



U . S . D E P A R T M E N T O F T H E T R E A S U R Y

Opportunities and Challenges in Online Marketplace Lending

May 10, 2016

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I. Executive Summary

This white paper has been prepared by the Department of the Treasury (“Treasury”) to continue the work initiated by the issuance of the Request for Information (“RFI”) “Public Input on Expanding Access to Credit through Online Marketplace Lending.” This white paper establishes an overview of the evolving market landscape, reviews stakeholder opinions, and provides policy recommendations. This paper also acknowledges the benefits and risks associated with online marketplace lending, and highlights certain best practices applicable both to established and emerging market participants.

Advances in technology and the availability of data are changing the way consumers and small businesses secure financing. Online marketplace lending has emerged as an industry offering faster credit for consumers and small businesses. Through this effort, Treasury took steps to understand the potential opportunities and risks presented by this evolving industry. By engaging directly with industry, Treasury hoped to foster discourse about how this industry could best serve the financial needs of the American public. Treasury received approximately 100 responses to the RFI from online marketplace lenders, trade associations, consumer and small business advocates, academics, investors, and financial institutions. Comments covered a wide range of issues, but several common themes emerged, including the following:

1. *Use of Data and Modeling Techniques for Underwriting is an Innovation and a Risk:* RFI commenters agreed the use of data for credit underwriting is a core element of online marketplace lending, and one of the sources of innovation that holds the most promise and risk. While data-driven algorithms may expedite credit assessments and reduce costs, they also carry the risk of disparate impact in credit outcomes and the potential for fair lending violations. Importantly, applicants do not have the opportunity to check and correct data potentially being used in underwriting decisions.
2. *There is Opportunity to Expand Access to Credit:* RFI responses suggested that online marketplace lending is expanding access to credit in some segments by providing loans to certain borrowers who might not otherwise have received capital. Although the majority of consumer loans are being originated for debt consolidation purposes, small business loans are being originated to business owners for general working capital and expansion needs. Distribution partnerships between online marketplace lenders and traditional lenders may present an opportunity to leverage technology to expand access to credit further into underserved markets.
3. *New Credit Models and Operations Remain Untested:* New business models and underwriting tools have been developed in a period of very low interest rates, declining unemployment, and strong overall credit conditions. However, this industry remains untested through a complete credit cycle. Higher charge off and delinquency rates for recent vintage consumer loans may augur increased concern if and when credit conditions deteriorate.
4. *Small Business Borrowers Will Likely Require Enhanced Safeguards:* RFI commenters drew attention to uneven protections and regulations currently in place for small business borrowers. RFI commenters across the stakeholder spectrum argued small business borrowers should receive enhanced protections.

5. *Greater Transparency Can Benefit Borrowers and Investors:* RFI responses strongly supported and agreed on the need for greater transparency for all market participants. Suggested areas for greater transparency include pricing terms for borrowers and standardized loan-level data for investors.
6. *Secondary Market for Loans is Undeveloped:* Although loan originations are growing at high rates, the secondary market for whole loans originated by online marketplace lenders is limited. RFI commenters agreed that active growth of a securitization market will require transparency and significant repeat issuances.
7. *Regulatory Clarity Can Benefit the Market:* RFI commenters had diverse views of the role government could play in the market. However, a large number argued that regulators could provide additional clarity around the roles and requirements for the various participants.

In order to encourage safe growth and access to credit through the continued developments of online marketplace lending, this white paper introduces the following recommendations to the federal government and private sector participants:

1. Support more robust small business borrower protections and effective oversight;
2. Ensure sound borrower experience and back-end operations;
3. Promote a transparent marketplace for borrowers and investors;
4. Expand access to credit through partnerships that ensure safe and affordable credit;
5. Support the expansion of safe and affordable credit through access to government-held data; and
6. Facilitate interagency coordination through the creation of a standing working group for online marketplace lending.

In addition, this white paper identifies potential trends that will require ongoing monitoring. These include the evolution of credit scoring, the impact of changing interest rates, potential liquidity risk, increasing mortgage and auto loans originated by online marketplace lenders, potential cybersecurity threats, and compliance with anti-money laundering requirements. The business models and data-driven algorithms supporting this industry have largely developed in favorable credit conditions. Treasury believes it is important to consider policies that could minimize borrower risks and increase investor confidence in a less favorable credit environment.

While this white paper and RFI represents Treasury's views, Treasury consulted with staff from other agencies including the Consumer Financial Protection Bureau (CFPB), Federal Deposit Insurance Corporation (FDIC), Board of Governors of the Federal Reserve System (FRB), Federal Trade Commission (FTC), Office of Comptroller of the Currency (OCC), Small Business Administration (SBA), and Securities and Exchange Commission (SEC).

II. Introduction

Access to credit is the lifeblood of business and economic growth. From Main Street storefronts to high tech startups, American small businesses have been responsible for creating two out of every three net new jobs over the last two decades.¹ The ability for individuals to pursue an idea, to start a company, and to grow a business is the foundation of the U.S. economy. As the Obama Administration seeks to ensure the benefits of our continuing economic recovery reach all Americans, it is important that consumers and small businesses have broad access to safe and affordable credit. Without credit, entrepreneurs cannot put innovative ideas into action. Without credit, Americans cannot grow their businesses to create new jobs and opportunities for the next generation.

Advances in technology and data availability are changing the way consumers and small businesses secure financing. Leveraging these developments, online marketplace lenders offer faster credit to consumers and small businesses. Over the past ten years online marketplace lending companies have evolved from platforms connecting individual borrowers with individual lenders, to sophisticated networks featuring institutional investors, financial institution partnerships, direct lending, and securitization transactions.

In the summer of 2015, Treasury issued an RFI soliciting public input on (i) the various business models and products offered by online marketplace lenders to small businesses and consumers; (ii) the potential for online marketplace lending to expand access to credit to historically underserved market segments; and (iii) how the financial regulatory framework should evolve to support the safe growth of this industry.² Within the 14 questions posed to industry, Treasury requested comments on the risks arising from data-driven processes relative to those used in traditional lending, the provisions in place in the event of a downturn, and the potential harms to businesses and consumers. The RFI marked the beginning of a multi-stage process led by Treasury, in consultation with regulatory partners, to understand this market, to engage industry stakeholders across the entrepreneurial, investment, advocacy, and legal communities, and to inform appropriate policy responses.

This white paper presents an overview of the market, discusses findings from the RFI, provides recommendations to private sector participants and the federal government, and identifies trends requiring ongoing observation. Treasury encourages companies to adhere to standards of fairness, transparency, and safety to offer an improved borrower experience. However, this document is not an endorsement of

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1. White House National Economic Council, “Moving America’s Small Businesses & Entrepreneurs Forward: Creating an Economy Built to Last,” May 2012, https://www.whitehouse.gov/sites/default/files/docs/small_business_report_05_16_12.pdf.
 2. The Consumer Financial Protection Bureau (CFPB) has broad authority on governing standards that may apply to a variety of consumer loans issued through this segment, and it has recently announced that it is considering proposing a rule that would apply to payday loans, vehicle title loans, deposit advance products, and certain high-cost installment loans and open-end loans. See CFPB, “Small Business Advisory Review Panel for Potential Rulemakings for Payday, Vehicle Title, and Similar Loans: Outline of Proposals under Consideration and Alternatives Considered, March 26, 2015, http://files.consumerfinance.gov/f/201503_cfpb_outline-of-the-proposals-from-small-business-review-panel.pdf. The potential content, effects, and policy underpinnings of this pending CFPB rulemaking, and the type of loans that would be covered by the rulemaking, are outside the scope of this white paper. Thus, the white paper only addresses the making or facilitating of a loan by an online marketplace lender to a consumer with a term of more than 45 days and an annual percentage rate (as defined in 10 U.S.C. 987(i)(4)) that (I) does not exceed 36 percent or (II) exceeds 36 percent but neither provides for repayment directly from a consumer’s account or paycheck nor creates a non-purchase money security interest in a vehicle. This framework is currently under discussion, however, and the CFPB may ultimately change the scope of any proposed or final CFPB regulation.

any particular market segment, type of lender, or business model. Instead, this white paper intends to encourage positive innovation in an industry that has potential to broaden access to affordable credit for underserved consumers and businesses.

