lack of more recent data, a 2016 report commissioned by American Express attempts to estimate the growth in women-owned businesses since 2012. The report, which relied on statistics from the 2012 Survey of Business Owners supplemented with figures on the U.S. gross domestic product, estimates that there are 11.3 million women-owned businesses. This represents a 45 percent increase in the number of women-owned firms from 2007, as compared with a nine percent growth for all businesses during this time.³⁶ American Express figures also suggest women-owned firms employ nearly nine million people and are responsible for generating over \$1.6 trillion in revenues.

at

https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=SBO_2012_00CSA05&prodType=table

³⁴ *Id.*

³⁵ Statistics on male-owned firms were calculated using the male-owned category in the 2012 Census of Business Survey. The male-owned firm category excludes those firms that are either women-owned or are equally owned by males and females.

³⁶ Womenable & American Express, *The 2016 State of Women-Owned Businesses In The U.S.* (2016), <http://www.womenable.com/70/the-state-of-women-owned-businesses-in-the-u.s.-2016>.

2.4 Minority-owned small businesses

Definitions of minority-owned businesses, when compared to definitions of women-owned businesses, are slightly more nuanced.³⁷ With regard to a definition of minority-owned businesses, the SBA incorporates a minority business ownership criterion for purposes of qualifying businesses for their 8(a) business development program; this program is intended to help small, disadvantaged businesses compete in the marketplace.³⁸ Businesses where at least 51 percent of the firm is owned by Black Americans, Hispanic Americans, Native Americans, Asian Pacific Americans or Subcontinent Asian Americans may be certified as socially disadvantaged and may qualify for SBA programs.³⁹ For purposes of the Survey of Small Business, the Census Bureau defines minority-owned businesses as a business where “Hispanics, Blacks or African Americans, American Indians and Alaska Natives, Asians, Native Hawaiians and Other Pacific Islanders, and/or persons of some other race not classified as ‘non-Hispanic White’ own 51 percent or more of the equity, interest, or stock of the business.”⁴⁰

Data from the 2012 Census Survey of Business Owners suggests there were nearly eight million minority-owned businesses in the United States, representing approximately 29 percent of all businesses.⁴¹ The number of minority-owned businesses in the United States increased by 38 percent from 2007 to 2012, according to the same survey.⁴² In contrast, the number of non-minority firms experienced a five percent decrease over this same period.⁴³

³⁷ Section 1071 defines minority-owned business as “a business—(A) more than 50 percent of the ownership or control of which is held by 1 or more minority individuals; and (B) more than 50 percent of the net profit or loss of which accrues to 1 or more minority individuals.” 15 U.S.C. § 1691c-2(h)(5).

³⁸ U.S. Small Bus. Admin., *About the 8(a) Business Development Program*, available at <https://www.sba.gov/contracting/government-contracting-programs/8a-business-development-program/about-8a-business-development-program>.

³⁹ Businesses may qualify for the SBAs 8(a) program if they are socially or economically disadvantaged. In addition to the “presumed group” minority categories mentioned above, individuals outside of these categories may petition the SBA for eligibility considerations. Additionally, the SBA requires businesses to meet certain economic disadvantage requirements, ownership requirements, control and management requirements and character requirements.

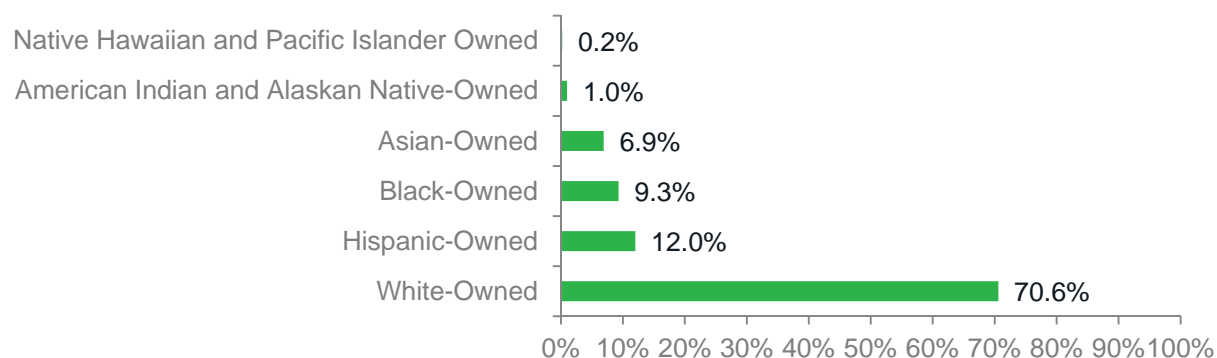
⁴⁰ See U.S. Small Bus. Admin., *Social Disadvantage Eligibility*, available at <https://www.sba.gov/contracting/government-contracting-programs/8a-business-development-program/eligibility-requirements/social-disadvantage-eligibility>.

⁴¹ As is the case with women-owned businesses, our most recent understanding of minority-owned businesses is based on the 2012 Survey of Small Business Owners.

⁴² U.S. Census Bureau, *Statistics for All U.S. Firms by Industry, Gender, Ethnicity, and Race for the U.S., States*,

Figure 1 presents the demographics of business owners in the United States. About 12 percent of firms in the United States are owned by Hispanics, representing almost 41 percent of all minority-owned firms; 9.3 percent of all businesses are black-owned, representing almost one-third of all minority-owned businesses.

FIGURE 1: DEMOGRAPHICS OF U.S. BUSINESS OWNERS



Source: 2012 Survey of Business Owners, Out of 27.63 million firms

Although minority-owned businesses are found in many industry sectors, these businesses are primarily concentrated in the service sector, the healthcare and social assistance sector, and the administrative support, waste management and remediation sectors.⁴⁴ According to the 2012 Survey of Business Owners, minority-owned businesses collectively employed nearly 7.1 million people and generated \$1.4 trillion in annual revenues.⁴⁵

Metro Areas, Counties, and Places: 2012, American Fact Finder, (last visited Feb. 27, 2017) available at <https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?scr=bkmk>.

⁴³ U.S. Department of Commerce, Minority Business Development Agency, *Fact Sheet: U.S. Minority Owned Firms* (2016), available at <http://www.mbda.gov/pressroom/research-library>.

⁴⁴ Edgcomb, Elaine & Joyce Klein, *Opening Opportunities, Building Ownership: Fulfilling the Promise of Microenterprise in the United States*, (Carol Rugg eds., 2005), available at <http://fieldus.org/Publications/FulfillingthePromise.pdf>

⁴⁵ U.S. Census Bureau, *Statistics for All U.S. Firms With Paid Employees by Industry, Race, and Employment Size of*

Of the minority-owned firms identified in the 2012 Survey of Business Owners, 90 percent were non-employer firms and an additional 9.9 percent had fewer than 100 employees. About 97.7 percent of minority-owned firms had revenue under \$1 million; in comparison, 94.4 percent of non-minority owned firms had revenue below that level.⁴⁶

Firm for the U.S. and States: 2012, American Fact Finder, (last visited Feb. 27, 2017) available at https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=SBO_2012_00CSA11&prodType=table (number of employees).
https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=SBO_2012_00CSA07&prodType=table (receipts).

⁴⁶ Statistics on non-minority owned firms were calculated using the non-minority category in the 2012 Census of Business Survey. The non-minority firm category excludes those firms that are either minority-owned or are equally owned by individuals in a minority group and a non-minority group. See U.S. Census Bureau, *2012 Survey of Business Owners*, American Fact Finder, (last visited Feb 27, 2017), available at <https://www.census.gov/programs-surveys/sbo.html>.

3. Small business access to financing

Access to financing is vitally important in allowing businesses to grow. For small businesses financing not only provides resources to smooth business cash flows for current operations, but also affords business owners the opportunity to invest in business growth. An analysis by the National Small Business Association (NSBA), which examined data from 1993 through 2016, found a correlation between small business owners' ability to hire and their ability to access credit.⁴⁷ This same study found that, while not the sole cause, the inability to secure financing may have led 16 percent of small businesses to reduce the number of employees and approximately 10 percent of small businesses to reduce employee benefits. A further 10 percent of small businesses were unable to increase store inventory in order to meet existing demand.⁴⁸ A separate study found that businesses with fewer than 10 employees were three times more likely to create jobs if they received a loan.⁴⁹ Together, these studies suggest that the ability to access financing plays an important role in allowing small businesses to grow and contribute to the economy.

