MARKETPLACE
LENDING ASSOCIATION

Honorable Senator Mike Crapo
Chairman

Honorable Senator Sherrod Brown
Ranking Member

Committee on Banking, Housing, & Urban Affairs
United States Senate
534 Dirksen Senate Office Building
Washington, D.C. 20510

Re: Request for Proposals to Foster Economic Growth

We thank the Chairman and the Ranking Member for convening this request for proposals and allowing us to offer our view on initiatives that would allow marketplace lenders to more easily make credit available to borrowers and thus unlock the broader benefits that accompany these loans.

MLA members believe that access to responsible and affordable credit is a key driver of economic opportunity for anyone, regardless of income. Our goal is to promote transparent, efficient, and customer friendly financial products that make access to that capital and credit a reality to as many consumers and businesses as possible. Today, MLA member platforms are creating opportunities for borrowers to get better interest rates, lower costs, and secure faster loan approvals across a range of products. These efforts are expanding access to underserved individuals and new borrowers and the communities in which they live.

The innovation provided by these new approaches to lending has helped borrowers pay off expensive credit card debt at lower rates, manage family emergencies, invest in their growing small businesses, refinance sky high student loan balances, and save on interest costs when they make big purchases. MLA members are delivering the innovative financial products that are transforming our financial system, providing service that is seamless and totally transparent when customers apply for loans. After all, in today's economy, no one can afford to wait weeks or months for a credit decision, only to see a loan application rejected.

MLA member companies have also opened financing to new and diverse sources of capital, providing a new channel for both institutions and individuals who are interested in investing in the loans made to consumers, small businesses, students, and real estate projects. Total securitization issuance for 2016 in marketplace lending came in at $7.8 billion, as compared to $4.9 billion in 2015, a 59% increase. Total origination for 2016 was more than $30 billion. For fixed income investors struggling with a prolonged period of rock-bottom interest rates, this asset class has provided a rare bright spot. Furthermore, marketplace platforms are providing products that consumers prefer that are simply no longer provided by banks. **The issuance of transparent, unsecured personal loans in the U.S. declined 44% between 2007 and 2014 ($62 billion to $35 billion)**.[1]

Access to high quality financial services remains uneven and rapid changes to our economy hit underserved rural and urban communities the hardest. That applies to financial services as well. Today, there are 5% fewer bank branches than there were in 2009 and, over the next decade, researchers believe that as many as half of all remaining physical bank branches may close. The Federal Deposit Insurance Corporation (FDIC) estimates that 28% of all American households are unbanked or underbanked. And the Federal Reserve Bank of New York recently reported that unmet credit demands are sharply increasing, particularly in already underserved demographics.[2] In a separate study, the Federal Reserve found in 2015 that only half of businesses with fewer than 500 employees received the full funding amount they requested from traditional banks.

Against that backdrop, financial technology companies – and marketplace lending companies in particular – are crucial in ensuring that consumers and business owners gain access to the convenient, affordable credit options they need to pursue their dreams. Looking forward, the extent to which the innovative financial products offered by online lending platforms will further increase job creation and economic growth will depend significantly on how regulators and lawmakers approach these new products and new technologies. Increasing responsible lending to small business would directly result more in job creation as smaller new businesses are disproportionately responsible for creating net new jobs in our economy, and faster, more affordable credit options free up consumers to buy other goods.

[1] Equifax

[2] https://www.newyorkfed.org/microeconomics/sce/credit-access.html#indicators/overall-credit-rates-t1-a/g17

Executive Summary

New technologies are making financial services more accessible, affordable, and easier to use, yet the rules applicable to the financial sector are not keeping pace. While there are a number of ways in which the Senate Banking Committee, and Congress more broadly, can support the development of positive public policy in this space, we encourage the Chairman and Ranking Member to support the legislative initiatives listed below. We provide greater detail on certain of these items later in this submission.