The policy recommendations are intended to facilitate the safe growth of online marketplace lending. As the underwriting technology, business models, and operational capabilities of online marketplace lenders remain untested through a credit downturn, the white paper identifies risks that may bear further monitoring. However, the recommendations and identified risks should not constrain efforts to innovate and develop this market. Treasury expects the structure, size and other key terms of online marketplace lending to evolve as the sector further matures.

III. Background and Definitions

Online marketplace lending refers to the segment of the financial services industry that uses investment capital and data-driven online platforms to lend either directly or indirectly to consumers and small businesses. This segment initially emerged as a “peer-to-peer” marketplace, with companies giving individual investors the ability to provide financing to individual borrowers. As products and business models have evolved, the investor base for online marketplace lenders has expanded to institutional investors, hedge fund, and financial institutions. In recognition of this shift in investor base, the market as a whole is no longer accurately described as a “peer-to-peer” market. Accordingly, we refer to these companies as “online marketplace lenders.”

This section provides an overview of the primary business models in online marketplace lending as well as the structures used to fund this activity. It then provides some current estimates of the size of the market, and the products offered to borrowers. Finally, this section describes the major ways that online marketplace lenders interact with regulated financial institutions.

Online marketplace lenders share key similarities.³ First, companies operating in this space typically provide borrowers with faster access to credit than the traditional face-to-face credit application process, often providing funding decisions within 48 to 72 hours. Second, most online marketplace lenders are able to offer small loans with short-term maturities, often with daily remittances of funds processed directly from linked bank accounts. Third, they use automated online loan applications and have no retail branches.⁴ Fourth, they rely on a variety of funding sources, including institutional investors, hedge funds, individual investors, venture capital, and depository institutions. Finally, online marketplace lenders use electronic data sources and technology-enabled underwriting models to automate processes such as determining a borrower’s identity or credit risk. The data sources used to determine a borrower’s credit risk, for example, usually include traditional underwriting statistics (e.g., income and debt obligations), but also often include real-time business accounting, payment and sales history, online small business customer reviews, and other non-traditional information.

Companies in this industry have developed two primary business models: (1) direct lenders that originate loans to hold in their own portfolios, commonly referred to as balance sheet lenders (Figure 1); and (2) platform lenders that partner with an issuing depository institution to originate loans and then purchase the loans for sale to investors as whole loans or by issuing securities such as member-dependent notes (Figure 2).

Direct lenders that do not rely on depository institutions to originate loans are generally required to obtain licenses from each state in which they lend. While state legal and regulatory frameworks are outside the scope of this paper, direct lenders that use state lending licenses to originate loans directly are not subject to a federal banking regulator’s supervisory authority, except to the extent the lenders may be subject to CFPB supervision.

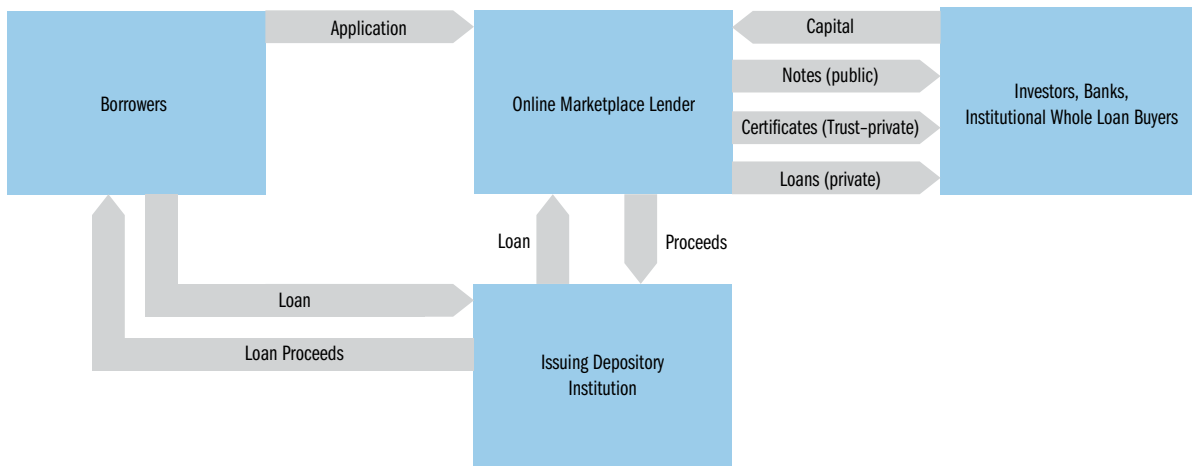
3. This research is not an examination of online payday or merchant cash advance products.

4. This research is not an examination of online banking activities by commercial banks that are wholly disconnected from online marketplace lending technology or activities.

Figure 1: Direct Lender Model



Figure 2: Platform Lender Model



Source: Lending Club, Form 10-K, Filed February 27, 2015.

Direct lenders often hold loans on their balance sheets, though as the industry has developed, they increasingly rely on capital sources including credit facilities, whole loan sales, and securitizations to fund originations (Figure 3). Direct lenders generate the majority of their revenue through interest income and fees earned on loans.⁵ Other fee income for direct lenders could include fees for servicing loans sold to third-parties.⁶

Platform lenders that partner with an issuing depository institution to originate loans utilize the institution’s charter to make loans nationally without obtaining individual state licenses. In this model, the issuing depository institution originates loans to borrowers that apply on the online platform. The loans are subsequently held by the issuing depository institution for one to two days, and then purchased by the platform lender or directly by an investor through the platform. When the platform lender purchases the loan, these loans are funded by investors who receive a stream of payments that is directly linked to the performance of the loan. These instruments are called member payment dependent notes. In this model, the loans are not pooled, though retail investors can choose to fund portions of multiple loans offered by the platform lender. As a result, platform lenders do not retain credit risk if the borrowers do not pay.⁷ Platform lenders have begun to access the securitization market as well (Figure 4).

5. OnDeck, September 30, 2015 Form 10-Q, filed November 30, 2015.

6. Ibid.

7. When offering and selling their securities, platform lenders must comply with the federal securities laws, including the applicable registration requirements of the Securities Act of 1933, 15 U.S.C. § 77a.