⁴⁷ Nat'l Small Bus. Association, *2016 Year-End Economic Report*, available at <http://www.nsba.biz/wp-content/uploads/2017/02/Year-End-Economic-Report-2016.pdf>

⁴⁸ *Id.*

⁴⁹ Luz Gomez & Elaine L. Edgcomb, FIELD at the Aspen Institute, *A Newly Crowded Marketplace: How For Profit Lenders are Serving Microentrepreneurs* (2011), available at <http://fieldus.org/publications/ForProfitLenders.pdf>.

According to the National Economic Council, “despite serving as a critical part of the U.S. economy, small businesses generally have limited access to capital and other vital resources that help entrepreneurs grow their businesses.”⁵⁰

3.1 Business life cycle and credit access

The stage in the life cycle of a business may impact how a business is able to interact with financial markets. While all small businesses need capital to operate, where they turn to for that capital can vary depending on a number of business characteristics, most notably the age or performance history of the business. Many new business owners or startups may first turn to personal funds, including savings and personal credit, as an initial source of business financing.⁵¹ Young firms may be unable to provide the necessary performance history often required to receive financing from financial institutions.

Recent research suggests that 70 percent of small businesses seek loans of less than \$250,000.⁵² Securing credit from established financial institutions may be a more viable option for a business once it is able to establish positive financial performance history, however reliable data exploring the dynamics of this relationship remains elusive.

According to data from the 2015 Joint Federal Reserve Small Business Credit Survey, about 21 percent of surveyed employer small businesses⁵³ that applied for financing and have been in

⁵⁰ National Economic Council, *A Framework for Fintech*, at 4 (2017), available at <https://www.scribd.com/document/336627464/A-Framework-for-FinTech-National-Economic-Council-January-2017-White-House>.

⁵¹ The use of personal funds and assets is not limited to startups. According to the 2015 Federal Reserve Small Business Credit Survey, about 53 percent of employer small businesses reported using personal funds in support of their business during their first two years of operation. See Fed. Res. Bank of N.Y., *2015 Fed Small Business Employer Firms Survey*, available at <https://www.newyorkfed.org/smallbusiness/small-business-credit-survey-employer-firms-2015>. According to the 2016 Joint Federal Reserve Survey, 87 percent of employer firms rely on the owner’s personal credit scores to obtain financing. See Fed. Res. Bank of New York, Atlanta, Boston, Cleveland, Philadelphia, Richmond, St. Louis, Dallas, Kansas City, Minneapolis, San Francisco *2016 Small Business Credit Survey: Report on Employer Firms*, at iv (April 2017), available at <https://www.newyorkfed.org/medialibrary/media/smallbusiness/2016/SBCS-Report-EmployerFirms-2016.pdf>.

⁵² Karen Mills & Brayden McCarthy, *The State of Small Business Lending: Innovation and Technology and the Implications for Regulation*, (Harvard Business School, Working Paper No 17-042, 2016) at 3, available at http://www.hbs.edu/faculty/Publication%20Files/17-042_30393d52-3c61-41cb-a78a-ebbe3e040e55.pdf.

⁵³ Employer businesses are those with at least one employee beyond the business owner.

operation less than 2 years did not receive any financing, while only 42 percent received the full amount requested. In comparison, for those firms in business 11 or more years, about 12 percent did not receive any financing while 61 percent received the full amount requested.⁵⁴ Notably, this survey of employer businesses was conducted in only 26 states and therefore may not be nationally representative.⁵⁵

3.2 Financial products available to small businesses

Financial institutions offer a number of financing products to small businesses.⁵⁶ Some of the most common products include lines of credit, which may be used to manage economic fluctuations and short-term purchases; term loans, which may be used for more significant investments including equipment, consolidating debt, or business expansion; or business credit cards, which may be used to make business purchases. Within these broad categories there are a number of discrete subcategories. For example, term loans can be amortizing or structured with a balloon payment, and the interest rates on such loans can be variable or fixed. Loans can be secured by tangible property (e.g., commercial real estate loans or commercial auto loans) or by intangibles (e.g., receivables). Loans can be government-guaranteed (e.g., SBA loans), personally-guaranteed, or made without any guarantee.

In addition to traditional banking institutions, a number of specialized financial institutions provide financing to small businesses. These include, for example, retailers or wholesalers who may offer supplier financing (also known as trade credit) for purchases of goods or services; equipment lessors who may lease equipment in exchange for regular payment; and various non-

⁵⁴ Fed. Res. Bank of N.Y., *2015 Fed Small Business Employer Firms Survey* at 6, available at <https://www.newyorkfed.org/smallbusiness/small-business-credit-survey-employer-firms-2015>

⁵⁵ *Id.*

⁵⁶ While equity financing remains an option for businesses, this paper will focus predominately on non-equity, or debt financing. Federal Reserve Banks of Cleveland, New York, Atlanta, Boston, Cleveland, Philadelphia, Richmond, St. Louis, *2015 Small Business Credit Survey: Report on Employer Firms*, at 6 (2016), available at <https://www.newyorkfed.org/smallbusiness/small-business-credit-survey-employer-firms-2015>.

depository institutions which may engage in factoring or may provide what are denominated as “advances” for a share of future receipts.

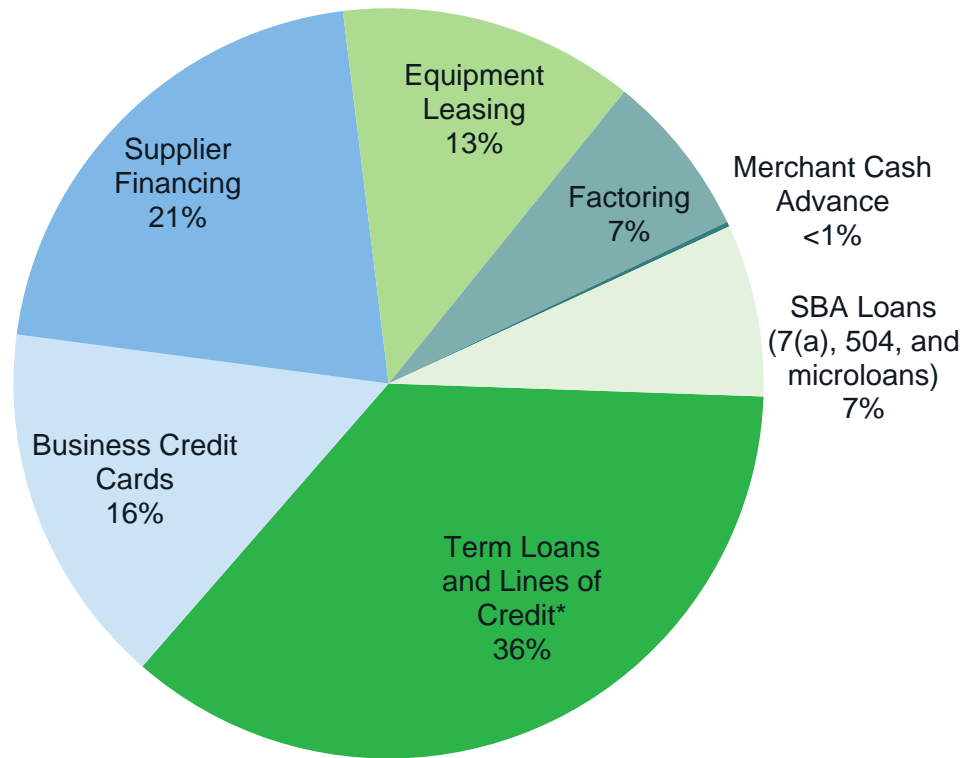
According to the SBA, small business non-equity financing of all types amounted to about \$1 trillion in 2013.⁵⁷ While existing data sources attempt to categorize the small business financing market by financing product, currently there is only a very limited ability to accurately size the small business lending market even by broad product categories, let alone subcategories. This paper aims to provide more recent estimates of the various products provided to small businesses based on conversations with industry and extrapolations of market trends. These estimations remain difficult given the significant definitional inconsistencies across various data sources. Additionally, the diffuse nature of the various product markets, each with a number of players engaged in providing these financing products, leads to a fragmented understanding of the small business financing space at best. Figure 2 describes our best current estimates of the aggregate dollar volume of various financial products used by small businesses, while Figure 3 estimates the number of accounts by product for a subset of these products.

