**RE: Support for S.B. 272**

March 10, 2022

Dear Chair Doucette, Chair Miller, Ranking Member Delnicki, Ranking Member Berthel, Vice Chair Gucker, Vice Chair McCrory, and Members of the Joint Committee on Banking:

The Responsible Business Lending Coalition (RBLC) writes in support of S.B. 272. The bill aims to bring transparency to the small business lending marketplace through standardized disclosures, particularly disclosure of the annual percentage rate (APR.) When small business owners are empowered with clear information about their financing options, they have the agency to choose the best product for their needs.

The undersigned organizations represent members of the RBLC, a leading cross-sector voice on small business financial protection. The coalition includes nonprofit and for-profit fintechs, community development financial institutions (CDFIs), investors, and small business advocates who all share a commitment to innovation in small business lending as well as serious concerns about the rise of irresponsible small business lending. The RBLC is pleased to support this critical small business protection bill in the Connecticut legislature for the second year in a row.

As introduced, S.B. 272 would bring sunshine to the commercial financing marketplace by requiring all providers to disclose APR for all small business loan products. APR is the only established metric that enables informed comparisons of the cost of capital over time and between products of different dollar amounts and term lengths. APR is the time tested rate that people know and expect because it is the legally required standard for mortgages, auto loans, credit cards, student loans and personal loans, including short-term loans.

When small businesses currently shop for financing, they are not able to make an apples-to-apples comparison across financing providers. Without standardization of disclosure requirements across lenders, small businesses are more likely to choose higher-cost products. For instance, a research study found that when asked to compare a sample short-term loan product with a 9%“simple interest” rate to a credit card with a 21.9% interest rate, most participants in the study incorrectly guessed the short-term loan to be less expensive. Research indicates that small businesses can pay APRs of 94%, and as high as 350%, without these high rates being properly disclosed. This is why including both APR and other financing products in the legislation will better protect small businesses. What's more, a Federal Reserve study demonstrated that Black and Hispanic-owned businesses are more likely to use “high-cost” and “non-transparent” financing, referring specifically to merchant cash advances as well as factoring products.

In the below appendices, we have included a document that dispels some of the common myths regarding transparent disclosure requirements along with several informational slides on the need for standardized discloses and APR. We have also included the letter that RBLC submitted to the Joint Committee on Banking in 2021 voicing support for the previous version of S.B. 272.

As leaders of the Joint Committee on Banking, we ask you to support S.B. 272 and urge you to do what is necessary to get this critical small business protection legislation through the Connecticut General Assembly and signed into law as soon as possible. We are happy to serve as a resource as you move forward.

Sincerely,

The Responsible Business Lending Coalition

RESPONSIBLE BUSINESS LENDING COALITION

**RE: Support for S.B. 745**

March 17, 2021

Dear Chair Doucette, Chair Kasser, Ranking Member Delnicki, Ranking Member Berthel, Vice Chair Gucker, Vice Chair McCrory, and Members of the Joint Committee on Banking:

The Responsible Business Lending Coalition (RBLC) writes to express our strong support for S.B. 745. The RBLC is the leading national voice on small business financial protection issues, including small business Truth in Lending. We are a unique nonprofit/industry cross-sector coalition, including nonprofit community development lenders, fintechs, investors, and small business advocates, all drawn together to respond to the rise of irresponsible small business lending practices and promote responsible innovation.[1]

In 2018, the RBLC led the passage of the first Small Business Truth in Lending Law in the nation, California's SB 1235. Last year, we secured passage of the second such bill, New York's Small Business Truth in Lending Act on which S.B. 745 is largely based.

Both of these bills were inspired and informed by the RBLC's Small Business Borrowers' Bill of Rights, the first cross-sector consensus on standards of responsible lending to small businesses. Over 100 small business lenders, brokers and lead generators, and advocacy organizations have endorsed these standards.