- *New Charters:* The MLA urges the Senate Banking Committee to support avenues to creating a nationwide framework for responsible, low risk online lending by non-depository financial technology institutions, including (but not limited to) supporting the OCC's ongoing efforts to create a special purpose charter. We also encourage the Chair and Ranking Member to consider legislatively empowering the states to charter fintech companies.[3]
- *Valid When Made:* Legislation that would reduce the cost of credit by re-affirming the longstanding principle that a bank-originated loan is "valid when made," which would ensure continued liquidity and stability in credit markets in the wake of some judicially created uncertainty in secondary markets for a broad range of bank loans;
- *Re-affirming Federal Pre-emption Rights*: Guidance from Congress that would reaffirm time-honored bank lending powers, joining the FDIC in recognizing that there are legitimate and wholly responsible partnerships between FDIC insured banks who are the "true lenders" and third parties who provide services to those firms.
- *Accredited Investor Standards*: More investors should have access to regulated alternative investments, including small business credit and real estate investments. We urge the committee to review the current

[3] Currently, traditional banks have two charter options that allow them to offer similar products to customers nationwide. Section 85 of the National Bank Act permits a national bank either to export its home-state interest rate to any state where it does business, or to use the host state's rate. Rate exportation has been key to the rise of credit card products, which allow banks to lend easily to borrowers across state lines without necessarily establishing a physical presence in every state. Section 521 of the Depository Institutions Deregulation Act of 1980 (DIDA) similarly provides state-chartered banks with the same powers of rate exportation. Courts and regulators have interpreted the provisions in parallel. Following this structure would complement the OCC's approach, states could be given powers to charter federally supervised non-depository fintech firms, with rate exportation. Whatever the avenue, a consistent nationwide set of rules is crucial if marketplace lending companies are to fill the critical gaps in credit for small businesses and consumers.

accredited investor requirements. In many cases, our laws end up prohibiting non-accredited investors from investing in a range of innovative financial products, many of which are specifically designed to reduce the expensive costs of financial intermediaries. Greater democracy in investing can help level the playing field at a time when inequality of opportunity in America remains a significant concern.

- *Regulatory "Sandbox":* Requiring agencies to create innovation offices to facilitate alternative compliance plans involving waivers and modifications of existing rules and regulations.
- *Encourage "turndown" referrals*: In an attempt to chip away at the well documented small business credit gap, the Chair and Ranking Member could require or encourage traditional financial institutions who decline a small business applicant for financing to refer that applicant to an alternative source of funding (including marketplace lenders). The UK government currently requires its banks to participate in these types of turndown referrals.

Outside of Committee Jurisdiction. Additionally, the MLA would like to highlight policy initiatives that may be outside of Senate Banking Committee jurisdiction, but which are important to credit access and the development of marketplace lending platforms:

- *4506T API* would simplify the process for borrowers to apply for credit by easing access to consumer-owned tax return data held by the Internal Revenue Service (IRS) by directing the IRS to develop an application programming interface (API) and automated processing service for instantaneous delivery of 4506-T data; and
- *The Employer Participation in Repayment Act* would allow employers to contribute pre-tax earnings to help employees pay off student loan debt accumulated over the course of their undergraduate or graduate careers.

Academic work. Finally, the MLA would like to point out that the Mercatus Center, the Brookings Institution, and the Center for Financial Markets at the Milken Institute have led the way in examining how financial regulation can be updated to maximize the benefits of marketplace lending. For instance, in the recently released a paper "FinReg21: Modernizing Financial Regulation for the 21stCentury" The Center for Financial Markets makes 10 recommendations to modernize the financial system, including (1) "Streamlining licensing process for [FinTech] firms" by implementing a "uniform licensing regime at either the state or federal level," and (2) creating a "Regulatory Sandbox" that brings "innovative startups together with regulators to test products under a controlled environment," and (3) giving the "CFPB preemption authority so that it can … set national standards." A copy of the Milken Paper can be found HERE.[4]

While these proposals certainly do not exhaust the field of measures that could be taken to encourage responsible innovation in financial products and services, they are of critical importance from the perspective of encouraging financial technology's contribution to increased growth of the U.S. economy.