Our estimates in Figure 2 suggest the small business financing market is roughly \$1.4 trillion in size. Term loans, lines of credit and business credit cards are among the most common financing products offered by financial institutions. In total, when excluding supplier financing these products comprise nearly three-fourths of the non-equity financing market.⁵⁸

⁵⁷ U.S. Small Bus. Admin., Office of Advocacy, *Small Business Finance: Frequently Asked Questions* (2014), available at, https://www.sba.gov/sites/default/files/2014_Finance_FAQ.pdf.

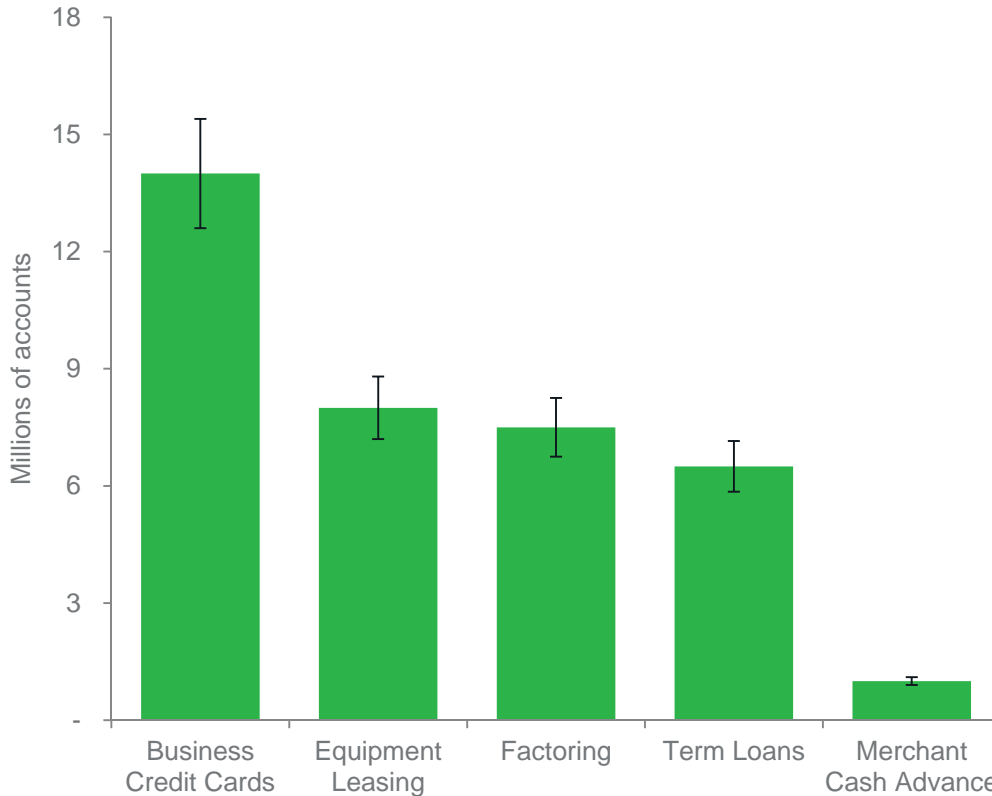
⁵⁸ Supplier financing, or trade credit, is not offered by traditional financing institutions but rather is a form of credit that is typically offered by sellers for which payment is not immediately required. See Gregory E. Elliehausen & John D. Wolken, Bd. of Governors Fed. Res. Sys., *The Demand for Trade Credit: An Investigation of Motives for Trade Credit Use by Small Businesses* (FRB1/1-1000-0993), available at https://www.researchgate.net/publication/5039966_The_Demand_for_Trade_Credit_An_Investigation_of_Motives_for_Trade_Credit_Use_by_Small_Businesses.

FIGURE 2: ESTIMATED MARKET SHARE OF FINANCING PRODUCTS AVAILABLE TO SMALL BUSINESSES



*Source: Bureau estimates supported by available data. The total aggregate amount of debt financing available to small businesses is estimated at \$1.4 trillion. This figure is not meant to represent an exhaustive list of products used by small businesses to finance their business needs. Due to rounding, the statistics may add up to more than 100 percent. *Bank loans, including lines of credit, are measured using the outstanding amounts as presented in the FFIEC Call Reports. Outstanding amounts only describe the amounts that are still owed to the financial institutions by the borrowers. The outstanding amount for lines of credit underrepresents the share of credit actually available to a business as a source of financing. A different measure that might avoid this underrepresentation may be the aggregate committed amounts, or original amounts offered to small businesses as a line of credit. Further, outstanding amounts for term loans made under the SBA's 7(a), 504 and micro loan programs disaggregated for additional detail. These totals are subtracted from the total term loan and lines of credit amounts to avoid double counting.*

FIGURE 3: ESTIMATED NUMBER OF ACCOUNTS BY DEBT FINANCING PRODUCT
(BARS REPRESENT 10 PERCENT MARGIN OF ERROR)



Statistics are based on an estimated 33 – 37 million total

Source: Bureau estimates made with assumptions supported by conversations with industry and external experts. For purposes of Figure 3, SBA program loans are included in term loans. Business credit cards may be seen as a type of line of credit. While other line of credit accounts may exist, we were unable to estimate their frequency; there may be many instances where an account exists, but it is never drawn upon, and therefore not visible in existing data sources.

As rough as these estimates of the aggregate size and composition of the market are, there are even less data available with respect to the flow of credit to women-owned and minority-owned small businesses. Accordingly, we do not attempt to estimate the extent to which those businesses are able to obtain financing or compare their experience with the experience of other small businesses seeking financing.

3.3 Financial institutions engaged in lending to small businesses

There are a number of different financial institutions that supply credit primarily in the form of term loans, lines of credit, or business credit cards to small businesses. These institutions include large banks, small banks, credit unions and alternative lenders. We rely on a mix of survey data and federal datasets to help explain the extent of small loans to businesses and small business lending from these financial institutions.

3.3.1 Survey results on small business engagement with financial institutions

Survey data from the 2015 and 2016 Federal Reserve Small Business Credit Survey provide information on how small businesses engage with financial institutions. We rely on the 2015 Federal Reserve survey focused on non-employer businesses and the 2016 survey focused on employer businesses, defined as those with less than 500 employees. These data are derived from non-random sample and therefore may not represent the national lending landscape.⁵⁹ In addition to the Federal Reserve Survey, the National Small Business Association (NSBA) 2016 Year-End Economic Report and the Pepperdine Private Capital Index are two surveys of small businesses that provide additional detail; the NSBA Report surveys 1,426 small businesses while the Pepperdine Index received 1,888 completed responses.⁶⁰ These three surveys have

⁵⁹ For employer firms see Fed. Res. Bank of New York, Atlanta, Boston, Cleveland, Philadelphia, Richmond, St. Louis, Dallas, Kansas City, Minneapolis, San Francisco *2016 Small Business Credit Survey: Report on Employer Firms*, at iv (April 2017), available at <https://www.newyorkfed.org/medialibrary/media/smallbusiness/2016/SBCS-Report-EmployerFirms-2016.pdf>. For nonemployer firms see Fed. Res. Bank of New York, Atlanta, Boston, Cleveland, Philadelphia, Richmond, St. Louis, *2015 Small Business Credit Survey Report on Nonemployer Firms*, at iv (Mar. 2016), available at <https://www.clevelandfed.org/-/media/content/community%20development/smallbusiness/sbcs%202015%20nonemployer%20firms%20report.pdf?la=en>.

