

TRAVIS J. ILES
SECURITIES COMMISSIONER



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Texas State Securities Board

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IN THE MATTER OF
LENDINGCLUB CORPORATION

§
§

Order No. REG20-CAF-01

TO: Brandon Pace
General Counsel & Corporate Secretary
LendingClub Corporation
595 Market Street, Suite 20
San Francisco, CA 94105

CONSENT ORDER

Be it remembered that LendingClub Corporation ("Respondent") appeared before the Securities Commissioner of the State of Texas ("Securities Commissioner"), admits the jurisdiction of the Texas State Securities Board, neither admits nor denies the Findings of Fact and Conclusions of Law contained in the Consent Order, and voluntarily consents to the entry of this Consent Order by the Securities Commissioner.

FINDINGS OF FACT

1. Respondent has waived (a) Respondent's right to notice and hearing in this matter; (b) Respondent's right to appear and present evidence in this matter; (c) Respondent's right to appeal this Order; and (d) all other procedural rights granted to the Respondent by The Securities Act, Tex. Rev. Civ. Stat. Ann. arts. 581-1 to 581-45 ("Texas Securities Act"), and the Administrative Procedure Act, Tex. Gov't Code Ann. §§ 2001.001 to 2001.902.
2. On November 1, 2019, Respondent applied for registration as a dealer with the Securities Commissioner. This application is currently pending.

The Member Payment Dependent Notes ("Notes")

3. Respondent operates an online lending marketplace that connects borrowers and investors.

4. Respondent's platform allows qualified borrower members to obtain unsecured loans with competitive interest rates and provides prospective investors with the opportunity to invest in Notes which correspond to such loans with credit characteristics, interest rates, and other terms investors find attractive.
5. Respondent is the issuer of the Notes, which are special, limited obligations of Respondent only and not obligations of any borrower.
6. When Respondent receives payments from a borrower, Respondent will pay the principal and interest received that is attributable to each Note to each Note investor, net of a 1.00% service charge.

The Notes as Federal Covered Securities

7. On December 11, 2014, Respondent's shares of common stock first became listed on the New York Stock Exchange ("NYSE"). These common stock shares listed on the NYSE were not the Notes.
8. Respondent's common stock is a federal covered security because of its NYSE listing, pursuant to Section 18(b)(1)(A) of the National Securities Markets Improvement Act of 1996 ("NSMIA").
9. Subsequent to the listing of Respondent's common stock on the NYSE, Respondent further took the position that the Notes are also federal covered securities pursuant to Section 18(b)(1)(C) of NSMIA because the Notes represent "a security of the same issuer that is equal in seniority or that is a senior security to a security [listed on the New York Stock Exchange.]"
10. To this end, Respondent has disclosed in the prospectus for Notes, in respect of the priority of securities for which Respondent is an issuer, that in the event of a bankruptcy or similar proceeding, the holder of a Note will have an unsecured claim, equal to or senior in priority to Respondent's stockholders.
11. Notably, the securities registration requirements of the Texas Securities Act are not applicable to federal covered securities. As federal covered securities, the Notes would not be subject to review and approval in Texas.
12. Relying on the Notes' status as federal covered securities, Respondent made the Notes available for investment by Texas residents through the online platform subsequent to the listing of Respondent's common stock through September 23, 2019 ("Relevant Period").

Unregistered Dealer Activity

13. Section 4.C of the Texas Securities Act, which defines a “dealer” in Texas, provides that any issuer of securities, other than a registered dealer, who directly offers for sale or sells its own securities in Texas shall be deemed a dealer and shall be required to comply with applicable dealer registration provisions.
14. During the Relevant Period, Respondent was not registered as a dealer in Texas.

Mitigating Factors

15. On September 23, 2019, Respondent voluntarily suspended its sales of Notes to residents of Texas. Respondent reported to the staff of the Texas State Securities Board (“Staff”) the amount of sales during the Relevant Period and has cooperated extensively with the Staff during its investigation.
16. Respondent’s sales of Notes to Texas residents during the Relevant Period has resulted in no known direct consumer harm.

CONCLUSIONS OF LAW

17. The Notes are “securities” as the term is defined by Section 4.A of the Texas Securities Act.
18. As an issuer of securities, even federal covered securities, Respondent was required by Section 12.A of the Texas Securities Act to register as a dealer with the Securities Commissioner in order to make lawful sales of securities in Texas and to Texas residents.
19. Accordingly, Respondent violated Section 12.A of the Texas Securities Act during the Relevant Period by selling securities in Texas and to Texas residents without registering as a dealer with the Securities Commissioner.
20. Pursuant to Section 14.A(6) of the Texas Securities Act, the aforementioned violation of Section 12.A of the Texas Securities Act constitutes a basis for the issuance of an Order reprimanding Respondent.
21. Pursuant to Section 23-1 of the Texas Securities Act, the aforementioned violation of Section 12.A of the Texas Securities Act constitutes a basis for assessing an administrative fine against Respondent.

ORDER

1. It is therefore ORDERED that the application for registration as a dealer with the Securities Commissioner is hereby APPROVED.
2. It is further ORDERED that LendingClub Corporation is hereby REPRIMANDED.
3. It is further ORDERED that LendingClub Corporation shall pay an ADMINISTRATIVE FINE in the amount of Four Hundred Thousand Dollars (\$400,000.00) to the general fund of the State of Texas within fifteen (15) business days of the entry of this Order.
4. LendingClub further agrees to contribute Twenty-Five Thousand Dollars (\$25,000.00) within fifteen (15) business days of the entry of this Order to be used for investor education efforts in Texas to the Investor Education Fund of the Investor Protection Trust, 1020 Nineteenth Street NW, Suite 890, Washington D.C. 20036-6123.

SIGNED AND ENTERED BY THE SECURITIES COMMISSIONER this 1st
day of April, 2020.



Travis J. Iles
Securities Commissioner

Respondent:

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Brandon Pace

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LendingClub Corporation
By: Brandon Pace, General Counsel

Approved as to Form:



Clinton Edgar
Deputy Commissioner



Jennifer Connors
Baker & McKenzie LLP
Attorney for Respondent