

**STATE OF NEW HAMPSHIRE  
BANKING DEPARTMENT**

In The Matter of: Lending Club Corporation  
Case No. 16-013

**CONSENT ORDER**

**WHEREAS**, the New Hampshire Banking Department (“Department”) is charged with regulating persons who engage in small loan lending in New Hampshire and enforcing the provisions of RSA 399-A.

**WHEREAS**, Lending Club Corporation (“Lending Club”), a Delaware corporation, is an online marketplace that allows qualified borrowers to apply for and obtain unsecured consumer loans from a third-party bank.

**WHEREAS**, Lending Club has applied to the Department for licensure as a small loan lender, pursuant to RSA 399-A:2 and RSA 399-A:1, XII, as amended.

**WHEREAS**, the Department was in receipt of copies of direct mail advertising pieces soliciting New Hampshire consumers to obtain loans from the bank in amounts ranging from \$1,000 to \$35,000.

**WHEREAS**, as a result of the solicitations and through the course of the application review, the Department requested information from Lending Club about past business activities with New Hampshire consumers, from which the following information is relevant:

1. Loans of \$10,000 or less and with an annual percentage rate of 10 to 36 percent (i.e. “small loans”) have been made to New Hampshire consumers by the bank through the Lending Club platform since 2010.

2. Lending Club provided and continues to provide the online platform through which New Hampshire consumers can apply for a loan.
3. The bank approves the loan applications and funds the loans.
4. After holding the loans for a limited period of time, the bank typically assigns the loans to Lending Club, which services the loans.

**WHEREAS**, prior to January 1, 2016, RSA 399-A:1, XII defined “lender,” in pertinent part, as:

a person who for compensation or gain, or in the expectation of compensation or gain, either directly or indirectly:

- (a) Acts as an intermediary, finder, or agent of a lender or borrower for the purpose of negotiating, arranging, finding, or procuring loans, or commitments for loans.
- (b) Offers to serve as an agent for any person in an attempt to obtain a loan.
- (c) Offers to serve as an agent for any person who has money to lend for a loan.
- (d) Performs services or any of the business functions auxiliary or supplemental to the production, distribution or maintenance of loans for a lender.
- (e) Acts as a credit services organization as defined in RSA 359-D:2, II.

**WHEREAS**, effective January 1, 2016, RSA 339-A:1, XII expanded the definition as follows:

a person who for compensation or gain, or in the expectation of compensation or gain, either directly or indirectly:

- (a) Acts as an intermediary, finder, or agent of a lender or borrower for the purpose of negotiating, arranging, finding, or procuring loans, or commitments for loans.
- (b) Offers to serve as an agent for any person in an attempt to obtain a loan.
- (c) Offers to serve as an agent for any person who has money to lend for a loan.
- (d) Performs services or any of the business functions auxiliary or supplemental to the production, distribution or maintenance of loans for a lender.
- (e) Acts as a credit services organization as defined in RSA 359-D:2, II.
- (f) Advertises for, solicits, or holds himself out as willing to make or procure small loans, payday loans, or title loans.
- (g) Holds the servicing rights to a small loan or records small loan payments on its books and records and performs such other administrative functions as may be necessary to properly carry out the debt holders' obligations under a loan agreement.

**WHEREAS**, believing that the amended statute would require Lending Club to be licensed as a small loan lender, Lending Club, of its own accord, initiated the licensing process prior to the effective date of the amended law.

**WHEREAS**, the Department believes that Lending Club's activities fell within the provisions of the prior law as well, particularly subsections (a) and (d).

**WHEREAS**, Lending Club does not agree with the Department's conclusion and neither admits nor denies any of the findings herein or any violation of New Hampshire law.

**WHEREAS**, Lending Club nevertheless agrees that a prompt resolution is in both parties' interest and desires to maintain a positive and transparent working relationship with the Department and, therefore, wishes to enter this Consent Order.

**WHEREAS**, Lending Club, at all times, facilitated the Department's inquiry and review of Lending Club's business model and activities.

