## Request for a No-Action Letter

### *1. The name(s) of the entity or entities and individual(s) requesting the No-Action Letter.*

This Request for a No-Action Letter ("Request") is submitted on behalf of Upstart Network, Inc. ("Upstart").

### *2. A description of the consumer financial product involved, including:*

#### *a. how the product functions, and the terms on which the product will be offered;*

I. Overview of Upstart and Description of Upstart's Consumer Loan Products

Upstart provides an online lending platform (sometimes referred to as a "marketplace") that enables people with limited credit or work history, among others, to obtain credit and/or obtain credit on better terms. Upstart's lending platform, launched in 2014, allows this segment to apply for loans on more favorable terms from Cross River Bank. When a prospective borrower applies for a loan from Cross River through Upstart's platform, Cross River relies on Upstart's underwriting methodology to decide whether to offer a loan and, if so, on what terms. Accredited investors and certain institutions then have the opportunity to invest in those loans.

Upstart's underwriting model[1] has the ability to identify differences in risk between "thin file" applicants. This enables Upstart and its bank partner to expand credit access and offer better loan terms to promising individuals with limited credit history. By complementing (not replacing) traditional underwriting signals with other variables that are correlated with financial capacity and repayment propensity, Upstart's model understands and quantifies risk associated with all borrowers—both those with credit history and those without. As a result, the Upstart loan program is able to offer credit to segments of the population with limited credit or work history at more favorable rates.

a) Eligibility Requirements for Applicants

In order to be eligible for an Upstart loan, an applicant must meet the following criteria:

- Have a verifiable name, date of birth and social security number;
- Be at least 18 years of age (19 in Alabama and Nebraska);
- Have a credit score that meets the minimum credit underwriting requirements (currently, 620) or if the applicant does not have a credit score, have graduated from, or are currently enrolled in, either (i) an associate degree at an accredited school, (ii) a four-year (bachelor's

[1] Throughout this Request, we refer to Upstart's "underwriting model." We note, however, that Upstart's model makes both approve/deny decisions, as well as pricing decisions.

degree) accredited college, or (iii) more advanced degree granting program; unless s/he has been accepted to one of our partner institutions that provides vocational training and (iv) has a job or a job offer or another verifiable source of regular income;

- Be a U.S. citizen or U.S. permanent resident;

- Is not a resident of West Virginia;

- Pass the identity verification and Office of Foreign Assets Control ("OFAC") screening;

- Have a valid e-mail account (meaning that Upstart has checked the format of the address and, before origination, verified the consumer's ability to send and receive mail at that address);

- Have a job or job offer he/she has accepted that will start within 6 months, or have another verifiable source of regular income, and does not intend to terminate this job/source of regular income, unless he/she has been (i) accepted to one of our partner institutions that provides vocational training and (ii) has a college degree;

- Meet the minimum credit underwriting requirements then in effect:

    - At the time they are offered credit, an applicant must:

        - To the extent the applicant has a credit score, the applicant has a score of 620 or above or insufficient history for a FICO score;

        - Meet the minimum debt to income requirements that total monthly debt payment listed on the applicant's credit report, not including rent or mortgage, must not exceed 45% of projected pre-tax income, except that such requirement will not apply to applicants that have been accepted to one of our partner institutions that provides vocational training;

        - No bankruptcies on their consumer reports within the last 3 years;

        - No public records on their consumer reports within the last 3 years unless the public records consist only of paid civil judgments or paid tax liens;

        - No accounts currently in collections or delinquent;

        - No accounts with currently past due amounts;

        - Meet the following criteria:

            - No accounts that have moved to collections or been partially or wholly charged-off within the last 3 years unless such account

(i) is at least 1 year old, (ii) has industry type government, utilities, cellular, or medical accounts, and (iii), if charged-off, has an unpaid balance under $1,000; or

        - Less than 6 inquiries on their credit report in the last 6 months, not including any inquiries related to a student loan, vehicle loan or mortgage.

