



Mr. Paul Watkins
Assistant Director, Office of Innovation
Bureau of Consumer Financial Protection
1700 G Street, NW
Washington, DC 20552

Re: Policy to Encourage Trial Disclosure Programs; Docket No. CFPB-2018-0023

Dear Mr. Watkins:

The Online Lenders Alliance (OLA) respectfully submits this comment letter in response to the Bureau of Consumer Financial Protection Revised Policy to Encourage Trial Disclosure Programs.

OLA, the center for lending, technology and innovation, represents the growing industry of companies offering loans online. OLA and its members are working every day to reinvent the ways financial services are offered to consumers. Therefore, we particularly appreciate not only the creation of the Bureau's new Office of Innovation, but also the resources, energy, and talent being dedicated to the Office. We look forward to working closely with the Office of Innovation on a wide range of initiatives that can enhance consumer choice and understanding.

OLA has monitored the growing use of the regulatory sandbox approaches at both the international and state levels. The ability for new financial technologies and products to be tested in a controlled environment with reduced regulatory risk is a useful tool in the development of innovative products that can increase the availability of capital to consumers and small businesses.

The Office of Innovation's "disclosure sandbox" is an important first step towards encouraging innovation in how and what information is shared with consumers. The OLA has long championed the importance of effective disclosures in ensuring that customers have the information they need to make sound financial choices. All OLA members have agreed to Best Practices and a Code of Conduct that begins with the principle that members must ensure consumers are making educated financial decisions by fully disclosing all loan terms in a transparent and easy to understand way.

The disclosures presently mandated by federal law may not be the most effective way to inform and educate consumers, particularly in the online context. The need for more flexibility is an area in which the Bureau's Trial Disclosure Policy could play a role in allowing lenders and other companies, especially in the fintech space, to propose innovative approaches to disclosures. The data that will eventually come from the disclosure sandbox will also provide useful insights for ensuring that the regulatory environment in this area keeps pace with the development and delivery of financial products and services in a dynamic online environment.

There are two respects in which OLA encourages the Bureau to further develop its Trial Disclosure Policy.

First, OLA very much appreciates the Bureau extending the opportunity to apply the Trial Disclosure Program to trade associations. This approach will have several benefits, including creating opportunities for smaller companies to participate in the process, spreading the benefits of approved applications, and increasing the data available from the use of trial disclosures.

However, the OLA and other associations would appreciate a more complete roadmap regarding how a trade association may apply. Some required information that could be readily shared by a single applicant – such as the size and duration of the test and the schedule for sharing test results – may be unavailable to a trade association. Relatedly, the Trial Disclosure Policy should explain how trade association members may ensure that they are covered by a waiver granted to their association.

Second, OLA believes the Trial Disclosure Policy will work only if the safe harbor protections are robust. A true safe harbor does not include any hedging language that might allow the Bureau – even under new leadership – to seek to punish a company that had permission to innovate. More importantly, these safe harbors should be made as secure as possible from risks outside the Bureau’s direct control. Often times there are several federal and state regulators tasked with monitoring financial products and services. For a company to receive an exemption from the Bureau from certain disclosure requirements, only to have another federal or state regulator bring a supervisory or enforcement action against them based on the same disclosure requirements, would have a chilling effect on the innovation that this program may realize.

In the revised policy notice the Bureau rightfully recognizes this issue and has proposed to address it by entering into agreements to coordinate with state and federal regulators. These agreements will be paramount to the program’s success, which is why it is important that prior to approving any applicant for the Trial Disclosure Program the Bureau should have in place such agreements with their counterparts at the state and federal levels. This will promote consistent regulatory treatment of the disclosures approved under the program.

The fintech industry appreciates the opportunity to participate in an innovative sandbox program. It is important to note, however, that sandboxes do have their limitations, given the risks a company is taking. A new, innovative program has significant startup costs, including the cost of capital, programing, marketing, and advertising, as well as the uncertainty of a new portfolio’s performance along with the management of fraud and defaults. These factors may limit the number of companies that choose to participate in even a well-designed sandbox program.

OLA believes that a sandbox program that allows companies to experiment with new products, services, and approaches in close consultation with their regulators serves an important role in innovation. The Bureau’s approach could foster innovation nationwide and provide the flexibility that can help participants find new ways of doing business that benefit companies and consumers alike.

The OLA and its members have long worked to improve and modernize the ways in which financial services are disclosed and delivered. The creation of the Office of Innovation and the Trial Disclosure Policy indicate that we have a strong and innovative partner in this effort. We look forward to working with the Bureau to better serve our customers.

Sincerely,



Mary Jackson
Online Lenders Alliance
CEO