**WHEREAS**, Lending Club makes the following acknowledgements:

1. Lending Club knowingly and voluntarily enters into and signs this Consent Order without threats, force, intimidation or coercion of any kind.
2. Although Lending Club neither admits nor denies any of the findings herein or any violation of New Hampshire law, Lending Club understands the nature of the allegations set forth herein and that they could constitute grounds for potential sanctions, as provided by law.
3. Lending Club understands that it has the right to notice and an adjudicatory hearing to contest the matters set forth herein, including any appeal, and hereby waives those rights.

4. Lending Club understands that its action in entering this Consent Order is a final act and not subject to reconsideration or judicial review or appeal.
5. Lending Club represents and warrants that it has all the necessary rights, powers and abilities to carry out the terms of this Consent Order.
6. Lending Club acknowledges that the Department is relying upon Lending Club's representations and warranties stated herein in making its determinations in this matter.
7. Lending Club acknowledges that this Consent Order may be revoked and the Department may pursue any and all remedies available under the law against Lending Club if the Department later learns that Lending Club knowingly or willfully withheld information from the Department.

**WHEREAS**, as an economical and efficient method of resolving the foregoing matters, Lending Club consents to enter into this voluntary Consent Order with the Department as follows:

1. No later than thirty days from the date this Consent Order is executed by Lending Club, Lending Club shall remit a penalty, pursuant to RSA 397-A:23, IV, in the amount of \$39,000, which Lending Club shall remit by check to the New Hampshire Banking Department;
2. Lending Club shall continue to keep open its pending small loan lender license application with the Department and, upon issuance of such license to Lending Club, agrees to maintain the license for so long as it engages in activities that are deemed to fall within the scope of RSA 339-A:1, XII; and

3. Failure by Lending Club to comply with any portion of this Consent Order shall constitute a separate and sufficient basis for administrative action, up to and including license suspension, revocation and monetary penalties.

**NOW THEREFORE,** the Commissioner of the New Hampshire Banking Department enters the following ORDER:

1. The sanctions set forth above are hereby entered;
2. This Order fully resolves this matter and the Commissioner will not take further action against Lending Club for the allegations presented herein, provided that the Department may take enforcement action against Lending Club for any violation of this Consent Order or the matters underlying its entry, if the Commissioner determines that compliance with the terms of this Order are not being observed or if any representation made by Lending Club and reflected herein is subsequently discovered to be untrue;
3. Nothing herein shall nor is intended in any way whatsoever to challenge or negate the validity or legality of any of the small loan contracts, or any term therein, entered into by New Hampshire consumers through the Lending Club platform;
4. Nothing herein is intended to alter any future statutory or regulatory requirements of licensure and the allegations set forth above may be fully taken into account by the Department in connection with future examinations and enforcement actions;
5. Pursuant to RSA 397-A:20, VI, the Commissioner finds this action necessary or appropriate to the public interest or the protection of consumers and consistent with the purposes fairly intended by the policy and provisions of this title; and

6. This Consent Order shall become effective and final upon the date signed by the Banking Department Deputy Commissioner.
7. Once this Consent Order is effective and final, the Department agrees not to seek reimbursement, refunds, penalties, fines, costs or fees regarding any of the facts, allegations or findings of violations contained herein.
8. This Consent Order is the complete document representing resolution of this matter. There are no other agreements, promises, representations or warranties other than those set forth in this Consent Order.

Executed by:

\_\_\_\_\_  
/s/  
Rosemary Wiant, Esq.  
New Hampshire Banking Department

\_\_\_\_\_  
04/01/16  
Date

\_\_\_\_\_  
/s/  
Jason Altieri  
General Counsel  
Lending Club

\_\_\_\_\_  
Date

**SO ORDERED.**

\_\_\_\_\_  
/s/  
Ingrid E. White  
Deputy Commissioner  
New Hampshire Banking Department

\_\_\_\_\_  
04/01/16  
Date