The Borrowers' Bill of Rights includes the Right to Transparent Pricing and Terms, which calls for small business financing providers to clearly disclose seven key elements to small businesses applying for credit:

1. Loan amount, and total amount provided after deducting fees or charges
2. Annual percentage rate (APR) or estimated APR

[1] The Executive Committee of the Responsible Business Lending Coalition includes Accion Opportunity Fund, Community Investment Management, Funding Circle, LendingClub, Opportunity Finance Network, Small Business Majority, StreetShares, and the Aspen Institute.

3. Payment amount and frequency, including the actual or estimated total payment amount per month if payment frequency is other than monthly
4. Term or estimated term
5. All upfront and scheduled charges
6. Collateral requirements
7. Any prepayment charges

Disclosure of these seven key terms, particularly the APR or estimated APR, is critical to help small businesses compare different financing products and make informed decisions. APR is the only metric that enables apples-to-apples comparisons of products with different fees, interest, and term lengths over a common unit of time. Federal Reserve Research has found that small businesses are misled by commercial financing offers that exclude APR and present pricing in unfamiliar terms, often quoted as "rates" that are not actually interest rates.[2]

The RBLC supports S.B. 745 and its provisions requiring disclosure of the seven key terms by all commercial financing providers. In particular, we applaud the Committee's inclusion of APR or estimated APR as a required disclosure metric, so that Connecticut small businesses can easily compare financing offers and select an affordable option that best meets the business' needs.

We thank you for the opportunity to comment on this important legislation and urge the Joint Committee on Banking to advance it without delay. We are happy to serve as a resource as you proceed.

Sincerely,

The Responsible Business Lending Coalition

CC: Senator Anwar and Representative Turco

[2] Federal Reserve Board of Governors, "Uncertain Terms: What Small Business Borrowers Find When Browsing Online Lender Websites," 2019. https://www.federalreserve.gov/publications/files/what-small-business-borrowers-find-when-browsing-online-lender-websites.pdf

RESPONSIBLE BUSINESS LENDING COALITION

Claims and Facts in support of S.B. 272

Small business Truth in Lending is supported by leading fintech and bank for-profit lenders, nonprofit CDFIs, civil rights groups, and small business groups. However it may face opposition as well, such as from finance companies that charge relatively higher APRs and do not disclose them.

Claims critical of Truth in Lending were considered extensively in California and New York. After consideration, the legislatures of both states passed strong Truth in Lending Bills by wide, bipartisan margins (132-9 in the New York Assembly and 72-3 in the California Assembly). The following are common claims and facts about small business Truth in Lending:

**Claim:** Disclosure of the APR is not needed in small business financing

**Fact:** APR is the only metric that enables comparison the price of financing of different types, amounts, and term lengths. In response to the rise of high-rate small business financing, the need for transparent disclosure in APR in small business financing has been raised by:

1. Multiple research studies published by the Federal Reserve[i]
2. National Consumer Law Center[ii]
3. Bloomberg News editorial board ("Protect Small Businesses from Predatory Lending… The best solution would be for Congress to pass a truth-in-lending law for small business, along the lines of the rules that already exist for consumer loans.")[iii]
4. Federal Reserve Governor Lael Brainard[iv]
5. Federal Reserve Board of Governors Community Advisory Council[v]
6. The Conference of State Bank Supervisors' Fintech Industry Advisory Panel
7. 110+ industry and nonprofit signatories and endorsers of the Responsible Business Lending Coalition's *Small Business Borrowers Bill of Rights*[vi]
8. A dozen member companies of the Innovative Lending Platform Association[vii]
9. Bipartisan Policy Center[viii]
10. Former Democratic and Republican SBA Administrators Karen Mills[ix] and Chris Pilkerton
11. US Treasury officials[x]
12. Numerous news articles (e.g. McClatchy, "Even Finance Whizzes Say It's Impossible to Compare Online Small Business Loan Options." June 2018)[xi]

Why is APR so critical? The CFPB website explains that: "The APR, or annual percentage rate, is the standard way to compare how much loans cost. It lets you compare the cost of loan products on an 'apples-to-apples' basis."[xii] It can be especially useful for comparing different types of financing products. The CFPB encourages credit seeks comparing short-term payday loans to longer-term installment loans or credit cards to "Focus on APRs."[xiii]

**Claim:** Revenue-based financing companies, also known as "merchant cash advances (MCAs)" can't calculate APR.

**Fact**: Some MCA companies already disclose APR. Others advertise their high annualized yields to their investors, but don't disclose these annualized percentage rates to their small business customers. Soon all revenue-based financing companies will disclose APR in California and New York. Connecticut small businesses deserve the same transparency.