Figure 3: Example of Securitization Process for Direct Lenders

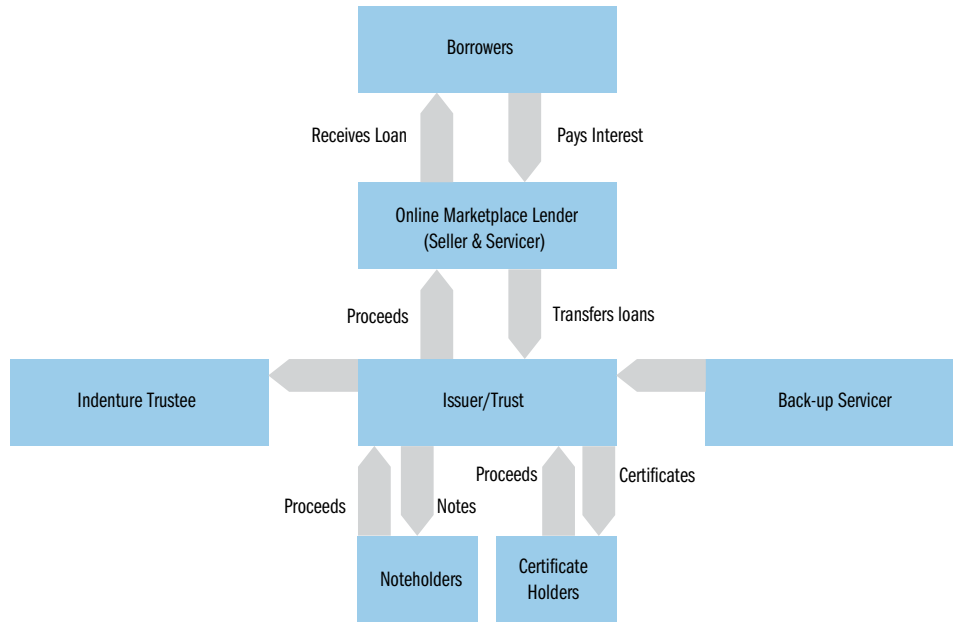
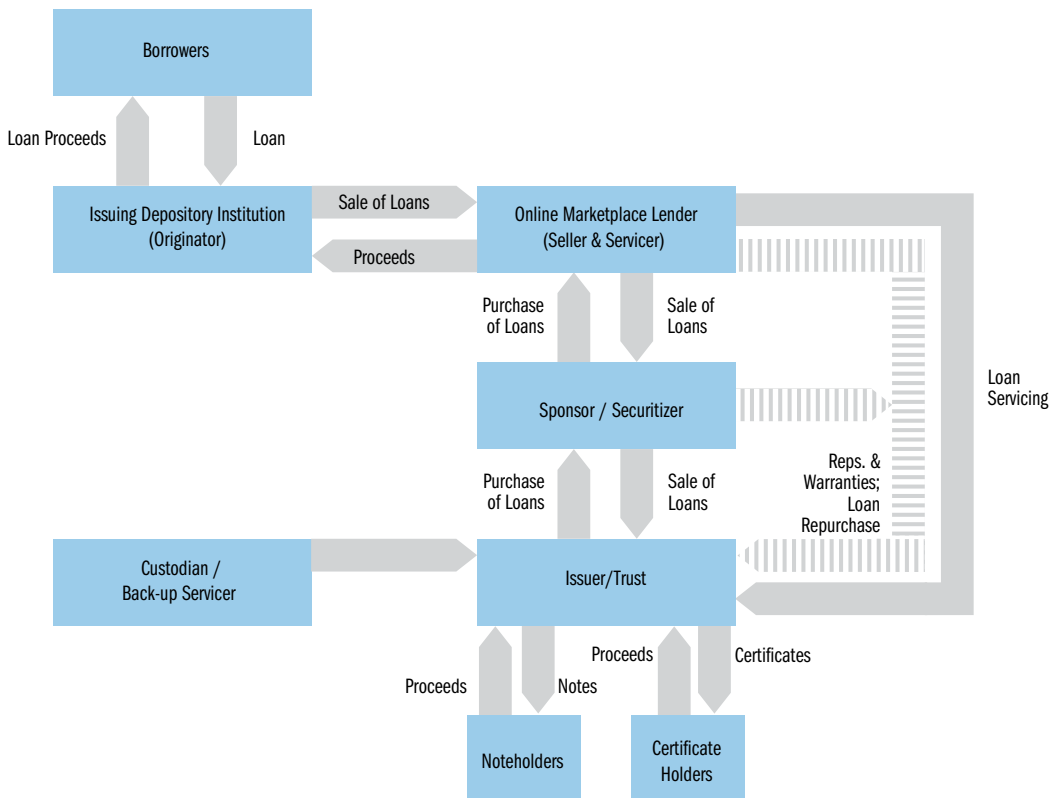


Figure 4: Example Securitization Process for Platform Lenders



A platform online marketplace lender that meets the statutory definition of a bank service company or, perhaps more likely, acts as a third-party service provider to one or more depository institutions, would be subject to the regulation and examination authority of the relevant federal banking agencies under the Bank Service Company Act.⁸ Section 1867(c) of the Bank Service Company Act provides the federal banking agencies with the authority to regulate and examine the performance of certain services by a third-party service provider for a depository institution (or for any subsidiary or affiliate of a depository institution that is subject to examination by that agency) “to the same extent as if such services were being performed by the depository institution itself on its own premises.”⁹ For example, the federal banking agency might be able to regulate and examine the online marketplace lender for its underwriting and marketing activities with respect to loans made by the issuing depository institution. However, if the issuing depository institution sells the loans to the online marketplace lender within a few days of origination of the loans, the federal banking agency might not have regulatory or examination authority over the online marketplace lender’s servicing of the loans because that servicing would not be done on the behalf of a depository institution that owns the loans.

Platform lenders partnering with issuing depository institutions to originate loans generally pay the depository institution a service fee based on the amount of loans issued by the issuing depository institution and purchased by the platform lender. Issuing depository institutions also earn interest on the loans, even when held for only one to two days. Platform lenders often generate revenue through transaction fees from issuing depository institutions for matching borrowers and lenders, and servicing fees from investors. Some platform lenders can also earn management fees from investment funds.

As the market develops, both direct and platform lenders are altering these frameworks to allow for more flexibility in varying economic environments. Direct lenders like OnDeck have now developed hybrid models, selling some whole loans to institutional investors while retaining servicing responsibilities. OnDeck originated over one-third of its small business loans in 2015 through OnDeck Marketplace, the lender’s platform arm.¹⁰ In early 2016, Lending Club, a platform lender, modified its agreement with WebBank, an issuing depository institution, to defer payments over the life of the loans, and tie payments to loan performance. The effect of this change is that the issuing depository institution maintains an economic interest in the loans it sells to the platform lender and maintains a contractual relationship with the borrower even after the loans are sold.¹¹

The combination of data-driven underwriting, automated and online operations, a lack of legacy systems, and investor capital has allowed online marketplace lenders to make real-time changes to algorithms and third-party arrangements. However, both the credit models and business models established by online marketplace lenders remain untested through a full credit cycle. Online marketplace lenders have demonstrated their ability to improve operational efficiencies, but neither the durability of technology-driven operations and credit underwriting, nor the sustainability of investor demand for loans, have yet been tested during a downturn in the credit cycle.

8. 12 U.S.C. §§ 1861-1867.

9. Ibid.

10. OnDeck, December 31, 2015 Form 10-K, Filed March 3, 2016.

11. Lending Club, December 31, 2014 Form 10-K, Filed February 27, 2015.

Current Market Size

While online marketplace lending is still a small component of the lending market, it is a fast-growing sector that is continuously evolving. The U.S. market is currently driven by prime and near-prime consumer unsecured loans, followed by small business loans, and student loans.¹² Market analysts identify a \$1.0 trillion addressable market for online marketplace lenders (excluding mortgages), and estimate loan origination volumes could reach \$90.0 billion by 2020.¹³ Online marketplace lenders are also beginning to offer mortgage and auto loans, although this is still a small share of the total market. Companies are marketing directly to consumers looking to refinance credit cards, small businesses underserved by financial institutions, students able to refinance existing student loans, and individuals buying cars using nonbank loans.

Strong interest by institutional investors, venture capital, financial institutions, and hedge funds has enabled the rapid growth of this market.¹⁴ On the equity side, from Q4 2014 to Q4 2015 venture capital-backed online marketplace lenders raised \$2.7 billion across 36 deals in the U.S.¹⁵ Investor interest led to the first initial public offerings (IPOs) in the marketplace lending industry with Lending Club and OnDeck raising \$1.0 billion and \$230.0 million, respectively, in 2014. Additionally, the entrance of institutional investors has stimulated the creation of an ecosystem of information services, risk analytics, and trading technology companies focused on online marketplace lending.