⁶⁰ Nat'l Small Bus. Association, 2016 Year-End Economic Report, at 10, available at <http://www.nsba.biz/wp-content/uploads/2017/02/Year-End-Economic-Report-2016.pdf>. For Pepperdine Private Capital Access Index, see Craig Everett, Ph.D., Pepp. Graziadio Sch. of Bus. & Mgmt., *Pepperdine Private Capital Access Index Third Quarter 2016* at 7, available at <https://bschool.pepperdine.edu/about/people/faculty/appliedresearch/research/pcmsurvey/content/pca-q3-2016.pdf>.

important differences and as a result, their statistics may not be exactly comparable. We note these differences below.

The Federal Reserve Surveys found that small businesses continue to rely on traditional financial institutions as their primary source of financing, defined for our purposes in the survey as large banks and small banks.⁶¹ From the survey, 50 percent of small employer businesses and 45 percent of surveyed non-employer businesses *that sought* a loan or a line of credit applied at a large bank.⁶² A comparable statistic from the Pepperdine index suggests an estimated 27 percent of businesses with revenues less than \$5 million stated their primary source of capital was from a large bank.⁶³ The NSBA report asked respondents to name the types of financing products used in the past 12 months rather than the lending institution. According to the NSBA, 15 percent of firms surveyed by the NSBA relied on financing through a “large bank loan” within the past 12 months.⁶⁴ While the survey results are notably different, these results do suggest large financial institutions play an important role as suppliers of small business financing.

The Federal Reserve Survey also suggests small banks play an important role in financing for small businesses. According to the Federal Reserve surveys, 46 percent of surveyed employer firms and 46 percent of non-employer firms that applied for credit did so at a “small bank.”⁶⁵

⁶¹ Fed. Res. Bank of N.Y., *2015 Fed Small Business Employer Firms Survey* at 6, available at <https://www.newyorkfed.org/smallbusiness/small-business-credit-survey-employer-firms-2015>.

⁶² The 2016 Federal Reserve Survey defines a “large bank” as having at least \$10 billion in total deposits. Employer firms *See*: Fed. Res. Bank of New York, Atlanta, Boston, Cleveland, Philadelphia, Richmond, St. Louis, Dallas, Kansas City, Minneapolis, San Francisco *2016 Small Business Credit Survey: Report on Employer Firms*, at 14 (April 2017), available at <https://www.newyorkfed.org/medialibrary/media/smallbusiness/2016/SBCS-Report-EmployerFirms-2016.pdf>. Nonemployer firms *See*: Fed. Res. Bank of New York, Atlanta, Boston, Cleveland, Philadelphia, Richmond, St. Louis, *2015 Small Business Credit Survey Report on Nonemployer Firms*, at 11 (Mar. 2016), available at <https://www.clevelandfed.org/-/media/content/community%20development/smallbusiness/sbcs%202015%20nonemployer%20firms%20report.pdf?la=en>.

⁶³ The Pepperdine Index includes responses from those firms that sought no credit, and reports that 16 percent of respondent businesses with revenues less than \$5 million named large banks as their primary source of credit. The survey also suggests 40 percent of respondent businesses did not seek credit. As a result, the authors of this paper computed an estimated 27 percent of small businesses that sought credit would have done so at a large bank. *See* Craig Everett, Ph.D., Pepp. Graziadio Sch. of Bus. & Mgmt., *Pepperdine Private Capital Access Index Third Quarter 2016* at 22, available at <https://bschool.pepperdine.edu/about/people/faculty/appliedresearch/research/pcmsurvey/content/pca-q3-2016.pdf>.

⁶⁴ Nat'l Small Bus. Association, *2016 Year-End Economic Report*, at 10, available at <http://www.nsba.biz/wp-content/uploads/2017/02/Year-End-Economic-Report-2016.pdf>.

⁶⁵ For purposes of this study, small bank was defined in survey instrument as “small bank/community bank”. *See* Fed. Res. Banks of Cleveland, New York, Atlanta, Boston, Cleveland, Philadelphia, Richmond, St. Louis, *Small Business*

Of those that applied, 67 percent of employer small businesses and 52 percent of non-employer businesses were approved for financing from a small bank, while larger banks only approved 54 percent of employer small businesses and 32 percent of non-employer small businesses that applied for credit.⁶⁶

According to the Pepperdine Index, a comparable small bank statistic suggests about 22 percent of surveyed businesses with revenues less than \$5 million that sought credit listed community banks as their primary source of credit.⁶⁷ From the NSBA survey, 14 percent of surveyed businesses relied on “community bank loans”.⁶⁸

Credit unions also play a role in small business financing.⁶⁹ The Federal Reserve Survey finds that 11 percent of all surveyed employer firms and 13 percent of non-employer firms applied for

Credit Survey – 2015 Questionnaire, available at

<https://www.newyorkfed.org/medialibrary/media/smallbusiness/2015/Questionnaire-SBCS-2015.pdf>. Employer firms See: Fed. Res. Bank of New York, Atlanta, Boston, Cleveland, Philadelphia, Richmond, St. Louis, Dallas, Kansas City, Minneapolis, San Francisco *2016 Small Business Credit Survey: Report on Employer Firms*, at iv (April 2017), at 14, available at <https://www.newyorkfed.org/medialibrary/media/smallbusiness/2016/SBCS-Report-EmployerFirms-2016.pdf>. Nonemployer firms See: Fed. Res. Bank of New York, Atlanta, Boston, Cleveland, Philadelphia, Richmond, St. Louis, *2015 Small Business Credit Survey Report on Nonemployer Firms*, at 11 (Mar. 2016), available at <https://www.clevelandfed.org/-/media/content/community%20development/smallbusiness/sbcs%202015%20nonemployer%20firms%20report.pdf?la=en>.

⁶⁶ For employer firms see Fed. Res. Bank of New York, Atlanta, Boston, Cleveland, Philadelphia, Richmond, St. Louis, Dallas, Kansas City, Minneapolis, San Francisco *2016 Small Business Credit Survey: Report on Employer Firms*, at 16 (April 2017), available at <https://www.newyorkfed.org/medialibrary/media/smallbusiness/2016/SBCS-Report-EmployerFirms-2016.pdf>. For statistics on non-employer firms see, Fed. Res. Bank of New York, Atlanta, Boston, Cleveland, Philadelphia, Richmond, St. Louis, *2015 Small Business Credit Survey Report on Nonemployer Firms*, at 11 (Mar. 2016), available at <https://www.clevelandfed.org/-/media/content/community%20development/smallbusiness/sbcs%202015%20nonemployer%20firms%20report.pdf?la=en>.

⁶⁷ The Pepperdine Index includes responses from those firms that sought no credit, and reports that 13 percent of respondent businesses with revenues less than \$5 million named small banks as their primary source of credit. The survey also suggests 40 percent of respondent businesses did not seek credit. As a result, the authors of this paper computed an estimated 22 percent of small businesses that sought credit would have done so at a small bank. See Craig Everett, Ph.D., Pepp. Graziadio Sch. of Bus. & Mgmt., *Pepperdine Private Capital Access Index Third Quarter 2016* at 22, available at <https://bschool.pepperdine.edu/about/people/faculty/appliedresearch/research/pcmsurvey/content/pca-q3-2016.pdf>.

⁶⁸ See *supra* note 61.

⁶⁹ Between 1986 and 2010, the number of credit unions lending to member businesses grew from 5 percent to 30 percent of total credit unions. Due to the Credit Union Membership Access Act of 1998, member business loans over \$50,000 may not exceed the lesser of 1.75 percent of a credit union’s net worth or 12.25 percent of their total assets. See U.S. Small Bus. Admin., Office of Advocacy, *The Increasing Importance of Credit Unions in Small Business Lending* (2011), available at https://www.sba.gov/sites/default/files/2014_Finance_FAQ.pdf. For information on the Credit Union Membership Access Act of 1998, see Credit Union Membership Access Act Pub. L. 105-219, 112 Stat

financing at a credit union.⁷⁰ Of those that applied, 46 percent of employer businesses and 33 percent of non-employer businesses were approved for credit from a credit union.⁷¹ A comparable estimate from the Pepperdine Index suggests five percent of businesses with revenues under \$5 million relied on credit unions as a primary source of financing.⁷² About three percent of businesses surveyed by the NSBA relied on a credit union loan in the past 12 months.⁷³

The small business lending marketplace has seen the recent emergence of online alternative lenders as providers of financing for small businesses.⁷⁴ The Federal Reserve survey found that 21 percent of surveyed employer businesses and 28 percent of non-employer businesses applied for financing from an online alternative lender, with survey respondents suggesting a 62 and 45 percent approval rate, respectively.⁷⁵ About two percent of NSBA surveyed businesses relied on

913 (1998) (Amending the Federal Credit Union Act) (codified at 12 U.S.C. 1751 et. seq).