**Claim:** California and New York regulators haven't finished their regulations because the topic is complicated.

**Fact:** Several months ago, the regulations were finalized by California's Department of Financial Protection and Innovation and submitted to the California Office of Administrative Law for review, which is scheduled to occur in several months. The New York Department of Financial services has stated that they expect their regulations to be finalized in the next few months.

**Claim:** Studies show that small business owners do not understand APRs.

**Fact:** Four successive Federal Reserve studies have demonstrated that small businesses are currently misled towards higher-cost financing by disclosures that lack APR, and that APR would be among the most helpful disclosure elements to small business owners.[xiv]

**Claim**: Use of estimates in small business truth in lending disclosures will open commercial financing providers to a wave of litigation.

**Fact**: Estimates are anticipated and acceptable. Senator Proxmire, sponsor of the federal Truth in Lending Act, explained on the floor of the Senate in 1967 that in cases when an exact APR cannot be calculated, the Truth in Lending Act "makes it abundantly clear that lenders need only state an approximate annual rate and would not be held to absolute accuracy down to the last decimal point."[xv]

**Claim**: The bill's disclosures related to the practice of double-charging borrowers while refinancing their loans is unnecessary, as this practice, called "double dipping," is not a problem.

**Fact**: Double dipping is described as an irresponsible practice, even among small business financing providers. See, for example, "Beware: Double Dipping!" by financing company Next.[xvi]

---

[i] Federal Reserve Board of Governors, "Uncertain Terms: What Small Business Borrowers Fund When Browsing Online Lender Websites," Dec 2019. https://www.federalreserve.gov/publications/files/what-small-business-borrowers-find-when-browsing-online-lender-websites.pdf

Federal Reserve Bank of Cleveland, "Alternative Lending through the eyes of 'Mom & Pop' Small-Business Owners," August 2015. https://www.clevelandfed.org/newsroom-and-events/publications/special-reports/sr-20150825-alternative-lending-through-the-eyes-of-mom-and-pop-small-business-owners.aspx

Federal Reserve Board of Governors, "Browsing to Borrow: 'Mom & Pop" Small Business Perspectives on Online Lenders," June 2018. https://www.federalreserve.gov/publications/files/2018-small-business-lending.pdf

---

Federal Reserve Bank of Atlanta, "Small Business Credit Survey: Report on Minority-Owned Firms," Dec 2019. https://www.fedsmallbusiness.org/medialibrary/fedsmallbusiness/files/2019/20191211-ced-minority-owned-firms-report.pdf This study notes that "Minority-owned firms more frequently applied for potentially higher-cost and less-transparent credit products."

[ii] See letter in Appendix B: http://www.borrowersbillofrights.org/uploads/1/0/0/4/100447618/sb_1235_support_coalition_and_rblc_comment_-_small_business_disclosures_file_no_pro_01-18.pdf

[iii] https://www.bloomberg.com/amp/opinion/articles/2018-11-28/confessions-of-judgment-small-business-and-predatory-lending

[iv] Board of Governors of the Federal Reserve System, "Remarks by Lael Brainard: Community Banks, Small Business Credit, and Online Lending," 2015. https://www.federalreserve.gov/newsevents/speech/brainard20150930a.pdf

[v] See page 7, https://www.federalreserve.gov/aboutthefed/files/cac-20181005.pdf

[vi] http://www.borrowersbillofrights.org/signatories.html

[vii] https://innovativelending.org/

[viii] https://bipartisanpolicy.org/wp-content/uploads/2018/07/Main-Street-Matters-Ideas-for-Improving-Small-Business-Financing.pdf

[ix] http://www.hbs.edu/faculty/Publication%20Files/17-042_30393d52-3c61-41cb-a78a-ebbe3e040e55.pdf