On the debt side, online marketplace lending whole loans emerged as an attractive investment for investors searching for diversification and high yield. Increased investor demand stimulated the market for securitization of whole loans issued by online marketplace lenders, with the first unrated securitization transaction pricing in 2013 and first rated securitization transaction pricing in 2014.¹⁶ Direct lender and platform, consumer and small business online marketplace lenders alike are securitizing portfolios of loans as sources of funding. By the end of 2015, the total volume of securitization reached over \$7.0 billion, with over 40 transactions since 2013.¹⁷

In an effort to diversify funding sources, some online marketplace lenders are forming internal hedge funds and registering affiliated entities as investment advisors to buy a company's own loans or participate in securitizations. For example, Lending Club and SoFi each have launched funds to create additional sources of capital to originate loans.

Products Offered

The suite of financing options offered by online marketplace lenders includes consumer loans, student loans, small business term loans, equipment financing loans, and lines of credit. Figure 5 compares product offerings across online marketplace lenders and traditional financial institutions. Overall, products are

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12. Treasury understands near-prime borrowers to include those with credit scores towards to higher end of the spectrum, but not as high as prime borrowers.
 13. Autonomous Research, "Digital Lending: The 100 Billion Dollar Question," January 13, 2016, <https://autonomous.app.box.com/s/zsemdkbykegndrgnxjvzvllv5meq0zp>.
 14. Smittipon Srethapremote, et al, "Global Marketplace Lending: Disruptive Innovation in Financials," Morgan Stanley Research, May 19, 2015.
 15. The Pulse of Fintech, "2015 in Review: Global Analysis of Fintech Venture Funding," KPMG International and CB Insights, March 9th, 2016, <https://assets.kpmg.com/content/dam/kpmg/pdf/2016/03/the-pulse-of-fintech.pdf>.
 16. Srethapremote, et al.
 17. PeerIQ, "PeerIQ Marketplace Lending Securitization Tracker: 1Q 2016," April 3, 2016, [http://www.peeriq.com/assets/PeerIQ%20MPL%20Securitization%20Tracker%20\(1Q2016\).pdf](http://www.peeriq.com/assets/PeerIQ%20MPL%20Securitization%20Tracker%20(1Q2016).pdf). Note: total excludes transactions of securitized loans originated online by banks and CDFIs.

Figure 5: Sample Financing Options

| | | Product Type | Rates Range | Term Range | Loan Size Range | Average Borrower Credit Score* | Origination Fees | |
|----------------------------|-----------------------|------------------------|------------------|--|--|--------------------------------|------------------|---------------|
| Online Marketplace Lenders | Consumer | Avant | Term Loan | 9.95% - 36.00% APR | 2 - 5 Years | \$1,000 - \$35,000 | 650 | 0.00% |
| | | Lending Club | Term Loan | 5.99% - 35.96% APR | 3 - 5 Years | Up to \$40,000 | 699 | 1.00% - 6.00% |
| | | Prosper | Term Loan | 5.99% - 36.00% APR | 3 - 5 Years | \$2,000 - \$35,000 | 698 | 1.00% - 5.00% |
| | Small Business | Bond Street | Term Loan | 8.00% - 25.00% APR | 1 - 3 Years | \$50,000 - \$500,000 | >640 | 3.00% |
| | | Funding Circle | Term Loan | 6.98% - 32.78% APR | 1 - 5 Years | \$25,000 - \$500,000 | NA | 1.49% - 4.99% |
| | | OnDeck | Term Loan | 7.30% - 98.40% APR | 3 - 36 Months | \$5,000 - \$500,000 | >500 | 2.50% |
| | Student | CommonBond | Term Loan | 3.50% - 7.74% APR (Fixed)/ 2.14% - 5.94% APR (Variable) | 5 - 20 Years | Min. \$5,000 | NA | 0.00% |
| | | SoFi | Term Loan | 3.50% - 7.74% APR (Fixed)/ 2.14% - 5.94% APR (Variable) | 5 - 20 Years | Min. \$5,000 | NA | 0.00% |
| | Traditional Financing | Consumer | Bank Loan | Term Loan | 9.66% - 9.85% APR | 2 Years | Varies | NA |
| Consumer Credit Card | | | Revolving Credit | 11.98% - 12.22% APR | Revolving | Varies | NA | Varies |
| Small Business | | C&I Line of Credit | Line of Credit | Fed Funds/LIBOR + Rate [†] | ~2 Years | Varies | NA | Varies |
| | | Commercial Credit Card | Revolving Credit | Varies | Revolving | Varies | NA | Varies |
| | | SBA 7(a) Loan | Term Loan | Prime +2.25% - Prime +4.75%* | Up to 10 Years for certain uses; Up to 25 Years for Real Estate | Up to \$5,000,000 | NA | 0.00% - 3.50% |

Note (*): Minimum FICO used where average not available, and NA used for where FICO is not publicly available. Note (†): Rates for Commercial and Industrial (C&I) lines of credit and SBA 7(a) loans are not typically shown in terms of APR. Instead C&I loans use Prime / Libor + specified rates. Source: Lending Club website, Avant Credit website and press releases, Prosper website and company filings, OnDeck website and company filings, Funding Circle website, Bond Street website, SoFi website, CommonBond website, SBA data, Goldman Sachs research, Federal Reserve Data.

similar across the online marketplace lenders and traditional financial institutions. However, some online marketplace lenders are charging significantly higher rates than those offered through traditional financial institutions and credit card providers.

Loans originated by online marketplace lenders are subject to many of the same federal laws as loans originated by traditional financial institutions. In the case of federal consumer protection laws, these laws apply equally to both parties. The Dodd-Frank Act granted the CFPB supervisory authority over nonbanks,¹⁸ with the ability to expand its supervisory authority to entities under its larger participation rule.¹⁹ However,

18. For purposes of this discussion, Treasury assumes the online marketplace lender is a nonbank. If the online marketplace lender is a bank, then the entity would be subject to the direct supervisory authority of its prudential federal regulator and/or its state bank regulator. Banks with assets totaling over \$10 billion are also subject to the federal consumer law supervisory and enforcement authority of the CFPB.

19. This summary of supervisory authority is based on the current supervisory powers of the federal bank regulators. The CFPB does have supervisory authority over certain nonbank entities. For example, the CFPB's authority extends to nonbanks that offer or provide consumer financial products or services, including mortgage originators and servicers, payday lenders, and private student lenders of all sizes, larger participants of other markets as it defines by rule, and those whose activities it has reasonable cause to determine pose risks to consumers, as well as to service providers of large banks and certain nonbanks, among others. 12 U.S.C. §§ 5514-16, 5481.

federal consumer protection laws are limited in that they apply only to consumer loans, typically defined as a loan obtained for personal, household, or family purposes. Generally, these laws do not apply to small business loans, except for the Equal Credit Opportunity Act (ECOA) and the prohibition on unfair or deceptive acts or practices under Section 5 of the Federal Trade Commission Act. Examples of federal laws and regulations potentially applicable to online marketplace lenders are outlined in Appendix A.