⁷⁰ For employer firms see Fed. Res. Bank of New York, Atlanta, Boston, Cleveland, Philadelphia, Richmond, St. Louis, Dallas, Kansas City, Minneapolis, San Francisco 2016 Small Business Credit Survey: Report on Employer Firms, at 14 (April 2017), available at <https://www.newyorkfed.org/medialibrary/media/smallbusiness/2016/SBCS-Report-EmployerFirms-2016.pdf>. For statistics on non-employer firms see, Fed. Res. Bank of New York, Atlanta, Boston, Cleveland, Philadelphia, Richmond, St. Louis, *2015 Small Business Credit Survey Report on Nonemployer Firms*, at 10 (Mar. 2016), available at <https://www.clevelandfed.org/-/media/content/community%20development/smallbusiness/sbcs%202015%20nonemployer%20firms%20report.pdf?la=en>.

⁷¹ For employer firms see Fed. Res. Bank of New York, Atlanta, Boston, Cleveland, Philadelphia, Richmond, St. Louis, Dallas, Kansas City, Minneapolis, San Francisco 2016 Small Business Credit Survey: Report on Employer Firms, at 16 (April 2017), available at <https://www.newyorkfed.org/medialibrary/media/smallbusiness/2016/SBCS-Report-EmployerFirms-2016.pdf>. For statistics on non-employer firms see, Fed. Res. Bank of New York, Atlanta, Boston, Cleveland, Philadelphia, Richmond, St. Louis, *2015 Small Business Credit Survey Report on Nonemployer Firms*, at 12 (Mar. 2016), available at <https://www.clevelandfed.org/-/media/content/community%20development/smallbusiness/sbcs%202015%20nonemployer%20firms%20report.pdf?la=en>.

⁷² The Pepperdine Index includes responses from those firms that sought no credit, and reports that 3 percent of respondent businesses with revenues less than \$5 million named credit unions as their primary source of credit. The survey also suggests 40 percent of respondent businesses did not seek credit. As a result, the authors of this paper computed an estimated 5 percent of small businesses that sought credit would have done so at a credit union. See Craig Everett, Ph.D., Pepp. Graziadio Sch. of Bus. & Mgmt., *Pepperdine Private Capital Access Index Third Quarter 2016* at 22, available at <https://bschool.pepperdine.edu/about/people/faculty/appliedresearch/research/pcmsurvey/content/pca-q3-2016.pdf>.

⁷³ See *supra* note 61.

⁷⁴ For purposes of this study, online lenders were defined in survey instrument as “non-bank alternative and marketplace lenders,” see Fed. Res. Banks of Cleveland, New York, Atlanta, Boston, Cleveland, Philadelphia, Richmond, St. Louis, *Small Business Credit Survey – 2015 Questionnaire*, available at <https://www.newyorkfed.org/medialibrary/media/smallbusiness/2015/Questionnaire-SBCS-2015.pdf>.

⁷⁵ Employer firms See: Fed. Res. Bank of New York, Atlanta, Boston, Cleveland, Philadelphia, Richmond, St. Louis, Dallas, Kansas City, Minneapolis, San Francisco 2016 Small Business Credit Survey: Report on Employer Firms, (April 2017), available at <https://www.newyorkfed.org/medialibrary/media/smallbusiness/2016/SBCS-Report-EmployerFirms-2016.pdf>. Nonemployer firms See: Fed. Res. Bank of New York, Atlanta, Boston, Cleveland,

financing from an online or non-bank lender.⁷⁶ A comparable estimate from the Pepperdine Index suggests 10 percent of businesses with revenues under \$5 million relied on online lenders as a primary source of financing.⁷⁷

Other financial institutions such as leasing and factoring firms provide financing for small businesses. While existing surveys do not ask explicitly about reliance on these more specialized financial institutions, the Federal Reserve surveys do find 9 percent of employer businesses and 10 percent of non-employer businesses applied for a leasing product.⁷⁸ The NSBA survey finds only 6 percent of surveyed firms relied on leasing in the past 12 months.⁷⁹ While not entirely comparable, the Pepperdine survey found 34 percent of surveyed firms who attempted to raise financing relied on leasing.⁸⁰ This disparity may be attributable in part to differences in the survey methodologies.

Regarding factoring firms, the Federal Reserve surveys suggest 7 percent of employer businesses and 3 percent of non-employer businesses reported applying for a factoring product.⁸¹ While the

Philadelphia, Richmond, St. Louis, *2015 Small Business Credit Survey Report on Nonemployer Firms*, (Mar. 2016), available at <https://www.clevelandfed.org/-/media/content/community%20development/smallbusiness/sbcs%202015%20nonemployer%20firms%20report.pdf?la=en>.

⁷⁶ See *supra* note 61.

⁷⁷The Pepperdine Index includes responses from those firms that sought no credit, and reports that 6 percent of respondent businesses with revenues less than \$5 million named online lenders as their primary source of credit. The survey also suggests 40 percent of respondent businesses did not seek credit. As a result, the authors of this paper computed an estimated 10 percent of small businesses that sought credit would have done so at an online lender. See Craig Everett, Ph.D., Pepp. Graziadio Sch. of Bus. & Mgmt., *Pepperdine Private Capital Access Index Third Quarter 2016* at 22, available at <https://bschool.pepperdine.edu/about/people/faculty/appliedresearch/research/pcmsurvey/content/pca-q3-2016.pdf>.

⁷⁸ Employer firms See: Fed. Res. Bank of New York, Atlanta, Boston, Cleveland, Philadelphia, Richmond, St. Louis, Dallas, Kansas City, Minneapolis, San Francisco *2016 Small Business Credit Survey: Report on Employer Firms*, at 13 (April 2017), available at <https://www.newyorkfed.org/medialibrary/media/smallbusiness/2016/SBCS-Report-EmployerFirms-2016.pdf>. Nonemployer firms See: Fed. Res. Bank of New York, Atlanta, Boston, Cleveland, Philadelphia, Richmond, St. Louis, *2015 Small Business Credit Survey Report on Nonemployer Firms*, at 11 (Mar. 2016), available at <https://www.clevelandfed.org/-/media/content/community%20development/smallbusiness/sbcs%202015%20nonemployer%20firms%20report.pdf?la=en>.

⁷⁹ See *supra* note 61.

⁸⁰ See Craig Everett, Ph.D., Pepp. Graziadio Sch. of Bus. & Mgmt., *Pepperdine Private Capital Access Index Third Quarter 2016* at 36, available at <https://bschool.pepperdine.edu/about/people/faculty/appliedresearch/research/pcmsurvey/content/pca-q3-2016.pdf>.

⁸¹ Employer firms See: Fed. Res. Bank of New York, Atlanta, Boston, Cleveland, Philadelphia, Richmond, St. Louis,

NSBA survey did not include statistics on factoring, the Pepperdine survey found 19 percent of surveyed firms who attempted to raise financing relied on factors.⁸² Again, this discrepancy may be attributable in part to different survey methodologies.

3.3.2 Federal datasets on small loans to businesses and small business lending

In addition to existing survey data, we rely on the FFIEC Consolidated Reports of Condition and Income (“Call Reports”) and Community Reinvestment Act (CRA) data to illustrate insights into how depository institutions provide small loans to businesses and engage with small businesses. Whereas the surveys above provided context from the small business perspective, these datasets convey lending totals from the financial institution perspective. While the Call Reports and CRA datasets provide the most complete perspective on lending from financial institutions, both datasets are limited in their ability to appropriately convey the full extent of lending to small businesses, for reasons discussed below. Importantly, these datasets do not cover non-depository financial institutions.