[x] https://www.treasury.gov/connect/blog/Pages/Opportunities-and-Challenges-in-Online-Marketplace-Lending.aspx, https://www.progressivepolicy.org/wp-content/uploads/2017/11/PPI_SmallBizCredit_2017.pdf,

[xi] https://www.mcclatchydc.com/news/nation-world/national/article212491199.html

[xii] www.consumerfinance.gov/consumer-tools/credit-cards/answers/key-terms/

[xiii] www.consumerfinance.gov/ask-cfpb/my-payday-lender-said-my-loan-would-cost-15-percent-but-my-loan-documents-say-the-annual-percentage-rate-apr-is-almost-400-percent-what-is-an-apr-on-a-payday-loan-and-how-should-i-use-it-en-1625/

[xiv] See note i

[xv] Senator Proxmire, William, "Congressional Record - Senate," Jan 1967. https://web.archive.org/web/20120415005111/http://www.llsdc.org/attachments/wysiwyg/544/TILA-LH-CR-1967-01-31.pdf

[xvi] See, e.g. https://next-financing.com/double-dipping/, and, https://www.breakoutfinance.com/double-dipping-explained/

Appendix C

# Small Business Truth in Lending

Commonsense transparency standards for small business financing

RESPONSIBLE BUSINESS
LENDING COALITION

November 2021

## There is broad agreement

between small business groups, nonprofit CDFIs, for-profit fintech lenders, and civil rights groups on the need for Truth in Lending to be applied to small business financing.

National Urban League

RESPONSIBLE BUSINESS LENDING COALITION

USHCC UNITED STATES HISPANIC CHAMBER OF COMMERCE

the MAIN STREET alliance

AFRICAN AMERICAN ALLIANCE OF CDFI CEOs

SMALL BUSINESS MAJORITY

LendingClub

Funding Circle

NEW YORK STATE CDFI COALITION

OPPORTUNITY FINANCE NETWORK

UPSTATE NEW YORK Black Chamber of Commerce

cbcc COLORADO BLACK CHAMBER of COMMERCE

LATINO ECONOMIC DEVELOPMENT CENTER

25 YEARS C·A·M·E·O·

ACCION OPPORTUNITY FUND

accompany capital

NATIONAL ALLIANCE OF COMMUNITY ECONOMIC DEVELOPMENT ASSOCIATIONS naceda building prosperous communities together

WOODSTOCK INSTITUTE Advancing Economic Security and Community Prosperity

CIM COMMUNITY INVESTMENT MANAGEMENT

NALCAB NATIONAL ASSOCIATION FOR LATINO COMMUNITY ASSET BUILDERS

Federal Reserve Bank of Philadelphia President Patrick Harker
September 29, 2017

"**I hear these stories constantly**, about a small business in particular getting into a situation where they **didn't quite know what they signed up for**, and then they walk into their community bank and say, 'I've gotta get out of this deal, **it's killing me**.' And so, there are good actors and bad actors…"

Source: https://youtu.be/6q6RWVsAaCY?t=5709

## Small Business Truth in Lending is More Crucial Than Ever

- The Truth in Lending Act (1968) requires transparent APR disclosure for consumer financing. Unfortunately, it does not apply to most small business financing.
- Over the last decade, some financing companies have begun describing their prices in confusing or misleading ways. Some take advantage of small businesses with offers of fast cash—without disclosing APRs than can be 350%+.[1]
- Transparency in the financing market will enable price competition and drive down the cost of capital for small businesses as they rebuild from the impacts of COVID.


[1]Opportunity Fund, "Unaffordable and Unsustainable: The New Business Lending on Main Street," May 2016. https://www.opportunityfund.org/wpcontent/uploads/2019/09/Unaffordable-and-Unsustainable-The-New-Business-Lending-on-Main-Street_Opportunity-Fund-Research-Report_May-2016.pdf

Consumer Financial Protection Bureau

# What is APR?

“The APR, or annual percentage rate, is the standard way to compare how much loans cost. It lets you compare the cost of loan products on an ‘apples-to-apples’ basis.”

**CFPB says**

**Tip: Focus on APRs.** If you want to compare the cost of a payday loan to the cost of an installment loan or a credit card, focus on the APRs.