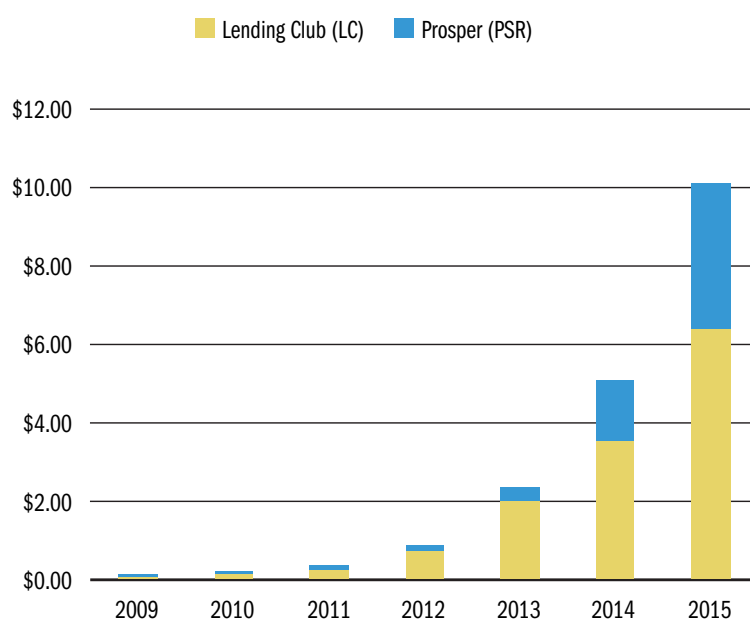
Consumer Unsecured Credit Market

As of 2015, the majority of loans originated through online marketplace lenders have been in the unsecured consumer credit market. While online marketplace lending predates the financial crisis, first appearing in the U.S. in 2006, the growth in online marketplace lending to consumers coincided with tightened lending standards by traditional financial institutions during the recession.²⁰ Simultaneously, demand for personal loans surged relative to pre-crisis levels, as individuals sought to refinance and consolidate higher rate personal debt (from credit cards and other lines of credit) into lower rate fixed-term personal loans. The lower overhead costs associated with the use of automated platforms, online operations, and data-driven lending models has allowed online marketplace lenders to offer consumers competitive rates for debt consolidation and refinancing.²¹

Representing a small portion of the \$3.5 trillion U.S. consumer lending market,²² the largest online marketplace platforms originated over \$5.0 billion of unsecured consumer credit in 2014, and over \$10.0 billion in 2015 (Figure 6).²³ Borrowers state that these loans are largely used for existing debt consolidation, credit card repayment, and home improvement. Lending Club notes that 68.5 percent of Lending Club borrowers report using loans to refinance existing debt or pay off credit card debt.²⁴

The figures above show loans issued by Prosper and Lending Club, the companies originating the greatest number of consumer loans, subdivided by grade corresponding to borrower risk. Each loan to be made is graded alphabetically (AA the highest quality for Prosper, A the

Figure 6: Lending Club and Prosper Originations 2009 – 2015



Source: Prosper 10-K filings 2009 through 2015. Lending Club 10-K filings 2009 through 2015 and company website.

20. The Federal Reserve Board, “The April 2015 Senior Loan Officer Opinion Survey on Bank Lending Practices,” <http://www.federalreserve.gov/boarddocs/sloansurvey/201505/default.htm>.

21. Ryan Nash and Eric Beardsley, “The Future of Finance: The Rise of the New Shadow Bank,” Goldman Sachs Equity Research, March 3, 2015.

22. The Federal Reserve Board, Consumer Credit Outstanding, January 2016.

23. Lending Club Form 10-K filed 2009 through 2015 and company website. Prosper Form 10-K filed 2009 through 2015.

24. Lending Club website, <https://www.lendingclub.com>.

Figure 7: Prosper Unsecured Consumer Credit Originations 3Q 2009 – 4Q 2015*

| Loan Grade | Total Issued (#) | Total Issued (\$ Billion) | Loan Grade (\$ as % of All Loans) | Average Borrower APR [†] | Average Experian FICO Score [‡] |
|------------|------------------|---------------------------|-----------------------------------|-----------------------------------|--|
| AA | 42,695 | \$0.54 | 9.25% | 8.48% | 744 |
| A | 97,242 | 1.33 | 22.70% | 12.89% | 711 |
| B | 106,880 | 1.56 | 26.48% | 16.28% | 699 |
| C | 110,499 | 1.53 | 25.95% | 20.00% | 689 |
| D | 57,549 | 0.65 | 11.02% | 24.95% | 677 |
| E | 32,585 | 0.22 | 3.66% | 30.49% | 666 |
| HR | 13,147 | 0.06 | 0.94% | 35.10% | 658 |

Note (*): For Prosper Marketplace loans, AA is rated “lower risk”; HR is rated “higher risk”.

Note (†): APR for loans originated between July 13, 2009 to June 30, 2015.

Note (‡): FICO for loans originated from September 6, 2013 to June 30, 2015.

Source: Prosper loan origination data as of 4Q 2015 from publically available data aggregated by Nickle Steamroller. Prosper APR and FICO score from Form S-1/A, filed September 21, 2015.

Figure 8: Lending Club Unsecured Consumer Credit Originations 4Q 2008 – 4Q 2015

| Loan Grade* | Total Issued (#) | Total Issued (\$ Billion) | Loan Grade (\$) as % of All Loans | 36- Month Borrower APR Range [†] |
|-------------|------------------|---------------------------|-----------------------------------|---|
| A | 148,203 | \$2.08 | 15.89% | 5.99% - 10.97% |
| B | 254,535 | 3.47 | 26.52% | 11.92% - 15.06% |
| C | 245,860 | 3.55 | 27.17% | 15.59% - 18.99% |
| D | 139,543 | 2.16 | 16.48% | 19.99% - 23.30% |
| E | 70,705 | 1.27 | 9.71% | 23.77% - 28.26% |
| F | 23,047 | 0.44 | 3.36% | 26.99% - 33.99% |
| G | 5,489 | 0.11 | 0.86% | 31.30% - 35.96% |

Note (*): For Lending Club loans, A is rated “lower risk”; G is rated “higher risk”.

Note (†): APR as of Q1 2016.

Source: Lending Club loan origination data as of 4Q 2015 from publically available data aggregated by Nickle Steamroller. Lending Club APR range from company website.

highest quality for Lending Club) based on the borrower’s credit score, in conjunction with other credit risk indicators from the loan application. Figure 7 shows that over 80 percent of Prosper loans are originated to borrowers with average FICO scores of 680 or greater. Figure 8 shows that the majority of loans originated by Lending Club are in the top three credit buckets, indicating that most loans issued are either to prime borrowers or of low risk, as determined by Lending Club’s classification methodology. Prosper borrowers with FICO less than 680, and Lending Club borrowers categorized as higher risk are receiving a smaller proportion of loans. This data collectively suggests that the majority of borrowers of unsecured consumer credit using online marketplace lenders are prime borrowers refinancing existing debts, not receiving new credit.

Although the majority of consumer loans are made to prime and near-prime borrowers, newer entrants have started to move down the credit spectrum and target sub-prime borrowers. Some online marketplace lenders are serving non-prime consumers,²⁵ some offering rates up to 36 percent to borrowers with FICO scores as low

25. Elevate website, <https://www.elevate.com>.

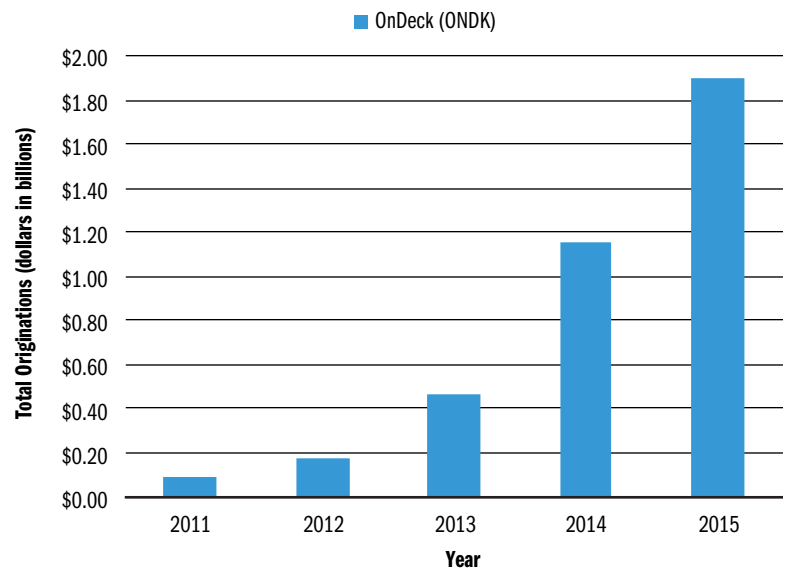
as 580.²⁶ Some online marketplace lenders are accepting applicants without FICO scores or with short credit histories and making credit decisions based on the applicant's college, school, and current income.²⁷