Congressional Clarification of the Validity of the *Valid When Made* Doctrine

Our first proposal requests that Congress act to address an ill-considered judicial decision that has the potential to create uncertainty and illiquidity in credit markets, negatively impairing the availability and price of credit to consumers and small businesses in certain judicial districts. In *Madden v. Midland Funding, LLC*,[5] the U.S. Court of Appeals for the Second Circuit contradicted a well-established principle of law that a loan whose interest rate complies with applicable state law at time of origination remains valid when sold, transferred, or assigned to third-parties.[6] This principle was long ago articulated by the Supreme Court as one of the "cardinal rules in the doctrine of usury" (*Nichols v. Fearson*, 32 U.S. 103, 109-11 (1833) and is critical to a healthy financial system because it ensures liquidity in the credit markets and, reduces the cost of credit to borrowers. Congress should ensure that this legal principle, the "valid when made" doctrine, remains the law of the land by codifying the principle in statute.

The *Madden* decision, which the Obama Administration's solicitor general, federal banking regulators, Republican Members of Congress and outside commentators all agree was wrongly decided,[7] has had an immediate impact on credit

[4] http://assets1c.milkeninstitute.org/assets/Publication/Viewpoint/PDF/FinReg21-Recommendations-Final.pdf

[5] 786 F.3d 246 (2nd Cir. 2015).

[6] See the discussion in the amicus brief filed jointly by the Office of the Comptroller of the Currency and the Office of the Solicitor General in the U.S. Department of Justice. Brief for the United States as Amici Curiae, *Midland Funding, LLC v. Madden*, No. 15-610, 136 S. Ct. 2505 (2016).

[7] Respectively: *see id*.; Rachel Witkowski, *Legislation Proposed to Counteract Court Ruling on State Usury Caps*, (Wall Street Journal, July 11, 2016) (quoting Hon. Rep. Patrick McHenry (R-NC), "[t]his ruling will restrict the expansion of credit and restrict innovation [and] poses a risk to the secondary credit markets. It also undermines peer-to-peer lending platforms in the current business model"), *available at*: https://www.wsj.com/articles/legislation-proposed-to-counteract-court-ruling-on-state-usury-caps-1468278817; *and, e.g.,* Brief for the Clearing House Association L.L.C., Financial Services Roundtable, Consumer Bankers Association, Loan Syndications and Trading Association, and the Chamber of Commerce of the United States of

markets throughout the country. The case has resulted in uncertainty in a bank's ability to sell, assign, or transfer credit receivables (except to other banks) in the three states that comprise the Second Circuit—New York, Connecticut, and Vermont—which could reduce the liquidity and value of those assets. In turn, this reduction in liquidity and asset value could cause lenders to charge borrowers higher rates to compensate for the reduced liquidity and value of the loan assets. Were courts in other jurisdictions to reach similar conclusions (as a Colorado recently has recently asked a federal court to do), the availability and price of credit for borrowers nationwide would be significantly harmed. A recent study showed a post-Madden, 52% decline in credit for borrowers in the 2nd Circuit states with credit scores under 625.[8]

The *Madden* decision has also wrongly thrown into question a bank's right to partner with third party service providers that assist in marketing and operating a consumer-friendly loan program. Such partnerships, which often involve the ultimate sale or transfer of loans to a marketplace lending platform or to a third party investor, have long been recognized as legitimate and are directly supervised by the FDIC and state banking regulators. The FDIC's Third Party Guidance is recent evidence of that agency's commitment to supporting and supervising such programs. Innovation and competition in financial services, which drives down prices for consumers and small businesses, would be greatly reduced if the valid when made doctrine is not re-affirmed quickly. In its absence, inconsistent rate and fee caps that vary from state to state may prevent effective price and credit rating on a national scale. For example, some states permit origination fees and others do not or limit the amount of those fees. Additionally divergent, some state rate caps tier by loan size at $2,500, $5,000, and $5,000 while others tier at $4,000 and $8,000 or $3,000 and $10,000.