Source: www.consumerfinance.gov/consumer-tools/credit-cards/answers/key-terms/; www.consumerfinance.gov/ask-cfpb/my-payday-lender-said-my-loan-would-cost-15-percent-but-my-loan-documents-say-the-annual-percentage-rate-apr-is-almost-400-percent-what-is-an-apr-on-a-payday-loan-and-how-should-i-use-it-en-1625/

**This is a common small business financing disclosure today.**

Should a business owner take this offer, or a 20% APR loan?

1. **PURCHASE AND SALE OF FUTURE RECEIPTS**

| | |
|---|---|
| **Purchase Price:** | $21,500 |
| **Purchased Percentage:** | 15% |
| **Purchased Amount:** | $31,175 |
| **Specified Daily Amount** (Estimated Average Monthly Sales x Purchased Percentage / Average Business Days in a Calendar Month): | $174 |

Source: A merchant cash advance contract

## This is a common small business financing disclosure today.

Should a business owner take this offer, or a 20% APR loan?

1. **PURCHASE AND SALE OF FUTURE RECEIPTS**

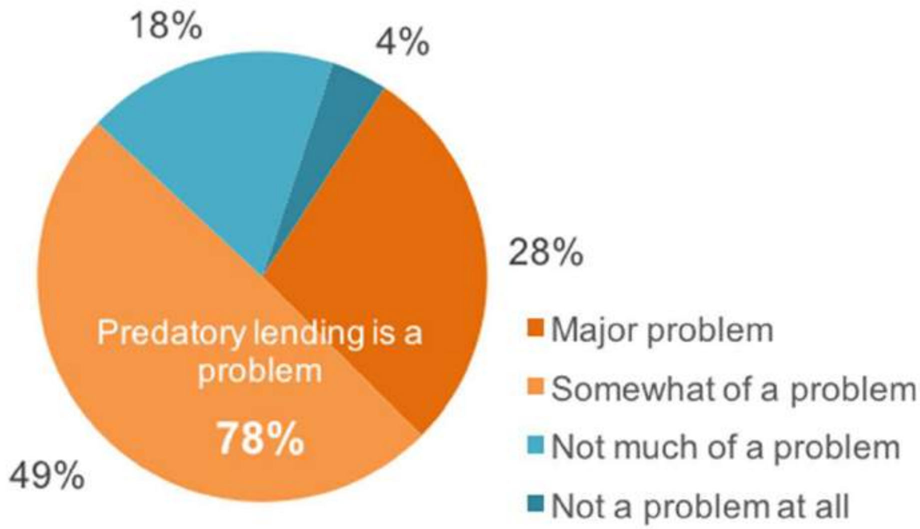
| | |
|---|---|
| **Purchase Price:** | $21,500 |
| **Purchased Percentage:** | 15% |
| **Purchased Amount:** | $31,175 |
| **Specified Daily Amount** (Estimated Average Monthly Sales x Purchased Percentage / Average Business Days in a Calendar Month): | $174 |