Small Business Credit Market

For small businesses, challenges in access to credit extend beyond the cyclical pressures imposed by the financial crisis. Small business lending historically has high search, transaction, and underwriting costs for depository institutions relative to earnings potential. Extending business loans entails significant fixed costs associated with underwriting, servicing, and collection which makes smaller loans particularly challenging. According to 2015 Small Business Credit Survey published by the Federal Reserve Banks of Atlanta, Boston, Cleveland, New York, Philadelphia, Richmond and St. Louis, only half of small employer firms received the full amount of financing requested.²⁸ Microbusinesses (less than \$100,000 in annual revenue) and startups (those in business for two years or less) in 2015 had the hardest time securing financing with 63 percent and 58 percent, respectively, reporting a financing shortfall.²⁹

In response to the longer application, underwriting and processing time associated with traditional loans, small businesses are increasingly turning to online marketplace lenders as potential financing sources. The largest small business online marketplace lending platforms originated approximately

Figure 9: OnDeck Originations 2011 – 2015



Source: OnDeck 10-K filings from 2014 to 2015 and IPO filings.

Box 1: SBA 7(a)

The 7(a) Loan Program is SBA's primary program for helping start-up and existing small businesses, with financing guaranteed for a variety of general business purposes. SBA does not make loans itself, but rather guarantees loans made by participating lending institutions. 7(a) loans have a maximum loan amount of \$5.0 million. The maximum maturity of loans used to finance fixed assets other than real estate will be limited to the economic life of those assets, in no instance to exceed 25 years. Interest rates are negotiated between the borrower and the lender but are subject to SBA maximums, which are pegged to the prime rate, LIBOR, or an optional peg rate. Interest rates may be fixed or variable. SBA can guarantee up to 85 percent of loans of \$150,000 and less, and up to 75 percent of loans above \$150,000. This standard applies to most variations of the 7(a) Loan Program.

26. Kroll Bond Rating Agency, "Kroll Bond Rating Agency Assigns Preliminary Ratings to Avant Loans Funding Trust 2016-B," April 20, 2016.

27. Earnest company website, <https://www.earnest.com>.

28. The Federal Reserve Bank of Atlanta, Boston, Cleveland, New York, Philadelphia, Richmond and St. Louis, "Small Business Credit Survey 2015," March 2016, <https://www.newyorkfed.org/smallbusiness/joint-small-business-credit-survey-2014.html>.

29. Ibid.

\$1.2 billion of small business credit in 2014 and approximately \$1.9 billion in 2015 (Figure 9).³⁰ Products offered to small businesses by most online marketplace lenders include term loans, lines of credit, and equipment financing loans. The 2015 Small Business Credit Survey showed that 20 percent of all small business owners applied for loans or lines of credit through online marketplace lenders, and 70 percent were approved for a loan or line of credit. Both microbusinesses and more mature companies (six-ten years of operations) are increasingly considering online marketplace lenders for capital needs.³¹ 30 percent of microbusinesses and 22 percent of small firms (\$100,000 – \$1,000,000 in annual revenue) reported applying for loans or lines of credit from online marketplace lenders.³²

Box 2: Federal Student Loans

The U.S. Department of Education offers federal student loans to undergraduate, graduate, and parent borrowers. Federal student loans became a fully direct lending program in 2009. Prior to 2009, the government guaranteed federal loans issued through private lenders. Currently, there is \$1.2 trillion in outstanding loan balances representing 41.8 million borrowers.

The federal student loan program offers a number of benefits to help borrowers pay their loans on affordable terms. Borrowers may be eligible for income-driven repayment plans which offer payments as low as 10 percent of discretionary income, with no payments required for low-income borrowers. These plans also feature loan forgiveness after 20 or 25 years. Borrowers who pursue a career in public service can benefit from the Public Service Loan Forgiveness Program which forgives any remaining loan balance after a borrower makes 10 years of on-time payments while in a public service career. Additional protections and benefits exist for borrowers returning to school, facing economic hardship, or disability. If a borrower refinances out of federal student loans into private student loans, they may lose many of these protections and program options.

Small business online marketplace lenders are offering similar products as traditional financial institutions, but for smaller dollar amounts and over shorter time periods. These lenders provide commercial loans generally for the stated purposes of buying inventory, acquiring new business equipment, and working capital. The 2015 Small Business Credit Survey reports that service based businesses in the healthcare and education, finance and insurance, and business services sectors are the most active applicants to online marketplace lenders.³³

Student Loan Market

Student loan online marketplace lenders have been offering college graduates credit products that consolidate or refinance federal and private student loans since 2011. Although this segment largely focuses on loan consolidations and refinancings, some online marketplace lenders do make in-school loans to students attending graduate schools. Student loan online marketplace lenders primarily target

30. OnDeck Form 10-K 2014 to 2015 and IPO Prospectus filed December 17, 2014.

31. The Federal Reserve Bank et. al. “Small Business Credit Survey 2015”.

32. Ibid.

33. Ibid.

super-prime borrowers who are graduates from highly competitive institutions and who have an established high-paying job history.³⁴

The online marketplace lending market for student loans has grown rapidly, but remains small relative to the overall market. For example, the largest current marketplace lender offering student loans funded \$200.0 million in loans as of September 2013, \$2.0 billion as of April 2015, and \$6.0 billion as of December 2015.³⁵ Yet, that is less than one-half of one percent of the overall student loan market of more than \$1.3 trillion.

Financial Institutions and Online Marketplace Lenders

As online marketplace lenders have developed, their relationships with traditional financial institutions have become more complex. Some financial institutions have partnered with marketplace lenders, while others have begun to develop their own competitive products, building technology platforms to offer smaller consumer loans off their balance sheet.³⁶ Interactions between traditional financial institutions and online marketplace lenders can take the form of business models, investment activity, or distribution partnerships. Figure 10 outlines some of the existing types of arrangements between financial institutions and online marketplace lenders. These arrangements generally fall into three main categories:

1. *Business Models:* As previously mentioned, online marketplace lenders employing a platform model can have agreements with issuing depository institutions to originate loans sourced through the online marketplace lender. In addition, direct lenders often have warehouse lines of credit in place at financial institutions.
2. *Investment and Related Activity:* Financial institutions can act as debt or equity investors, or participate in securitization transactions with online marketplace lenders. As equity investors, financial institutions can provide capital to online marketplace lenders in exchange for equity. As debt investors, financial institutions can purchase whole loans to hold as assets. Financial institutions can engage with online marketplace lenders during securitization transactions as trustee, back-up servicer, custodian, or investor.³⁷
3. *Distribution Partnerships:* To help serve borrowers better, a growing number of financial institutions have started to view the new technology entrants as complementary in certain market segments. Distribution partnerships with online marketplace lenders allow financial institutions to improve efficiencies and to offer new products. In turn, online marketplace lenders can