    - At the time of origination, no subsequent disqualifying events have occurred in the applicant's credit history.

- Have been deemed by the underwriting model to require an annual percentage rate ("APR") that is below our APR cap, currently 29.99%, except to the extent an applicant resides in (i) New York, Connecticut, or Vermont, in which case the APR cap shall be 16%, 12%, and 12% respectively or (ii) Maryland, in which case the APR cap shall be 24%.

- If a borrower has an Upstart loan that is outstanding, the borrower/applicant must (i) have made on-time payments for the six (6) prior monthly payments, (ii) have no more than one (1) outstanding loan in the Upstart loan program at the time of the application, and (iii) have no more than $50,000 of principal outstanding at the time the loan originates.

- If a returning borrower, more than sixty (60) days have passed from the date the applicant paid their prior loan on Upstart in full or, if less than sixty (60) days has passed since such payment in full, the last six (6) monthly payments made by the borrower were on time.

b) Upstart's Underwriting Methodology

Upstart uses advanced modeling to improve underwriting accuracy and outcomes. By relying exclusively on the credit report and traditional modeling techniques, lenders ignore some of the most predictive information about potential borrowers. Upstart, like other underwriters, believes that traditional credit scores are a good predictor of the likelihood that a prospective borrower will repay a loan. In Upstart's view, however, traditional credit scores are simply one good predictor of loan repayment, and it believes that underwriters should use other variables as well.

The problems with relying almost exclusively on traditional credit scores to predict repayment risk are most pronounced in the case of borrowers with shorter credit histories. Traditional credit scores, although predictive, are not as predictive for borrowers with shorter credit histories. As a result, most large lenders require borrowers to have at least 3 years of credit history, and their average customer has almost 20 years of credit history.

By complementing (not replacing) traditional underwriting signals with others that are correlated with financial capacity as well as propensity to repay a loan, Upstart's underwriting properly understands and quantifies risk associated with all borrowers—those with credit history, and those without. In the three and a half years since launching the loan products on the Upstart platform, our model has demonstrated strong performance and has improved across model versions.

c) How Credit Decisions Are Made

Upstart's underwriting model includes both an examination of the borrower's financial indicators as well as his or her education and/or experience. Upstart may use an applicant's educational information including, but not limited to, the school attended and degree obtained, and their current employment, to develop a statistical model of the borrower's financial capacity and personal propensity to repay. This information, along with the applicant's financial and credit-related variables, is used to determine the applicant's loan terms.

Credit decisions are based on a mix of all the variables used in Upstart's underwriting model, but they also take into account combinations of these variables. As a result, an evaluation of outcomes based on each variable would not reflect the model's functionality and would result in credit decisions that do not reflect the credit decisions that Upstart is actually making. The model only processes variables in concert; it does not process variables in isolation.

II. Upstart's Consumer Loan Terms

So far, over 80,000 loans totaling over $1 billion have been originated through Upstart's platform. Upstart loans range from $1,000 to $50,000 and have a repayment term of either 36 months or 60 months.[2] The average loan is approximately $12,000 and the typical borrower is about 28 years old. Interest rates range from 4% to 25.9%, and origination fees range from 1% to 8%.

On the investment side of the platform, Upstart provides accredited investors with access to valuable investments, as well as the knowledge that their money is helping promising individuals access much needed credit. Modeled returns for investors are 7% across all loan grades, with an average investment return of 6%. Upstart charges investors that use its platform an annual servicing fee of 0.5% of outstanding principal.

***b. the roles and relationships of all parties to transactions involving the product; and***

As noted above, the primary parties involved in each loan transaction include (1) a consumer borrower; (2) Upstart; (3) Cross River Bank; and (4) investors. Upstart provides a consumer-facing website through which eligible borrowers can obtain loans originated by Cross River Bank. When making credit decisions about applicants that apply for loans through the Upstart website, Cross River relies on Upstart's underwriting methodology. Accredited investors and certain institutions then have the opportunity to invest in those loans.