Nationwide application of the *Madden* precedent could mean that that, despite the fact that loans are issued by a state or federally chartered bank, platforms and banks would need to conform such loans to state usury and fee restrictions. Although all MLA member loans to consumers are at a maximum rate of 36% APR (the CFPB has determined that rates higher than 36% should be subject to greater scrutiny) and

America as *Amici Curiae* Supporting Petitioners, *Midland Funding, LLC v. Madden*, No. 15-610, 136 S. Ct. 2505 (2016).

[8] "What Happens when loans become legally void?" https://law.stanford.edu/publications/what-happens-when-loans-become-legally-void-evidence-from-a-natural-experiment/

the vast majority of loans fall below state interest rate caps, inconsistent state rate caps and fee requirements threaten to hamper online lending platforms, eliminating efficiencies, increasing costs, and reducing the availability of uniform product offerings at rates that are considered low risk for consumer abuse by the Consumer Financial Protection Bureau. **Illustrating the detrimental impact of wide adoption of the *Madden* case, in Mississippi, Colorado or Arkansas, consumers may hold credit card debt at 22% made by banks using preemption abilities, but it would not be possible under state licenses for an online lending platform to help those consumers refinance into a lower cost, transparent personal installment loan at 18% APR also made by a bank simply because those loans would later be sold to a marketplace lending platform or to an investor.**

We call upon the Committee to support legislation that would return certainty to consumer and small business credit markets. We believe that a recent House of Representatives bill during the preceding Congress adequately addresses the uncertainty that resulted in the wake of the *Madden* decision,[9] and urge the Committee to support legislation based on the language of the House bill. Specifically, the Committee should amend Section 5197 of the Revised Statutes of the United States (12 U.S.C. § 85) and Section 27(a) of the Federal Deposit Insurance Act (12 U.S.C. § 1831d(a)) to add the following sentence at the conclusion of existing text: "A loan that is valid when made as to its maximum rate of interest in accordance with this section shall remain valid with respect to such rate regardless of whether the loan is subsequently sold, assigned, or otherwise transferred to a third party."

Reaffirming Federal Pre-emption

A number of sporadic judicial decisions have in recent years attempted to call into question a bank's right to partner with third party service providers that assist in marketing and operating consumer-friendly loan programs by arguing that the third party service provider in such a partnership is a "de facto" or "true" lender in the transaction and thus unable to avail itself of the bank's home state interest rate. These partnerships, however, have long been recognized as legitimate and are directly supervised by the FDIC, OCC and state banking regulators. The FDIC recently provided additional proposed guidance—evidence of their commitment to supervise this legitimate use of bank powers—to help banks in managing third-party risk, which is "applicable to any of an institution's third-party arrangements,

[9] H.R. 5724, the Protecting Consumers' Access to Credit Act of 2016, summary and full text *available at*: https://www.congress.gov/bill/114th-congress/house-bill/5724.

including lending through a third party."[10]

With a properly structured partnership with an issuing bank, borrowers benefit from the same regulatory protection and oversight as a direct bank customer. The issuing bank partnership structure that results in this equivalent level of protection requires extensive and ongoing communication, monthly monitoring and testing by the bank and the partner, annual and on-going training auditing and oversight by the issuing bank, its regulators and an independent third-party of applicant and borrower facing activities performed at the direction of and for the bank by the non-bank partner.

The new guidance, provided in Financial Institution Letter 50, applies to all FDIC-supervised institutions that engage in third-party lending. It recognizes a number of different lending partnerships: "Institutions originating loans for third parties; institutions originating loans through third parties or jointly with third parties; and institutions originating loans using platforms developed by third parties."