FFIEC Consolidated Reports of Condition and Income

The FFIEC, through its annually required reporting of the small business section of the Call Reports, provides insight to the number of loans and aggregate dollar amounts provided to businesses by covered depository financial institutions.⁸³ The Call Reports define “loans to small businesses” generally as loans with original amounts of \$1 million or less, regardless of the size

Dallas, Kansas City, Minneapolis, San Francisco *2016 Small Business Credit Survey: Report on Employer Firms*, at 13 (April 2017), available at <https://www.newyorkfed.org/medialibrary/media/smallbusiness/2016/SBCS-Report-EmployerFirms-2016.pdf>. For statistics on non-employer firms see Fed. Res. Bank of New York, Atlanta, Boston, Cleveland, Philadelphia, Richmond, St. Louis, *2015 Small Business Credit Survey Report on Nonemployer Firms*, at 22 (Mar. 2016), available at <https://www.clevelandfed.org/-/media/content/community%20development/smallbusiness/sbcs%202015%20nonemployer%20firms%20report.pdf?la=en>.

⁸² See *supra* note 77.

⁸³ National banks, state member banks, insured state nonmember banks and savings associations are required to file call reports. Call Report guidelines excludes banks with assets under \$100 million. The FFIEC Call Report data classifies a small business loan based on the dollar value of the loan originated, regardless of the size of the business to whom the loan was made. See Federal Financial Institutions Examination Council, *Call Report Instruction Book Update*, at 7 (2016), available at https://www.ffiec.gov/pdf/FFIEC_forms/FFIEC031_FFIEC041_201609_i_updates.pdf.

of the receiving entity.⁸⁴ For clarity, we will refer to these as small loans to businesses. Regarding dollar amounts, these institutions are only required to report the total dollar amount of these loans that are *outstanding*, or the amount remaining due. To determine the total amount extended to businesses, the more relevant statistic would involve the total dollar amount of small loans *originated*.⁸⁵

FFIEC Community Reinvestment Act Data

A second data set that describes the relationship between small businesses and financial institutions is captured as part of the Community Reinvestment Act (CRA). Under CRA reporting requirements, certain regulated financial institutions with asset size above roughly \$1.2 billion are required to report data specific to small businesses, annually.⁸⁶ CRA data ascribe to the FFIEC Call Report definition of “loans to small businesses”, which are loans with original amounts of \$1 million or less, regardless of the size of the receiving entity.⁸⁷ Again, for clarity we will refer to these as small loans to businesses.

CRA data made available by the FFIEC include aggregate statistics on small loans to businesses both by the number of loans originated in amounts under \$1 million in a particular year, as well as the aggregate *origination* dollar amount of these loans. This latter statistic, which differs from the Call Report *outstanding* amounts, allows some understanding as to the total dollar

⁸⁴ See Federal Financial Institutions Examination Council, *Schedule RC-C, Part II. Loans to Small Businesses and Small Farms*, at RC-C- 30 (last visited Feb. 27, 2017), at 207, available at https://www.ffiec.gov/pdf/FFIEC_forms/FFIEC031_FFIEC041_201603_i.pdf.

⁸⁵ Interpreting changes in the outstanding amounts as an indicator of the small business credit market poses challenges. Confounding factors including the number of loans, original dollar amount of these loans, and external economic factors may each play a role in changing the outstanding amounts measured in the Call Reports over time. As a result, outstanding amounts only present a high level understanding of lending to small businesses without an ability to closely examine rationales for the observed trends.

⁸⁶ In 2017, all financial institutions regulated by the Office of the Comptroller of Currency, (OCC) Federal Reserve System, and Federal Deposit Insurance Corporation generally with an asset size over \$1.226 billion are required to submit CRA data. According to an OCC Fact Sheet, “CRA does not apply to Credit Unions insured by the National Credit Union Share Insurance Fund (NCUSIF) or nonbank entities supervised by the Consumer Financial Protection Bureau.” For more information on reporting eligibility, see Federal Financial Institutions Examination Council, *Community Reinvestment Act, 2017 Reporting Criteria*, available at <https://www.ffiec.gov/cra/reporter17.htm>. For more information on the OCC Fact Sheet, see Off. of the Comptroller of the Currency, *Community Developments Fact Sheet* at 1, available at <https://www.occ.treas.gov/topics/community-affairs/publications/fact-sheets/fact-sheet-cra-reinvestment-act.pdf> (explaining what institutions are covered by CRA).

⁸⁷ CRA data refers to the definition of “loans to small businesses” as defined by the FFIEC Call Reports. See Federal Financial Institutions Examination Council, *A Guide to CRA Data Collection and Reporting*, at 11 (last visited Feb. 27, 2017), available at https://www.ffiec.gov/cra/pdf/2015_CRA_Guide.pdf.

volume of small loans extended to businesses. Importantly, however, aggregate origination amounts are only for loans extended by financial institutions with assets greater than roughly \$1.2 billion in a particular year.

However, the CRA data do allow a limited understanding of lending to “small” businesses as defined by the revenue of the receiving entity. Those financial institutions that do collect information on the annual revenue of the business, perhaps as part of their underwriting process, are required to report the number and origination dollar amount of loans made to businesses with revenues of \$1 million or less. The FFIEC findings on nationwide CRA data indicate that, in 2015, over 52 percent of the number of loans of \$1 million or less (and about 37 percent measured in dollar amount of loans) made by CRA reporters were extended to firms with revenues of \$1 million or less.⁸⁸ Importantly, as the CRA does not require financial institutions to collect business revenue information and therefore report this statistic, these amounts may be an underrepresentation of lending to “small” businesses.⁸⁹ Coupled with the fact that only financial institutions with assets above roughly \$1.2 billion are required to report, this statistic is limited in its ability to reflect national lending to “small” businesses.

⁸⁸ Federal Financial Institutions Examination Council, Reports - Findings from Analysis of Nationwide Summary Statistics for 2015 Community Reinvestment Act Data Fact Sheet (August 2016), *available at* https://www.ffiec.gov/hmcrpr/cra_fs16.htm

⁸⁹ “The regulations do not require institutions to request or consider revenue information when making a loan; however, if institutions do gather this information from their borrowers, they should use the gross annual revenue rather than the adjusted gross annual revenue of their small business or small farm borrowers to report whether the borrower has gross annual revenue of a) more than \$1 million dollars; or b) \$1 million dollars or less. The purpose of small business and small farm data collection is to enable examiners and the public to judge whether the institution is lending to small businesses and farms or whether it is only making small loans to larger businesses and farms.” Federal Financial Institutions Examination Council, *A Guide to CRA Data Collection and Reporting*, at 13 (last visited Feb. 27, 2017), *available at* https://www.ffiec.gov/cra/pdf/2015_CRA_Guide.pdf.

3.3.3 Federal database results on small loans to businesses and small business engagement with financial institutions

According to the most recent 2016 FFIEC Call Report data, large financial institutions (defined as those with more than \$10 billion in assets) accounted for about 50 percent of the outstanding loan amounts for loans with original amounts below \$1 million.⁹⁰

Data from the Call Reports show banks with less than \$10 billion in assets hold the remaining 50 percent of the total outstanding amounts for small loans to businesses; about 27 percent is held by small banks with assets less than \$1 billion, while 23 percent is held by mid-sized banks with assets between \$1 billion and \$10 billion.⁹¹ Figure 4 examines the outstanding amounts held on loans with original values less than \$1 million, categorized by the asset size of the financial institution. Since 2014, it appears the largest and mid-sized banks have increased their lending in this space as shown by an increase in their respective share of outstanding amounts. Small banks, defined as those with assets less than \$1 billion, have seen a marginal decrease, again with respect to business loans with original amounts less than \$1 million.

⁹⁰ Federal Financial Institutions Examination Council, Call Reports -- Single Period 2016, Retrieved from <https://cdr.ffiec.gov/public/PWS/DownloadBulkData.aspx>.