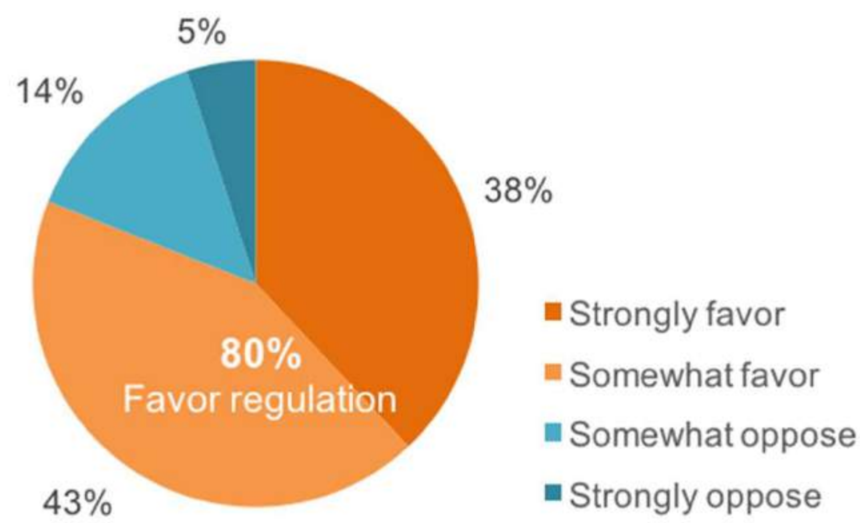
**Not disclosed: 127% APR**

Source: A merchant cash advance contract

# Small Business Owners Want Transparency

**Poll:** "An overwhelming majority of **8 in 10** small business owners reported that they are in favor of regulating online lenders to ensure interest rates and fees are clearly disclosed to borrowers."




Poll of 500 small business owners, conducted between Sept 29 and Oct 4, 2017 by Greenberg Quinian Rosner Research
https://smallbusinessmajority.org/our-research/access-capital/small-business-owners-concerned-predatory-lending-support-more-regulation-alternative-lenders

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

## Research study: "Uncertain Terms: What Small Business Borrowers Find When Browsing Online Lender Websites," Dec. 2019

What some financing providers (e.g. MCAs) disclose today

What they don't disclose

**Table 3. Estimated APRs for select online products**

| Rate advertised on website | Product details | Estimated APR equivalent |
|---|---|---|
| 1.15 factor rate | • Total repayment amount $59,000<br>• Fees: 2.5% set-up fee; $50/month administrative fee<br>• Term: none (assume repaid in six months)<br>• Daily payments (assume steady payments five days/week) | Approximately 70% APR |

https://www.federalreserve.gov/publications/files/what-small-business-borrowers-find-when-browsing-online-lender-websites.pdf

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

Research study: "Uncertain Terms: What Small Business Borrowers Find When Browsing Online Lender Websites," Dec. 2019

The Fed found that disclosure of "9% simple interest" (another term for "factor rate") misled small business owners to believe a 46% APR option was less expensive than a 21.9% APR option:

"The non-standard terminology also proved challenging for focus group participants trying to compare online offerings with traditional credit products. For example, when asked to compare a sample short-term loan product with a 9 percent "simple interest" rate to a credit card with a 21.9 percent interest rate, most participants incorrectly guessed the short-term loan to be less expensive."

| Rate advertised on website | Product details | Estimated APR equivalent |
| --- | --- | --- |
| 9% simple interest<br>(disclosed) | • Total repayment amount $54,500<br>• Fees: 3% origination fee<br>• Weekly payments<br>• Term: six-month term | Approximately 46% APR<br>(not disclosed) |

https://www.federalreserve.gov/publications/files/what-small-business-borrowers-find-when-browsing-online-lender-websites.pdf

BIPARTISAN POLICY CENTER

**Main Street Matters**

*Ideas for Improving Small Business Financing*

AUGUST 2018

Republican Senator Olympia Snowe

Democratic SBA chief Karen Mills

# There is bipartisan agreement:

" There can also be confusion around some forms of small business credit, called merchant cash advances. These products are not classified as loans and, as such, are not expressed in terms of an APR, making it challenging to compare with other types of credit products. "

https://bipartisanpolicy.org/report/main-street-matters-ideas-for-improving-small-business-financing/

Bloomberg Opinion

# Protect Small Businesses From Predatory Lending

By Editorial Board
November 28, 2018, 6:30 AM EST

" The best solution would be for Congress to pass a truth-in-lending law for small business, along the lines of the rules that already exist for consumer loans. "

Links to Responsible Business Lending Coalition proposal that informed this bill

RESPONSIBLE BUSINESS LENDING COALITION

https://www.bloomberg.com/amp/opinion/articles/2018-11-28/confessions-of-judgment-small-business-and-predatory-lending

FEDERAL RESERVE BANK of ATLANTA

# Federal Reserve Small Business Credit Survey: Report on Minority-Owned Firms

DECEMBER 2019

> "Minority-owned firms more frequently applied for potentially higher-cost and less-transparent credit products: "

- Hispanic-owned businesses are about 2x as likely to apply for MCAs, and
- Black-owned businesses are about 2x as likely to apply for factoring financing, compared to White-owned businesses.
- For Black and Hispanic business owners, online lenders are the second most popular source of financing, after banks.