[2] Of the loans originated on Upstart's platform, approximately 70% have a 36 month term, and 30% have a 60 month term.

### c. *the manner in which it is offered to and used by consumers, including any consumer disclosures*

#### I. The Manner in Which Loans Are Offered To Consumers

As noted above, as part of the services it provides Cross River Bank, Upstart engages in a number of marketing activities to attract potential borrowers to its platform. All of Upstart's advertising is currently done via direct mail or through online media.

With regard to direct mail marketing, Upstart works with credit reporting agencies to form a list of potential direct mail recipients based on Upstart's underwriting criteria.

Upstart also relies heavily on online media for marketing. Upstart distributes advertisements and content to third party websites through several advertising networks. Specifically, Upstart uses the Google Display Network to place digital display and text advertisements on third party sites, and runs affiliate relationships with relevant third party websites through an affiliate marketing partner.

Upstart's online advertising channels fall into two broad categories: intent-based advertising and demographic-based advertising. Intent-based channels focus on advertising to individuals who are actively looking for a loan. These include social media-based channels and our affiliate partner websites. Upstart does not target individuals based on any specific demographic criteria or distinction through these channels on a prohibited basis. Demographic-based advertising focuses on audiences that share characteristics with individuals who have received rates, applied for loans, or obtained loans through Upstart. Such audiences are determined through third party algorithms. As far as Upstart is aware, such advertising is not based on any prohibited bases pursuant to the Equal Credit Opportunity Act ("ECOA")[3], or its implementing regulation, Regulation B[4].

Upstart also reaches potential borrowers through its affiliate partners' channels. Upstart has no visibility as to which individuals are reached out to by affiliate partners until those individuals request an offer. Customers who click on an ad or loan offer are redirected to the Upstart website to apply for a loan.

#### II. The Manner in Which Consumers Use Upstart Loans

The majority of borrowers use Upstart loans to pay down high-interest credit card balances. Upstart estimates that the median credit card annual percentage rate ("APR") for these borrowers is 20.27%.[5] Loans obtained on Upstart can help to significantly reduce these payments, as the median APR for Upstart loans currently is 15.12%. Other borrowers use Upstart loans to consolidate payday or other unsecured debt, to reduce student loans burdens, or to pay for tuition for post-graduate education.

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[3] 15 U.S.C. § 1691 *et seq*.
[4] 12 C.F.R. § 1002.
[5] This estimate is based on monthly payment and balance information provided in borrowers' credit reports.

III. <u>Upstart Consumer Disclosures</u>

In connection with each online loan application, Upstart consumers are provided with the following agreements and disclosures (where applicable):

- Cross River Bank Promissory Note (if approved);
- Upstart Platform Agreement;
- Credit Report and Information Verification Consent;
- Upstart Privacy Policy and Cross River Bank Privacy Disclosure;
- Electronic Communications Policy and Consent Agreement;
- Fair Credit Reporting Act ("FCRA") Risk-Based Pricing Disclosure (if approved);
- Final Truth in Lending Act ("TILA") Disclosure (if approved); and
- Adverse Action Notice (if taken).