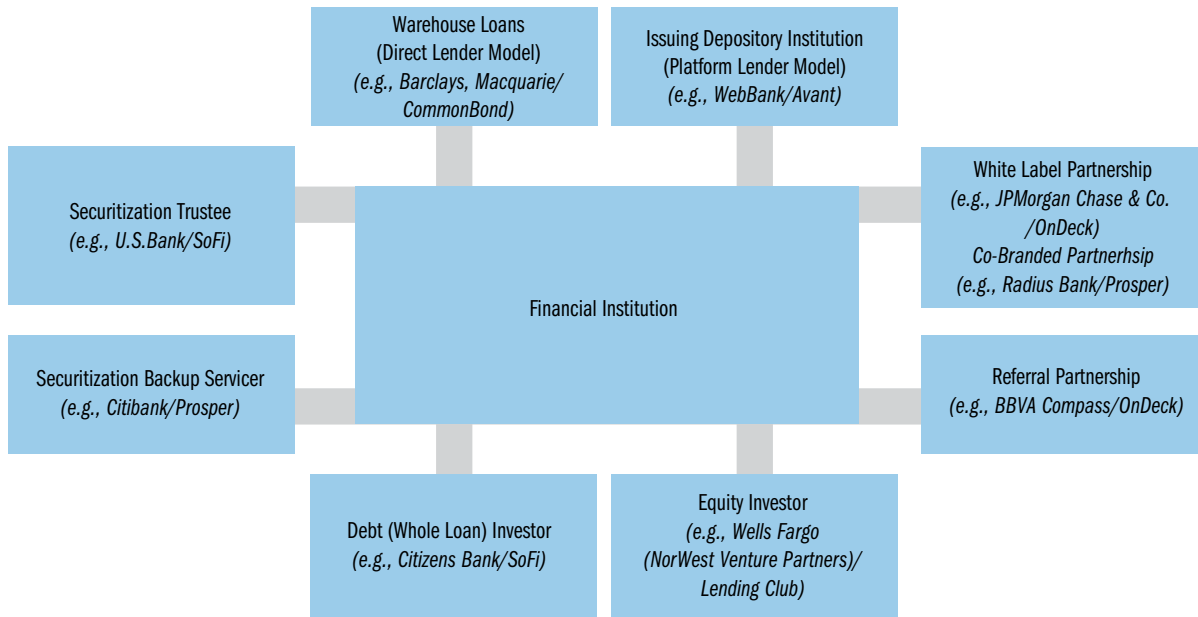
34. Treasury understands near super-prime borrowers to include those with credit scores at the higher end of the spectrum, generally higher than prime borrowers.

35. SoFi website, <https://www.sofi.com>.

36. Michael Corkery and, Nathaniel Popper, “Goldman Sachs Plans to Offer Consumer Loans Online, Adopting Startups’ Tactics,” *The New York Times*, June 15, 2015, http://www.nytimes.com/2015/06/16/business/dealbook/goldman-to-move-into-online-consumer-lending.html?_r=0.

37. Prudential regulators suggest financial institutions purchasing loans underwrite and administer loan purchases with the same level of diligence as if the credit were originated by the institution itself. For more information how financial institutions should manage purchased loans. See FDIC, “Advisory on Effective Risk Management Practices for Purchased Loans and Purchased Loan Participations,” November 6, 2015, and OCC, “Loan Portfolio Management” from The Comptroller’s Handbook, April 1998.

Figure 10: Financial Institutions Interactions with Online Marketplace Lenders



grow originations and generate fees. These partnerships can be developed through white label, co-branded, and referral third-party arrangements, helping financial institutions and online marketplace lenders broaden existing business practices and expand access to credit for borrowers. These distribution partnerships tend to be focused on improving services, like customer acquisition or technology infrastructure. As the market evolves, it will be important to ensure that financial institutions are able to manage and maintain oversight and compliance obligations using the distribution partnership model.

Distribution Partnerships

Traditional financial institutions and Community Development Financial Institutions (CDFIs) may partner with online marketplace lenders to offer new products, to improve the borrower experience, or to reach new customers. Distribution partnerships vary depending on the type of institution partnering with the online marketplace lender; however, nearly all involve leveraging either the operational or the underwriting technology of the online marketplace lender. Both direct lenders and platform lenders may engage in partnerships with traditional financial institutions and CDFIs.

The primary types of distribution partnerships include:

1. *Referral Partnerships*: In referral partnerships, customers unable to meet certain underwriting criteria or seeking products not offered by their financial institution, are directed either from a depository institution to an online marketplace lender, or from an online marketplace lender to a CDFI. For depository institutions, these partnerships allow the financial institutions to maintain customer relationships, and the online marketplace lender to increase originations for loans that might otherwise be uneconomical for the bank to make. For example, BBVA Compass arranged

to refer customers unable to receive small business loans to OnDeck.³⁸ Referral partnerships with online marketplace lenders may also enable CDFIs to reach new customers. For example, Lending Club and Opportunity Fund partnered to extend consumer loans to borrowers that the online marketplace lender would otherwise be unable to serve.³⁹ In other partnerships, CDFIs are leveraging their community expertise and the algorithms from online marketplace lenders to make loans in low-income communities. Rates and terms on such loans are dictated by the CDFI.

2. *Co-Branded or White Labeled Partnerships*: In co-branded or white label partnerships, financial institutions contract with online marketplace lenders to integrate technology services. Online marketplace lenders provide operational technology services, and can be contracted to handle the entire loan process on either the online marketplace lender's or the financial institution's website. Loans are originated by the financial institution, not by the online marketplace lender, and reflect the underwriting standards of the financial institution. For example, JPMorgan Chase & Co. partnered with OnDeck to offer targeted small business loans to JPMorgan Chase & Co. customers. In this white label partnership, the small business owner does not interact with OnDeck and all loans are made by the commercial bank and held on the bank's balance sheet.⁴⁰ Prosper and Radius Bank partnered to offer Radius customers the option to apply for co-branded consumer loans on the Prosper online platform. The loans are then issued by Radius Bank.⁴¹ Additionally, community bank consortium BancAlliance partnered with Foundation to offer bank customers a co-branded product focused on small business loans.⁴²

The specific legal requirements applicable to both online marketplace lenders and financial institutions can vary depending on the type of distribution partnership. In general, both online marketplace lenders and financial institutions should carefully consider how both partners comply with applicable federal and state laws.⁴³ These laws may include consumer protection statutes and regulations, anti-money laundering regulations, and fair lending requirements, in addition to relevant state laws or regulations.⁴⁴ For safety and soundness purposes, distribution partnerships may be monitored by the financial institution's prudential regulator to the extent the online marketplace lender is performing functions on behalf of the financial institution.

38. BBVA Compass Press Release, "BBVA Compass teams up with OnDeck to bolster bank's small business offerings," May 6, 2014. <http://newsroom.bbvacompass.com/2014-05-06-BBVA-Compass-teams-with-OnDeck-to-bolster-banks-small-business-offerings>.

39. Opportunity Fund RFI response.

40. Peter Rudegeair, Emily Glazer and Ruth Simon, "Inside J.P. Morgan's Deal With OnDeck Capital," *The Wall Street Journal*, December 30, 2015, <http://www.wsj.com/articles/inside-j-p-morgans-deal-with-on-deck-capital-1451519092>.

41. Prosper Marketplace, Inc, "Prosper Marketplace and Radius Bank Join Forces to Offer Personal Loans Through Online Lending Platform," September 16, 2015, <https://www.prosper.com/about-us/2015/09/16/prosper-marketplace-and-radius-bank-join-forces-to-offer-personal-loans-through-online-lending-platform-2>.

42. BancAlliance Press Release, "BancAlliance and Foundation Form Partnership to Bring Small Business Lending Technology Solution to Community Banks," March 1, 2016, <http://www.prnewswire.com/news-releases/bancalliance-and-foundation-form-partnership-to-bring-small-business-lending-technology-solution-to-community-banks-300228412.html>.

43. For more information how financial institutions should manage third-party arrangements, see FDIC, "Guidance for Managing Third-Party Risk," June 6, 2008; See FRB "Guidance on Managing Outsourcing Risk," December 5, 2013, and OCC, "Third Party Relationships," October 30, 2013.