⁹¹ The aggregate nature of CRA data does not allow us to discuss original values of loans subdivided by the asset size of the lending institution.

FIGURE 4: AGGREGATE OUTSTANDING AMOUNTS FOR TERM LOANS AND LINES OF CREDIT WITH ORIGINATION AMOUNTS LESS THAN \$1 MILLION BY INSTITUTION ASSET SIZE



Source: FFIEC Call Report data

4. State of small business lending through the recession and recovery

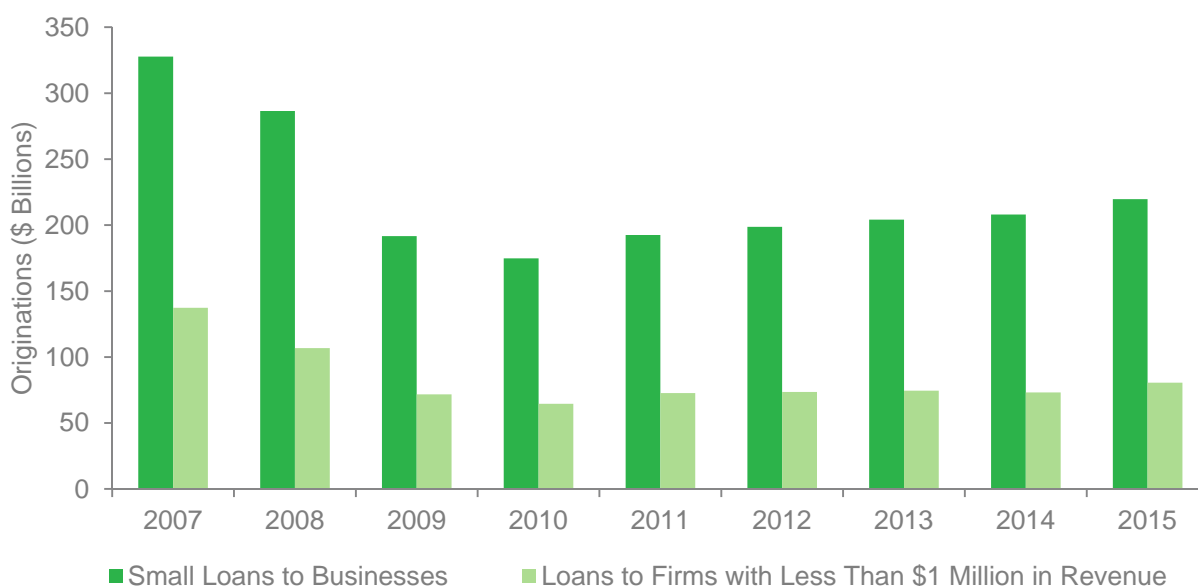
The Great Recession, which began in 2007, had a negative impact on the availability of credit generally, including to small businesses. We again rely on the CRA data and the Call Reports to examine loans to small businesses and loans of \$1 million or less to entities of any size. Figure 5 uses CRA data to show both the aggregate dollar volume of loans originated to small businesses and the number of loans originated to businesses with revenues less than \$1 million.⁹² As mentioned above, CRA only requires reporting from certain institutions with assets above roughly \$1.2 billion; the origination amounts therefore underrepresent the total amount originated to small businesses.⁹³ Figure 6 uses Call Report data to show the number of loans originated in amounts less than \$1 million, categorized by the origination amount of the loan.

⁹² As noted above, the FFIEC findings on nationwide CRA data indicates that, in 2015, over 52 percent of the number of loans of \$1 million or less (and about 37 percent measured in dollar amount of loans) made by CRA reporters were extended to firms with revenues of \$1 million or less. Federal Financial Institutions Examination Council, Reports - Findings from Analysis of Nationwide Summary Statistics for 2015 Community Reinvestment Act Data Fact Sheet (August 2016), available at https://www.ffiec.gov/hmcrpr/cra_fs16.htm.

⁹³ In 2017, all financial institutions regulated by the Office of the Comptroller of Currency, (OCC) Federal Reserve System, and Federal Deposit Insurance Corporation generally with an asset size over \$1.226 billion are required to submit CRA data. According to an OCC Fact Sheet, "CRA does not apply to Credit Unions insured by the National Credit Union Share Insurance Fund (NCUSIF) or nonbank entities supervised by the Consumer Financial Protection Bureau." For more information on reporting eligibility, see Federal Financial Institutions Examination Council, Community Reinvestment Act, *2017 Reporting Criteria*, available at <https://www.ffiec.gov/cra/reporter17.htm>. For more information on the OCC Fact Sheet, see Off. of the Comptroller of the Currency, *Community Developments Fact Sheet* at 1, available at <https://www.occ.treas.gov/topics/community-affairs/publications/fact-sheets/fact-sheet-cra-reinvestment-act.pdf> (explaining what institutions are covered by CRA).

The picture painted by these two figures tells a complicated story. On one hand, Figure 5 suggests we see a marked decline in the dollar amount originated to small businesses and small loans to businesses in the wake of the Great Recession and a modest recovery beginning in 2012. On the other hand, Figure 6 suggests the total number of outstanding loans with original loan amounts under \$1 million now exceeds 2007 levels; however, this may be due in part to methodological changes in the Call Report data.⁹⁴

FIGURE 5: AGGREGATE SMALL LOANS TO BUSINESSES AND SMALL BUSINESS ORIGINATIONS OVER TIME BY BANKS WITH GREATER THAN \$1 BILLION IN ASSETS



Source: CRA Reports. Small business loans are defined as those with original values less than \$ 1 million. Lenders are also required to report loans to firms with revenues less than \$ 1 million in the event they collect information on business revenues.⁹⁵ Importantly, as CRA does not require banks to collect information on the revenue of the business, the “Loans to Firms with Less than \$1 Million in Revenue” may be understated.”

⁹⁴ Prior to 2012, saving associations supervised by the Office of Thrift Supervision were required to file the Thrift Financial Report (TFR). On March 31, 2012 saving associations converted their filing to the FFIEC Call Report, leading to an increase in the number of institutions now filing the Call Reports. This reporting shift may be one explanation for the dramatic increase in the number of small business loans from 2011 to 2012. Federal Financial Institutions Examination Council, Depository Institution Regulatory Reports, (March 2, 2012), available at <https://www.fdic.gov/news/news/inactivefinancial/2012/fil12010.html>.

⁹⁵ “The regulations do not require institutions to request or consider revenue information when making a loan; however, if institutions do gather this information from their borrowers, they should use the gross annual revenue

FIGURE 6: AGGREGATE NUMBER OF LOANS OVER TIME, CATEGORIZED BY THE ORIGINAL VALUE OF THE LOAN



Source: FFIEC Call Report data. Prior to 2012, saving associations supervised by the Office of Thrift Supervision were required to file the Thrift Financial Report (TFR). On March 31, 2012 saving associations converted their filing to the FFIEC Call Report leading to an increase in the number of institutions now filing the Call Reports. This reporting shift may be one rationale for the dramatic increase in the number of small business loans from 2011 to 2012.⁹⁶

rather than the adjusted gross annual revenue of their small business or small farm borrowers to report whether the borrower has gross annual revenue of a) more than \$1 million dollars; or b) \$1 million dollars or less. The purpose of small business and small farm data collection is to enable examiners and the public to judge whether the institution is lending to small businesses and farms or whether it is only making small loans to larger businesses and farms.” Federal Financial Institutions Examination Council, *A Guide to CRA Data Collection and Reporting*, at 13 (last visited Feb. 27, 2017), available at https://www.ffiec.gov/cra/pdf/2015_CRA_Guide.pdf.

⁹⁶ Federal Financial Institutions Examination Council, Depository Institution Regulatory Reports, (March 2, 2012), available at <https://www.fdic.gov/news/news/inactivefinancial/2012/fil12010.html>

Federal programs, such as those offered by the SBA and other agencies, provide key assistance to American small businesses. For example, the Small Business Jobs Act of 2010 dedicated over \$45 billion dollars to state and federal programs to incentivize small business lending.⁹⁷ In particular, the Small Business Jobs Act increased the funds available to the SBA under the loan guarantee programs. As described by the Office of the Comptroller of Currency, these loan guarantee programs, such as the 7(a) loan guarantee program may help “creditworthy small businesses acquire financing when they cannot otherwise obtain credit at reasonable terms.”⁹⁸ However, given the lack of comprehensive, granular data, it is difficult to measure the degree to which these programs directly address the financial challenges of small business owners and determine whether there are unmet needs.