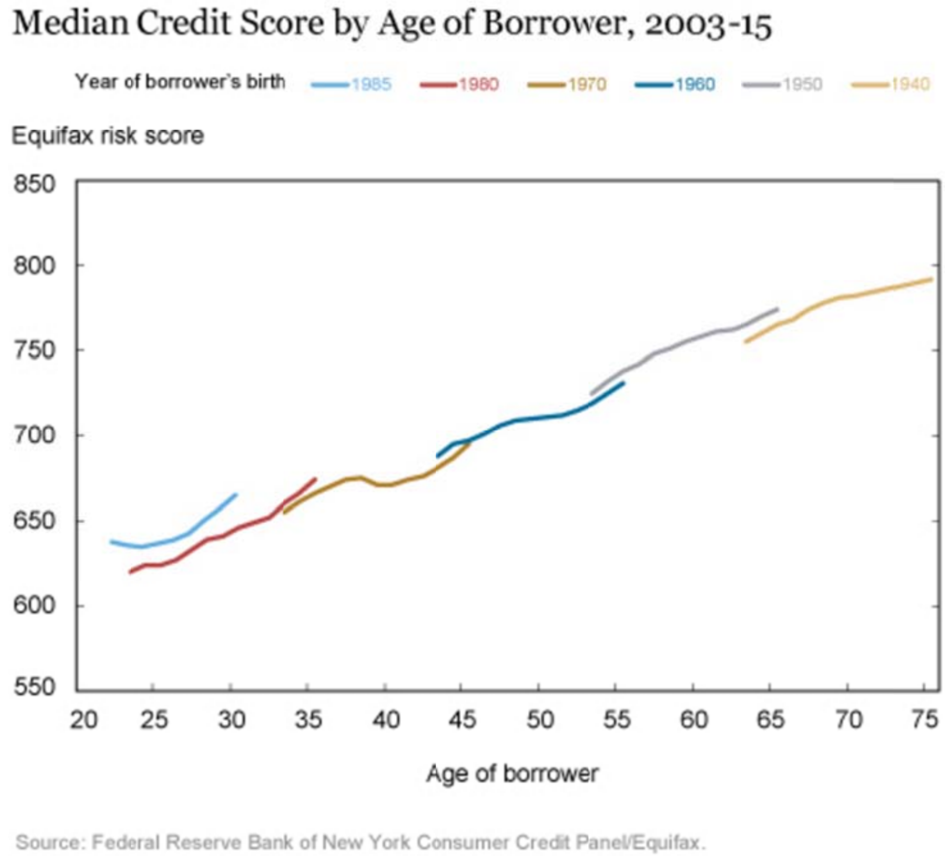
***3. The timetable on which the product is expected to be offered. No-Action Letters are not intended for either well-established products or purely hypothetical products that are not close to being able to be offered.***

Upstart's lending platform has been operational since 2014. Accordingly, Upstart's loan products are currently available and the company has no plans to withdraw these products. However, the uncertainty surrounding the sufficiency of its efforts to ensure compliance has made it difficult to raise additional capital. In addition, it has made the company wary of engaging in more extensive marketing efforts and expanding its product offerings.

***4. An explanation of how the product is likely to provide substantial benefit to consumers differently from the present marketplace, and suggested metrics for evaluating whether such benefits are realized.***

By expanding credit access and providing better loan terms to traditionally underserved borrowers, Upstart offers substantial benefit to consumers. Most banks and online lenders offer loans at competitive rates to "traditionally prime" customers. Because they rely primarily on credit-history-based variables for underwriting, applicants with shorter credit histories are often unable to qualify for the best rates.

In fact, a significant percentage of an individual's credit score is based directly on the length of his or her credit history. The other components of the score (payment history, new credit, credit mix, credit utilization) also tend to penalize younger borrowers and recent immigrants with fewer accounts, lower credit limits, and fewer years of making payments. This results in these borrowers having substantially lower credit scores than older borrowers (see graph below).




Furthermore, some lenders actually consider the length and thickness of a credit file as independent criteria in underwriting consumers.

Upstart's own analyses of credit data confirm that thin file applicants remain underserved by traditional lenders. The vast majority of American consumers reliably pay their debt obligations, yet less than half can consistently qualify for "prime" credit. Retroactive analyses that Upstart has performed using credit bureau data show that the majority of Americans are unnecessarily denied access to credit or charged high interest rates. Again, this is because the credit-history-based model cannot accurately underwrite many consumers, particularly those consumers who have a limited credit history.

In contrast to traditional lenders, Upstart's underwriting methodology allows it to underwrite people who would not otherwise be underwritten and/or to provide credit to these applicants on better terms. This is a substantial benefit to consumers. Using additional non-credit variables improves the Upstart model's accuracy, in turn enabling it to offer loans with more favorable terms to many consumers who wouldn't otherwise qualify for credit on more favorable terms.