The proposed guidance emphasizes that institutions should take a number of steps to manage these relationships, including: "establishing a third-party lending risk management program and compliance management system (CMS) that is commensurate with the significance, complexity, risk profile, transaction volume, and number of third-party lending relationships. Consistent with existing guidance, the risk management program and CMS should address risk assessment, due diligence and oversight, and contract structuring when selecting and managing individual third-party lending relationships. For institutions that engage in significant lending activities through third parties, the proposal includes increased supervisory attention, including a 12-month examination cycle, concurrent risk management and consumer protection examinations, offsite monitoring, and possible review of third parties."

The FDIC has, with FIL 50 and elsewhere, clearly recognized that marketplace lending platforms that operate as a service provider to an issuing bank partner can provide significant benefits to borrowers by offering responsible and innovative credit products, within a strong regulatory framework. We urge the Chairman and Ranking Member to reaffirm the longstanding powers of FDIC and

[10] Financial Institution Letter 50: https://www.fdic.gov/news/news/financial/2016/fil16050.html

OCC supervised banks to issue valid loans under a single nationwide regulatory framework. Such a reaffirmation would reinforce for all stakeholders that FDIC supervised banks that originate loans are the true lender, irrespective of other arrangements to, for instance, sell participation in those loans at a later time. This reaffirmation of the powers of FDIC supervised banks under Section 521 of the Depository Institutions Deregulation Act of 1980 (DIDA) would provide market certainty, increase liquidity, and make credit more affordable for borrowers nationwide.

Regulatory Sandbox

Last Congress, H.R. 6118 would have established a federal regulatory framework that allows financial services companies and entrepreneurs the flexibility they need to go to market sooner with innovative, new financial technology products.

The bill requires twelve different federal regulators to have a mandate to foster innovation in financial services through the creation of Financial Services Innovation Offices (FSIOs) within their agencies. Companies may apply for an "enforceable compliance agreement" with the FSIOs that, if accepted, will allow them to provide an innovative product or service under an alternative compliance plan, which waives or modifies regulation that is out-of-date or unduly burdensome.

Ease Access to Government-Held, Taxpayer-Owned Data

Another proposal to enhance credit availability and economic growth would be to have Congress direct the IRS by statute to allow American consumers and small businesses to more easily send tax return data to lenders when applying for credit. A simple change to bring the IRS's "4506-T" data sharing systems up to date could have profound benefits for credit availability, the cost of credit, and economic growth.

The 4506-T[11] process currently allows taxpayers to request that the IRS deliver summary tax return information, on the taxpayer's behalf, to designated third-party recipients. This process provides lenders with valuable information about the taxpayer's finances. However, the process is currently unnecessarily slow, based on manual processing utilizing paper forms, typically delaying receipt of this information by 8 business days and requiring lenders to pay expensive third-party expediters. As a result of this delay and cost, tax data cannot be effectively used in

[11] *See* https://www.irs.gov/pub/irs-pdf/f4506-T.pdf.

the instant credit models that marketplace lenders, and increasingly traditional banks, use to provide applicants the fast, easy experience that consumers have come to expect in the internet age. If this tax data were more widely available for instant-online transmission it would enable lenders to provide higher verification, lower prices, easier application processes and other benefits.

This change would not require new policy at the IRS and could be done without a statutory change. The IRS already uses the 4506-T process to allow taxpayers to give their permission to share tax data with third parties. The IRS already accepts electronic signatures. Instead, this system needs to be changed from a manual processing of paper forms to a modern digital process.