Source: https://www.fedsmallbusiness.org/medialibrary/fedsmallbusiness/files/2019/20191211-ced-minority-owned-firms-report.pdf

# Fed Governor Lael Brainard Speech Sept 30th, 2015

“ Some have raised concerns about the high **APRs** associated with some online alternative lending products. Others have raised concerns about the risk that some small business borrowers may have difficulty fully understanding the terms of the various loan products or the risk of becoming trapped in layered debt that poses risks to the survival of their businesses. ”

https://www.federalreserve.gov/newsevents/speech/brainard20150930a.pdf

## New York Fed President William Dudley Speech
## May 8th, 2015

“ There are individuals who try to **take advantage of owners of new businesses** by providing them with poor advice or overcharging them for credit… It would be helpful to have **consistent standards and transparency requirements** for organizations that lend to small businesses. Such standards and requirements exist for lending to households, and I believe the same justification exists to extend these requirements to small businesses. ”

https://www.newyorkfed.org/newsevents/speeches/2015/dud150508.html

# Can merchant cash advances (MCAs) disclose APR?

1. Yes. Some already do disclose APR.

THE BUSINESS BACKER

lighter capital

SMARTBOX

Capital Comparison Tool

**This tool is provided to help you understand and assess the cost of your small business finance product.**

*This Merchant Cash Advance ("MCA") is a purchase of future receivables ("Receivables"), not a loan. If you take this MCA, you will deliver Receivables to us as they are generated by your business (and only if they are generated by your business) and not on any set schedule. There are no fixed or minimum payment amounts and no term or maturity date. In order to compare the cost of this MCA to a loan, SMART Box provides the calculations below based on several assumptions, including that you will deliver the same amount of Receivables each period and that you will deliver all of the Receivables you sold within a predicted period of time. In practice, these amounts will vary. Unlike a loan, this MCA has no payment schedule and no interest rate; your obligation is to deliver Receivables as your business generates them.*

| Purchase Price Amount | Disbursement Amount (minus fees withheld)[1] | Future Receivables Sold | Predicted Delivery Time[2] |
|---|---|---|---|
| $[0] | $[0] | $[0] | [_] Months |

| METRIC | METRIC CALCULATION | | METRIC EXPLANATION |
|---|---|---|---|
| **Total Cost of Capital**<br>$[0.00] | Future Receivables Sold minus Purchase Price:<br>Origination Fee:<br>Other Fees:<br>**Total Cost of Capital:** | $[0.00]<br>$[0.00]<br>$[0.00]<br>$[0.00] | This is the total amount that you will pay, including up-front fees, for capital.<br>The amount does not include fees and other charges you can avoid, such as fees for reversed payments.[3] It also assumes your business will generate all of the Receivables we are purchasing. |
| **Annual Percentage Rate (APR)**[4]<br>[00.00]% | Assumed [daily/weekly/monthly] delivery of Receivables[5]:<br>**APR:** | $[0.00]<br>[00.00]% | This is the cost of capital – including fees – expressed as a yearly rate. APR takes into account the amount and timing of capital you receive, fees you pay, and Receivables you deliver.<br>It assumes that your business will generate and deliver the same amount of Receivables each period, and that all of the Receivables will be delivered in the Predicted Delivery Time. While APR can be used for comparison purposes, it is not an interest rate. |