To examine the effect of limiting Upstart's underwriting model to variables derived solely from the credit report and applicant-reported income, Upstart built a model ("the limited model"), which does not rely on non-traditional variables. A September 2016 comparison between the limited model and Upstart's production model found that the limited model recommended higher interest rates than the Upstart production model. Specifically, in evaluating the same pool of borrowers (a random sampling of individuals who actually received loans through Upstart between 2014-2016), the limited model set an average APR of 23.5% while Upstart's production model recommended an average APR of 16.7%. That is a difference of 680 basis points. In comparing all Upstart applicants (as opposed to just individuals who received loans from Upstart), the limited model recommended an APR that was 560 basis points greater than the Upstart production model. The limited model explains much less of the variance in default rate across the Upstart borrower pool, resulting in a convergence toward the higher-risk mean. Thus, on average, the Upstart model provides better terms to borrowers than a model relying solely on traditional variables.

Upstart evaluates the extent to which it benefits borrowers with limited credit history. Upstart tracks its approval rates, utilization rates, and loan performance. This enables Upstart to evaluate the extent to which borrowers accept and repay Upstart loans. These types of metrics allow Upstart to assess and improve its underwriting methodology. For example, the percentage of Upstart applicants who qualify for credit (in a controlled pool) has more than doubled since 2014, while at the same time, consistent loss rates (as shown by return earned by investors) have been maintained. With an eye towards expanding access to credit on good terms, in July 2016, Upstart expanded eligibility to include applicants with 620-640 FICO scores and bankruptcies if more than three years in the past. In fact, for many borrowers, obtaining a loan through Upstart has enabled them to increase their credit scores.

The collection and analysis of loan data and resulting improvements to Upstart's underwriting model ensures that Upstart continues to provide credit to more and more creditworthy borrowers overlooked by traditional lenders.

5. ***A candid explanation of potential consumer risks posed by the product – particularly as compared to other products available in the marketplace – and undertakings by the requester to address and minimize such risks.***

The potential consumer risks associated with Upstart's loans include the risks associated with any loan product. Notwithstanding borrowers' intention to repay and lenders' identification of borrowers likely to repay, some borrowers will inevitably default on a loan offered through Upstart. In turn, this default may leave the borrower worse off than that borrower would have been had they never obtained a loan.

Additionally, Upstart's underwriting model may not be equally predictive across all demographic groups. In particular, the benefits offered by Upstart's model to thin file applicants at the start of their financial lives, by forecasting their future ability to repay, may not be as useful for older borrowers at a later point in their financial lives.

We also note that Upstart has committed to robust fair lending testing. As detailed in our response to Question #14 below, this testing is intended to further address and minimize risks associated with the underwriting model.

6. ***A showing of why the requested No-Action Letter is necessary and appropriate to remove substantial regulatory uncertainty hindering the development of the product, including:***

    a. ***Identification of each of the specific provisions of the statutes and regulations regarding which a No-Action Letter is being requested, and a showing how each of these specific provisions of the statute(s) and regulation(s) should be applied to the product is substantially uncertain, including analysis of the relevant legal authorities and policy considerations.***

Upstart requests a No-Action Letter regarding regulatory uncertainty that hinders development and expansion of loan products offered through Upstart. Specifically, Upstart is requesting a No-Action Letter to address regulatory uncertainty surrounding the sufficiency of its efforts to ensure compliance with ECOA and Regulation B, with respect to a model for underwriting applicants for unsecured non-revolving credit who would otherwise not receive such credit on as favorable terms.