To illustrate the benefits of this tax data, consider the case of HD Welding, a fairly typical small business applying for credit from a bank or marketplace lender.[12] Harold Dennis, the business owner, like many, has weaker personal credit as a result of drawing heavily on personal credit cards to run his business. Furthermore, because HD Welding has not yet been approved for commercial credit, it has no business credit score a lender can draw on. As a result, HD Welding's credit applications may be declined by most banks or business lenders. But what if those lenders could instantly access the tax returns of HD Welding? They might see that is has maintained a steady profit margin over three years, while growing its revenue. [13] If that data were made accessible to a modern lender's instant credit model, HD Welding could likely be approved.

Expanding on that example, tax returns can provide important financial data that may not be reflected in generic credit scoring models or applicant self-reported data. This alternative data could then allow lenders to instantly approve (or deny) the applicant in real-time based on a richer, more accurate view of the applicant's ability to repay. This potential could make all the difference for small business credit-seekers, especially those who may have experienced a prior credit denial or anticipate receiving one, when considering whether to expand or pursue a new opportunity.[14]

[12] Names changed for privacy.

[13] For example, lenders often require small business borrowers to self-report revenues and profits looking back one year, but summary data available through the 4506-T would give lenders verified data on three years of data, including business balance sheets and cost ratios.

[14] Or to seek more risky and potentially abusive credit options. Data are clear that use of so-called alternative credit products (i.e., payday loans, refund anticipation loans, rent-to-own services, pawn shop loans and auto title loans) is higher among consumers who have experienced a bank credit denial, discouragement about applying for bank credit or falling behind in bills, and that many small businesses are increasingly looking to similarly-dangerous alternative credit products. *See* Susan Burhouse et. al., *2015 National Survey of Unbanked and Underbanked*

Over time, this simple technological fix could lower risk in originated portfolios, allowing for improved loan pricing and even a less risky financial system as it becomes possible for lenders to easily and cheaply verify loan applications with API-enabled tax data. It should improve the flow of credit to consumer and businesses, in real time, allowing them to better plan expenditures and investment decisions. This informational improvement may result, in turn, in unlocked productivity and higher growth rates. Automating the costly manual processing of the 4506-T forms at the IRS could also improve the IRS's operating finances.

Proposal

We call upon the Committee to support legislation that would direct the IRS to develop an automated API process for delivery of 4506-T information in real time. Again, during the last Congress, a bill in the House of Representatives set forth an instructive framework for addressing these issues.[15] For the Committee's convenience, we reproduce that bill's language as Exhibit A to this letter. However, the Committee should convene a process to expand on the House bill to incorporate the following principles, which will ensure that the technological reform produces the maximum benefit to U.S. consumers, small businesses and economic growth:

- **Make it free**, or cheap enough to use: Any reform effort needs to be sensitive to the cost models of financial service providers. In this case, lenders and platforms need to be able to access 3 years (or more, if possible) of personal and business tax data for each approval interaction in an affordable manner, otherwise the cure will risk being worse than the disease.[16] The economic growth gains from increased lending activity, and the concomitant increase in tax revenues, should help fully fund the IRS's operating expense associated with the automated program.
- **Make it easy** to integrate into online applications: As a general rule of

Households, (Federal Deposit Insurance Corporation, 2016), at 6, *available at*: https://www.fdic.gov/householdsurvey/2015/2015execsumm.pdf; Tim St. Louis, Eric Weaver, Gwendy Donaker Brown and Caitlin McShane, *Unaffordable and Unsustainable: The New Business Lending on Main Street*, (Opportunity Fund, 2016), *available at*: http://www.opportunityfund.org/assets/docs/Unaffordable%20and%20Unsustainable-The%20New%20Business%20Lending%20on%20Main%20Street_Opportunity%20Fund%20Research%20Report_May%202016.pdf.

[15] H.R. 5725, the IRS Data Verification Modernization Act of 2016, summary and full text *available at*: https://www.congress.gov/bill/114th-congress/house-bill/5725.