# Can merchant cash advances (MCAs) disclose APR?

1. Yes. Some already do disclose APR.

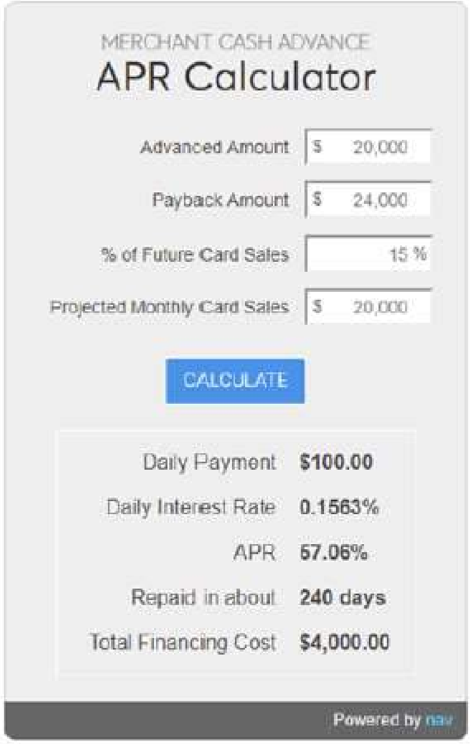
2. Other MCAs advertise their high annualized yields to their investors, but don't disclose these annualized percentage rates to their small business customers.

- The credit quality of the collateral, the performance of [redacted]'s small business loan and MCA portfolio, and proposed pool.
  - The pool comprises short-term loans and MCAs with a weighted-average remaining term or estimated underwritten turn of approximately [9.55] months.
  - The pool has an expected weighted-average annual return on the collateral pool of approximately 48%, which provides a significant level of first loss protection in the form of excess spread.

# Can merchant cash advances (MCAs) disclose APR?

1. Yes. Some already do disclose APR.
2. Other MCAs advertise their high annualized yields to their investors, but don't disclose these annualized percentage rates to their small business customers.
3. Numerous online calculators show that it can be simple to compute APRs for MCAs:

https://www.nav.com/business-loan-calculators/merchant-cash-advance-apr-calculator/
https://www.merchantmaverick.com/merchant-cash-advance-calculator/
https://www.fundera.com/business-loans/business-loan-calculators/merchant-cash-advance-calculator
https://www.nerdwallet.com/blog/small-business/merchant-cash-advance-small-business/
https://www.lendio.com/calculators/embed-mca?&affiliate=4247260739
https://www.americanmerchantbrokers.com/merchant-cash-advance-calculator.html



# If MCAs don't want to disclose their APRs, why isn't "factor rate" sufficient?

1. "Factor rates" are already being disclosed today. The confusion it is causing small businesses is one reason Truth in Lending is needed.

2. Federal Reserve research has demonstrated that "factor rates" too often misguide small businesses towards higher-rate financing.

3. Unlike APR, "Factor rate" does not enable comparison shopping between products of different term lengths, and it does not include fees.

# If MCAs don't want to disclose their APRs, why isn't the total cost, in dollars, sufficient?

Disclosure of total cost in dollars is required in the bill, "finance charge."
But without APR, it's not sufficient because:

1. Dollar cost is already being disclosed today. It has not prevented the borrower confusion described in preceding slides.

2. Dollar cost alone does not enable comparison of the cost of financing options with different term lengths, or of different amounts. As a result, it can mislead applicants towards shorter-term, higher-rate financing.

# Dollar cost is insufficient without considering time.

Question: Is a $15,000 lease cheaper than a $25,000 lease?

$15,000 total

6-month lease, 2,000 square feet

$25,000 total

5-year lease, 1,000 square feet

# Dollar cost is insufficient without considering time.

## Question: Is a $15,000 lease cheaper than a $25,000 lease?

$15,000 total

6-month lease, 2,000 square feet

**$15** per square foot per year

$25,000 total

5-year lease, 1,000 square feet

**$5** per square foot per year

To compare the price, you need to know the amount of time you get to use the house for.

Similarly, APR helps you compare the cost of financing
over the amount of time you get to use the financing for.

# If MCAs don't want to disclose their APRs, why isn't the total cost, in dollars, sufficient?

3. The dollar cost of a single transaction alone does not enable accurate comparison, because MCA customers often renew their short-term financing over and over again, in payday-like cycles of reborrowing.

According to the website of a leading MCA provider:

> Approximately 90% of our Merchant Cash Advance clients participate in the program more than once. In fact, the average customer renews about ten times!

The actual decision small business owners are often making is between borrowing a 6-month MCA on an ongoing basis, or using a 3-year loan on an ongoing basis. APR enables small business owners to compare these costs on an apples-to-apples basis.

Source: Website of a leading MCA provider