ECOA and Regulation B prohibit creditors from discriminating against an applicant for credit on the basis of race, religion, sex, age, color, national origin, marital status, receipt of public assistance, and exercise of certain legal rights. Although the general principles reflected in ECOA and Regulation B are clear enough, the expected evolution of Upstart's automated underwriting model and potential changes in the applicant pool over time result in substantial uncertainty concerning the facts to which those principles would be applied and what actions Upstart should take to prevent, mitigate, or remedy potential discrimination that might arise.

    b. ***A showing of why the product's aspects in question should not be treated as subject to or precluded by the specific identified statute(s) and regulation(s), and/or how the proposed compliance of the product's aspects in question with the specific identified statute(s) and regulation(s) is appropriate.***

Upstart's underwriting methodology should not be precluded by ECOA's prohibition of credit practices that result in disparate impact. Based on analysis to date, and as reflected in confidential information provided to the Bureau, Upstart believes that its underwriting methodology has not produced a disparate impact on protected classes in violation of ECOA or Regulation B. Upstart will continue to maintain a comprehensive compliance program to ensure compliance with ECOA and Regulation B. Moreover, as explained in Question #14, Upstart will conduct ongoing fair lending testing of its underwriting model during the term of the No-Action Letter, including taking corrective action as appropriate and it will maintain a robust model-related compliance management system.

### *c. A showing of the product’s compliance with other relevant federal and state regulatory requirements.*

Upstart maintains a comprehensive compliance program to ensure compliance with all relevant federal and state regulatory requirements. This compliance management system is composed of formal policies, training and processes, monitoring and testing, and management oversight.

#### II. Policies

All compliance policies are reviewed by outside counsel, approved by the Upstart Board of Directors, and audited annually by an independent, third party auditor.

Upstart’s existing policies include the following:

- Anti-Money Laundering (“AML”) Policy;
- Fair Credit Reporting Act (“FCRA”) Policy;
- Underwriting Policy;
- Equal Credit Opportunity Act (“ECOA”) Policy;
- Truth in Lending Act (“TILA”) Policy;
- Electronic Signatures in Global and National Commerce Act (“ESIGN”) Policy;
- Servicemembers’ Civil Relief Act (“SCRA”) Policy;
- Electric Funds Transfer Act (“EFTA”) Policy;
- Unfair, Deceptive, and Abusive Acts and Practices (“UDAAP”) Policy;
- Complaints Policy;
- Servicing Policy;
- Information Security Policy;
- Incident Response Plan;
- Vendor Management Policy; and a
- Military Lending Act Policy.

#### III. Training and Processes

To ensure adherence to each policy, all Upstart employees undergo annual compliance training. New hires are required to complete New Hire Training appropriate for their job responsibilities within 10 days of their start date. The Compliance Team meets with each internal department on a weekly, biweekly, or monthly basis to discuss and review processes and procedures.

#### IV. Monitoring and Testing

The Compliance Team monitors compliance through both internal and external monitoring and audits. Upstart performs periodic internal audits to ensure adherence to Upstart’s compliance policies and procedures. Upstart conducts annual risk assessments. It also conducts periodic reviews of its complaints, external communications, operational processes and its customer disclosures. These reviews take place on a monthly, quarterly, bi-annual and annual basis.

Upstart also uses a range of tools to monitor compliance on an ongoing basis. These include real-time systematic checks, daily health checks of loan data, frequent review of loan data and disclosures, ongoing analyses of customer complaints, and a variety of external reporting to third parties including investors on the platform.

Further, an additional layer of compliance oversight is provided by Cross River Bank who itself audits Upstart's activities closely to ensure compliance with its policies.

As noted above, Upstart also undergoes a variety of annual third party audits:

- Consumer Compliance (including a review of Upstart's loan program, including policies and operational procedures);
- Bank Secrecy Act/Anti-Money Laundering Program (including a review of Upstart's AML program, including its Customer Identification Program, OFAC procedures, and transaction monitoring);
- Statement on Standards for Attestation Engagements No. 16, Reporting on Controls at a Service Organization (SSAE 16) (including a Type 1 SSAE 16 audit covering software development and change management; logical security and access; data backup and restoration; computer operations and platform monitoring; data transmissions); and
- Information Security Assessment to ISO 27002 (including penetration and security vulnerability testing and an assessment of Upstart's adherence to ISO 27002).