[16] For example, if only 1 borrower out of every 4 applicants processed ultimately receives a loan, the cost is multiplied 4x. On small loans, such as those specialized in by marketplace lenders, this could quickly become unaffordable.

thumb in e-commerce, if it requires more than two clicks, we would probably be better off not using it. This applies to the fintech lending market doubly; an essential element of providing lower cost loans to borrowers on fintech platforms is the speed and efficiency with we process applications. If the API reform results in online applications requiring more than two clicks from an applicant, online lenders will lose business as applicants would "drop off." Therefore, any 4506-T reform must include a simple borrower consent interface, for example utilizing tokenization technologies, that facilitates point and click request while ensuring appropriate safety mechanisms are in place to discourage abuse.

- **Don't limit the API** to certain types of loan product requests: Our example above is limited to the small business lending context, and we understand that certain product lines may receive more focus for reform efforts (e.g., student loan servicing or SBA loan applications); however, the utility of this technological reform would be magnified if it were made available across credit markets, particularly for general business, mortgage, consumer, and auto lending applications.
- **Include additional data** by including a few fields from tax returns that are not currently included in the 4506-T summary transcript. This will ensure that loan underwriters will not need to obtain information beyond that transmitted pursuant to the API, such as verification of ownership. If not included in the 4506-T reform measure, the value of the reform would largely be undermined. In particular, the following information is critical:
    - Form 1120 S (Schedule K-1, Part II);
    - Form 1065 (Schedule K-1, Part II); and
    - Form 1120 (Schedule G, Part I).

  Additionally, the following information would dramatically increase the value of the 4506-T reforms, by further enriching the data available for high-tech risk modeling:
    - Balance sheet detail;
    - Depreciation schedule; and
    - Other Depreciation and Other Income data.

Thank you for the opportunity to comment on this important initiative. We remain available to provide additional input or answer any questions regarding our comment letter. Please do not hesitate to reach out to me directly at 202-660 1825 or by email at nat.hoopes@marketplacelendingassociation.org. We look forward to continued engagement with the Committee in supporting the economic growth of the U.S. economy.

Sincerely,

Nathaniel L Hoopes

Executive Director | Marketplace Lending Association

EXHIBIT A

A BILL

To amend the Internal Revenue Code of 1986 to require website-based, real-time responses to requests to verify taxpayer income for legitimate business purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "IRS Data Verification Modernization Act of 2016".

SEC. 2. DISCLOSURE OF TAXPAYER INFORMATION FOR THIRD-PARTY INCOME VERIFICATION.

(a) IN GENERAL.—Section 6103(c) of the Internal Revenue Code of 1986 is amended—

(1) by striking "The Secretary may" and inserting the following:

"(1) IN GENERAL.—The Secretary shall", and

(2) by adding at the end the following new paragraph:

"(2) DISCLOSURE FOR INCOME VERIFICATION.—With respect to any program established by the Secretary to disclose returns and return information to an entity engaged in the process of confirming the income of a taxpayer for a legitimate business purpose, or a designee of any such entity, the Secretary shall ensure the following:

"(A) The disclosure process is conducted entirely through fully automated and electronic means accessible through the Internet.

"(B) The disclosure process is able to be completed in as close to real-time as is practicable.

"(3) SECURITY REQUIREMENTS FOR RECIPIENTS.—The recipients authorized to receive returns or return information on behalf of taxpayers shall maintain adequate security to protect the information being disclosed.".

(b) EFFICIENT USE OF AGENCY RESOURCES.—In establishing the program to electronically automate income verification disclosures under section 6103(c)(2) of the Internal Revenue Code of 1986, as added by this section, the Secretary shall, to the extent practicable, make use of resources in operation or in development at the Internal Revenue Service, including databases, application programming interfaces, and other computerized systems, programs, and resources.

(c) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Secretary of the Treasury shall submit a written report to Congress on any progress made on the implementation of section 6103(c)(2) of the Internal Revenue Code of 1986, as added by this section.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to disclosures made after the date that is one year after the date of the enactment of this Act.