To the extent there has been a decline in the availability of bank credit for small businesses, the causes are uncertain. In general, it is difficult to identify the causes of a decline in lending in any credit market. We cannot distinguish between the impacts of changes in the demand for credit, changes in the availability of credit, changes in the credit quality of borrowers, and the interactions among these three factors. This is especially challenging given the significant limitations in the publicly-available data, as discussed further below.

4.1 Gaps in available survey data limit our understanding of the small business financing market during and after the recession

One way to assess the availability of credit is to survey firms both on their need for credit and their ability to obtain the credit they need. The best available survey data on business lending

⁹⁷ “U.S. Small Bus. Admin., *Small Business Jobs Act of 2010: Changes to the 504 Loan Program*, SBA Information Notice, available at https://webcache.googleusercontent.com/search?q=cache:kdrZ9UHCCUoJ:https://www.sba.gov/sites/default/files/bank_5000-1183.pdf+&cd=4&hl=en&ct=clnk&gl=us.

⁹⁸ U.S. Office of the Comptroller of the Currency. Community Affairs. N.p., July 2015. Web. 27 Feb. 2017.

and the availability of credit during and after the recession come from a handful of sources. As has been discussed in this paper, the 2015 Joint Federal Reserve Survey provides the most comprehensive understanding of the business lending market from the perspective of small businesses. In addition to this Federal Reserve survey, both the National Federation of Independent Businesses Research Foundation (NFIB) and the National Small Business Association (NSBA) survey their members to learn about issues small businesses face, such as access to financing.

There also exist a number of business indices related to small business credit access. For example, the Experian and Moody's Analytics Small Business Credit index "tracks how businesses are faring over a period of time" by relying on commercial credit data coupled with macroeconomic data.⁹⁹ Similarly, the Wells Fargo/ Gallup Small Business Index, which surveys a sample of about 600 business owners with revenues ranging from \$50,000 to \$20 million, considers ease of accessing credit while computing a business optimism score.¹⁰⁰ As discussed earlier, Pepperdine University computes a Private Capital Access Index to "gauge the demand of small and medium-sized businesses for financing needs, the level of accessibility of private capital, and the transparency and efficiency of private financing markets."¹⁰¹

While these surveys and indices provide important high level trends on small business credit access, these resources have a number of limitations that leave many important questions unanswered. For example, the 2016 iteration of the Federal Reserve Small Business Credit survey was the first to survey businesses in all 50 states. Earlier iterations of this survey were more limited in scope; the 2015 survey looked at businesses in 26 states while the 2014 iteration was run exclusively by the Federal Reserve Bank of New York and only surveyed businesses in

⁹⁹ The Experian/Moody's Analytics Small Business Credit Index used credit balances, delinquency rates, and other commercial credit data in accordance with macroeconomic data to provide an analysis of business credit trends. Experian and Moody's Analytics, *Economy Shows Signs of Stalling while Small Business Credit Improves*, Small Business Credit Index, available at <https://www.experian.com/business-information/me-smallbusinesscreditindex.html>.

¹⁰⁰ Wells Fargo, *How Does the Wells Fargo/ Gallup Small Business Index Work?*, available at <http://www.gallup.com/175211/wells-fargo-gallup-small-business-index-methodology.aspx>.

¹⁰¹ See *supra* note 77.

New York, New Jersey, Connecticut and Pennsylvania.¹⁰² This sampling limitation therefore precludes a more thorough comparison of small business lending trends over time.

Several of the indices do allow an understanding of the demand for business credit over time from the perspective of business borrowers. However, these indices and underlying surveys largely rely on aggregated business perception. For example, the Wells Fargo/ Gallup Small Business Index asks respondents to measure their ability to access credit by selecting “very difficult, somewhat difficult, about average, somewhat easy, or very easy.” As such, responses to these surveys and resulting indices may be somewhat subjective without an appreciation of the underlying dynamics; the responses may depend on the selection of businesses surveyed for a particular iteration of the index.¹⁰³ Further, these indices provide no understanding of the demographic of business applicants and subsequent approval rates.

¹⁰² Fed. Res. Bank of N.Y., *Spring 2014 Small Business Credit Survey*, available at <https://www.newyorkfed.org/smallbusiness/Spring2014/index.html> (retrieved from the “About the Data” tab).

¹⁰³ Gallup & Wells Fargo, *Small Business Survey Topline – Final 2-15-2017*, at 24 available at <https://wellsfargoworks.com/File/Index/8ilA2k9ftkqUkBjoWlg5Hg>.

5. The need for more robust small business lending data

Small businesses will continue to play a vital role in driving economic activity and supporting job creation. Governments at all levels are likely to promote an adequate flow of capital to these businesses. But without more robust data it will continue to be difficult to assess how well the market is meeting the needs of small businesses.

The FFIEC Call Reports and Community Reinvestment Act(CRA) reports are two of the best available data sources on loans of \$1 million or less and small business lending. However these reports only capture lending by banks and exclude lending by alternative lenders and other non-depository financial institutions. The Call Reports provide data on small loans (i.e. loans under \$1 million) but not information on the size of the businesses obtaining those loans, or information about the business owners. While the CRA data does present some information on loans made to businesses with revenues under \$1 million, the reporting limitations do not provide a complete picture.¹⁰⁴ Thus, these reports provide only limited information on small business lending generally and no information on lending to women-owned and minority-owned small businesses in particular.

Moreover, neither of the FFIEC Reports nor any other source provides comprehensive information on the extent to which small businesses of various sizes and types are unsuccessful in obtaining financing. Our knowledge on these subjects is limited to occasional surveys

¹⁰⁴ See *Infra* Section 3.3.2.

containing incomplete information in addition to Bureau conversations with external stakeholders.

Ultimately, with current data it is not possible to confidently answer basic questions regarding the state of small business lending. For example, it is difficult to determine the extent to which there has been a net decline in small business lending as opposed to a shift in lending from banks to alternative lenders during the recession or simply a decrease in credit extended. To the extent there has been a decline, it is difficult to assess whether that decline has affected certain types of small businesses more than others, including women- and minority-owned small businesses. Nor is it possible to answer basic questions about the degree to which supply and/or demand may have contributed to whatever decline in small business lending has occurred, or whether the relative importance of either supply or demand varies for different types of businesses, including women- and minority-owned small businesses.

In part, the purpose for the data collection mandated by Section 1071 of the Dodd-Frank Act is to enable communities, government entities, and creditors to identify business and community development needs and opportunities of women-owned, minority-owned and small businesses. To the extent data collected under the Bureau's Section 1071 authority is made public – which Section 1071 requires subject to the Bureau's authority to require deletions or modifications to protect privacy interests – these data can provide a broad range of stakeholders across the United States with an understanding of the small business credit flowing into their local communities, and allow them to identify “credit deserts” or sectors where credit flows may be restricted. This in turn may support localized efforts to increase access to credit in various communities around the United States to address unmet credit needs, thereby spurring economic development.

A second part of the purpose of Section 1071 pertains to facilitating the enforcement of fair lending laws. Data is needed to understand the nature and extent of potential disparities, and to ensure women-owned and minority-owned businesses have non-discriminatory access to capital. Data collected under Section 1071 may allow the Bureau and others to focus resources in an effort to identify potential areas of concern.

6. Conclusion

The data collection mandated by Section 1071 of the Dodd-Frank Act can provide valuable insights to communities, public sector entities, and financial institutions, as well as to advocates and regulators, given the current lack of comprehensive data in this area. However, this data collection needs to be thoughtfully and pragmatically implemented, especially in light of the various types of lenders and products that potentially fall within its scope. The Bureau looks forward to a productive dialogue with stakeholders as we continue to build a shared knowledge base in this area and define workable solutions to outstanding questions.