Overall, Upstart's compliance management system ensures adherence to both internal policies and relevant laws and regulations.

***d. A showing of why the substantial regulatory uncertainty that is the subject of the request cannot be effectively addressed through means other than the requested No-Action Letter, such as modification of the product.***

Upstart has developed a proprietary underwriting methodology. Upstart's ability to offer credit on more favorable terms to borrowers with limited credit or work history is dependent on the use of this model and its incorporation of non-traditional variables. Upstart believes these variables are important to its competitive advantage. Accordingly, Upstart believes that the regulatory uncertainty surrounding the sufficiency of its efforts to ensure compliance with ECOA and Regulation B with respect to its underwriting model cannot be effectively addressed through means other than the requested No-Action Letter.

***7. An affirmation that the facts and representations in the request are true and accurate.***

Upstart hereby affirms, to the best of its ability, that the facts and representations made in this request are true and accurate.

8. ***A commitment by the requester to provide information requested by the staff in its evaluation of the request.***

Upstart hereby commits to provide additional information as requested by the staff in its evaluation of this request.

9. ***A description of data that the requester possesses, and data it intends to develop, pertaining to the factual bases cited in support of the request and a statement of any undertaking by the requester, if the request is granted, to share appropriate data regarding the product with the Bureau, including data regarding the impact of the product on consumers. This description should also address the requester's intentions regarding consultation with the Bureau in its plans for development of additional data.***

The Response to Question #2 above and confidential information provided to the Bureau describe in detail the consumer data that Upstart collects and stores from loan applicants. Upstart does not currently have plans to add additional variables to its underwriting model. In the future, however, Upstart may conduct research on the predictiveness of certain behaviors related to cash flow and affordability, voluntary consumer actions, or other potential variables.

If Upstart's Request is granted, Upstart commits to sharing the results of its fair lending and access-to-credit test results with the Bureau. We will also share additional information, including the data underlying the test results, with the Bureau upon request.

10. ***Commitments that, if the request is granted, the requester will not represent that the Bureau or its staff has: (i) licensed, authorized or endorsed the product, or its permissibility or appropriateness, in any way; (ii) determined, or provided an interpretation, that the product is or is not in compliance with legal or other requirements, or has been granted an exception, waiver, safe harbor, or comparable treatment; or (iii) granted No-Action Letter treatment with respect to any aspect of the requester's offerings or any provision of law other than those expressly addressed in the No-Action Letter.***

Upstart hereby commits that, if the request is granted, it will not represent that the Bureau or its staff has (i) licensed, authorized or endorsed the product, or its permissibility or appropriateness, in any way; (ii) determined, or provided an interpretation, that the product is or is not in compliance with legal or other requirements, or has been granted an exception, waiver, safe harbor, or comparable treatment; or (iii) granted No-Action Letter treatment with respect to any aspect of the requester's offerings or any provision of law other than those expressly addressed in the No-Action Letter.

11. ***An affirmation that, to the requester's knowledge (except as specifically disclosed in the request), neither the requester nor any other party with substantial ties to transactions involving the product is the subject of an ongoing, imminent, or threatened governmental investigation, supervisory***

***review, enforcement action, or private civil action respecting the product, or any related or similar product; and an undertaking promptly to notify the Bureau (unless the request for a No-Action Letter has been withdrawn or denied) of any such governmental investigation, supervisory review, enforcement action, or private civil action that is initiated or threatened.***

Upstart entered into a consent order with the State of New Hampshire Banking Department in December 2016. In January 2016, New Hampshire amended its lender licensing statute to expand the definition of "lender" to include a person who "[a]dvertises for, solicits, or holds himself out as willing to . . . procure [certain loans of $10,000 or less]".[6] As a result of this change in the law, New Hampshire required Upstart to obtain a Small Loan Lender license, which it issued to Upstart in January 2017.

Upstart hereby affirms, to the best of its ability, that to its knowledge (except as specifically disclosed above), neither Upstart nor any other party with substantial ties to transactions involving the product is the subject of an ongoing, imminent, or threatened governmental investigation, supervisory review, enforcement action, or private civil action respecting the product, or any related or similar product. Upstart will promptly notify the Bureau if Upstart becomes the subject of any such governmental investigation, supervisory review, enforcement action, or private civil action that is initiated or threatened, or learns that any other party with substantial ties to transactions involving Upstart's loan products is the subject of any such governmental investigation, supervisory review, enforcement action, or private civil action that is initiated or threatened, during the Bureau's consideration of the request or after it has been granted.

12. ***An affirmation that (except as specifically disclosed in the request) the principals of the requester have not been subject to license discipline, adverse supervisory action, or enforcement action with respect to any financial product, license, or transaction within the past ten years.***

Upstart hereby affirms, to the best of its ability, that its principals have not been subject to license discipline, adverse supervisory action, or enforcement action with respect to any financial product, license, or transaction within the past ten years.

13. ***A statement specifying whether the request is limited to a particular time period, to a particular volume of transactions, or to other limitations.***

This Request is limited to a period of three (3) years from the date of issuance of the No-Action Letter.

14. ***A description of any particular consumer safeguards the requester will employ, although they may not be required by law, if a No-Action Letter is issued, including any mitigation of potential for or consequences of consumer injury. The description should specify the requester's basis for***

[6] *Compare* N.H. Rev. Stat. Ann § 399-A, XII (2015) with N.H. Rev. Stat. Ann § 399-A, XII (2016).

***asserting and considering that such safeguards are effective. The description should also address any future study the requester will undertake to further evaluate the effectiveness of such safeguards.***

As noted above, Upstart employs a strong internal compliance management system, with multiple checks and balances, to ensure full compliance with relevant laws and regulations.

If granted a No-Action Letter, Upstart will also employ certain safeguards to address fair lending risk related to its underwriting model. During the term of the No-Action Letter, Upstart will conduct ongoing fair lending testing of its underwriting model, notify the Bureau before new variables are considered eligible for use in production, and maintain a robust model-related compliance management system.

Upstart will ensure that all of its consumer-facing communications are timely, transparent, clear, and use plain language to convey to consumers the type of information that will be used in underwriting loans. Upstart will also ensure its continued compliance with requirements to provide adverse action notices under Regulation B and the Fair Credit Reporting Act. These adverse action and risk-based pricing notice requirements include, but are not limited to, certain provisions related to identifying and disclosing reasons for a credit denial or adverse action when that action is based on a credit-scoring system.

If a No-Action Letter is granted, Upstart will continue to evaluate whether its underwriting model provides expanded access to credit to traditionally disadvantaged groups. On a routine basis, Upstart will compare applicant outcomes from its underwriting model against outcomes that would result under a model without non-traditional variables. This will include an analysis of any different outcomes for specific applicant groups, including groups defined by race/ethnicity, sex, age, income, credit history, educational background, and other non-credit based variables.

Consistent with Upstart's corporate mission, Upstart will undertake specific initiatives to ensure that its products are marketed to any individual who is interested in a product and likely to repay, regardless of the individual's' age, race, gender, or any other demographic characteristics. In addition, Upstart may affirmatively solicit or encourage members of traditionally disadvantaged groups to apply for credit, especially groups that might not normally seek credit from Upstart.

Upstart will commit to monitoring the effectiveness of all safeguards described above and, during the term of the No-Action Letter, may propose refinements to these safeguards to maximize their effectiveness.

15. ***If a request for confidential treatment is made, this request and the basis therefor should be included in a separate letter and submitted with the request for a No-Action Letter. Requesters are advised to specifically identify data that the Requester believes to be confidential supervisory information that should be shielded from public disclosure.***