44. For more information on the responsibilities of financial institutions partnering with online marketplace lenders, see FDIC Supervisory Insights Journal (Winter 2015).

Box 3: Community Development Financial Institutions

CDFI Certification is the U.S. Department of the Treasury's recognition of specialized financial institutions serving economically distressed communities and low-income people across the country. CDFI certification allows financial institutions to apply for technical assistance and financial assistance awards, as well as training provided by the CDFI Fund. To be eligible for CDFI certification, an organization must:

- Have a primary mission of promoting community development
- Provide development services in conjunction with its financing activities
- Serve one or more defined target markets
- Maintain accountability to a defined target market
- Be a legal, non-governmental entity at the time of application (with the exception of Tribal governmental entities)

For underserved communities, CDFIs serve as important providers of loans, investments, borrower development tools and other financial services. Four types of institutions are typically certified as a CDFI: banks, credit unions, loan funds (most of which are non-profit), and venture capital funds.

CDFI banks and credit unions are supervised by prudential regulators; however, CDFIs loan funds do not have federal regulatory oversight. Instead CDFI loan funds and non-profits adhere to certain state regulations and requirements applicable to their type of loan or product. Distribution partnership activities between online marketplace lenders and CDFI banks or credit unions fall under prudential oversight; however, activities between online marketplace lenders and CDFIs with nonprofits or loan funds do not have federal regulatory oversight.

IV. Treasury Research Efforts and Themes from Request for Information Responses

Treasury issued the RFI in the summer of 2015 to study the impact of online marketplace lending on small businesses, consumers, and the broader economy. In order to attract the broadest possible perspectives on the growth of online marketplace lending, Treasury asked 14 questions in the RFI on borrower, online marketplace lender, and investor activity.

The comment period closed on September 30, 2015. Treasury received approximately 100 responses from individuals, businesses, advocates and trade associations. (See Appendix B for list of organizations who responded).⁴⁵

Following the release of the RFI, Treasury convened industry stakeholders in Washington, D.C., to discuss a range of topics including consumer protection, data privacy, capital markets issues, and regulatory concerns. The event was held to facilitate dialogue around the RFI through roundtable discussions. The forum convened around 100 participants involved in online marketplace lending, investing, regulation, and advocacy.

One of the RFI questions asked the public to comment on how the financial regulatory framework could evolve to support both access to credit and the safe growth of this industry. Following the end of the comment period, Treasury convened federal regulators to discuss the publicly submitted RFI responses pertaining to regulation. While this white paper and RFI represents Treasury's views, Treasury consulted with staff from other agencies including the CFPB, FDIC, FRB, FTC, OCC, SBA, and SEC. Treasury intends to continue conversations with federal and state regulators on an ongoing basis.

Several overarching topics emerged across the RFI responses and discussions. This section will expand on and summarize comments on data and modeling techniques, access to credit, potential challenges in a changing interest rate environment and borrower protections. (See Appendix C for RFI questions.)

1. Use of Data and Modeling Techniques for Underwriting is an Innovation and a Risk

Comments from industry argued that the use of data is central to online marketplace lending, and that it is one of the sources of innovation that holds most promise for benefiting small businesses and consumers. RFI commenters noted that data is allowing online marketplace lenders to reduce the cost of acquiring customers, automate the origination of loans and the collection of loan documentation, potentially reduce fraud, and enhance creditworthiness assessments.⁴⁶ In turn, RFI commenters noted that consumers and small businesses benefit from lower costs, quicker turnaround times, and greater convenience. Some RFI responses argued that new data sources are already expanding access to credit for small business borrowers and consumers, while others suggested that it is not yet clear to what extent new data sources are having an impact on expanding access.

RFI commenters noted that online marketplace lenders are using a variety of new data sources to evaluate applicants' credit risk. Small business lending platforms, for example, are accessing real-time data and

45. All public comments are posted at Regulations.gov. See <http://www.regulations.gov/#!docketDetail;D=TREAS-DO-2015-0007>.

46. Lending Tree, Lendio, and ZestFinance RFI responses.

financial statements to make quicker funding decisions, while consumer lending platforms are using a range of data points beyond those in traditional credit files.⁴⁷

RFI responses raised concerns about not only the type of data, but also the use of new data and credit risk models. In light of the forthcoming increase in interest rates by Federal Open Market Committee (FOMC) (rates were increased in December 2015), RFI commenters drew attention to the potential for defaults to increase in a changing interest rate environment. Without full credit cycle performance data, RFI commenters voiced concern that accuracy of credit-risk in these algorithms remains untested.⁴⁸

RFI responses pointed to several concerns about risks that new data sources and credit models could pose to consumers, including the risk that new data sources could have inaccuracies and that they could lead to disparate impact and fair lending violations against consumers.⁴⁹ Some RFI commenters called for greater transparency,⁵⁰ such as disclosure of the data sources that online marketplace lenders use to assess consumers, noting that automating the credit decision process through algorithms does not necessarily yield fair results. Some of the concerns relate to new risks generated by “big data.” RFI responses cited such risks as potential for disparate impact and fair lending violations, predatory lending and targeting of vulnerable borrower segments, and the use of data contrary to consumer expectations (e.g., using social media in underwriting).⁵¹ Consumer advocates noted that, while data has the ability to make fast and blind credit assessments; it also has the potential to capture unintended correlations that lead to disparate impact and fair lending violations or penalize customers without a large digital footprint. RFI responses also expressed concern that the new credit models are a “black box,” and credit applicants do not have sufficient recourse if the information being used is incorrect.⁵² This lack of transparency into credit decisions differs greatly from the traditional credit report lending model in which applicants have the right and ability to check—and correct—their personal data used to determine loan eligibility. Additionally, RFI commenters noted that not all online marketplace lenders are reporting consumer data to credit bureaus.⁵³

Finally, many RFI responses highlighted the efficiency benefits of automated data sources replacing paper sources. It was recommended that the Internal Revenue Service (IRS) replace the existing Income Verification Express Service (IVES) taxpayer transcript request process with a more modern system known as an application programming interface (API).⁵⁴ This API could allow any lender to build an automated way for borrowers to voluntarily share their tax data in a simple, fast, secure way. Online marketplace lenders argued that this change would make a meaningful impact on their ability to offer lower cost, faster, and safer loans.

47. Bond Street, Crowdnetic, Funding Circle, Lending Club, OnDeck, and Prosper RFI responses.

48. Milken Institute Center for Financial Markets RFI response.

49. Center for Finance Services Innovation, Milken Institute Center for Financial Markets, and National Consumer Law Center RFI responses.

50. Opportunity Finance Network RFI response.

51. National Consumer Law Center and Woodstock Institute RFI responses.

52. U.S. Public Interest Research Group RFI response.

53. Equifax RFI response.

54. Bond Street, Intuit, Lend Academy, Lending Club, and OnDeck RFI responses.

2. There is Opportunity to Expand Access to Credit

RFI commenters argued that online marketplace lending is expanding access to credit by providing loans to borrowers who might not otherwise have received capital from traditional financial institutions. However, the current outcomes bear further examination by independently evaluating the consumer, student, and small business segments.

Consumer

For consumers, online marketplace lending is currently serving mostly prime and near-prime borrowers consolidating debt from credit cards or student loans.⁵⁵ The largest consumer online marketplace lenders reported that they are lending around \$35,000 to individuals with FICO around 700. Many lending platforms have minimum credit score requirements. RFI responders noted that because larger market participants are targeting prime and near-prime borrowers, the loan products offered do not necessarily fit the financial needs of those traditionally underserved.⁵⁶

As the market grows, newer online marketplace lenders are beginning to move down the credit spectrum to serve consumers with lower FICO scores. Consumer online marketplace lenders such as Upstart and Avant responded that they are identifying borrowers who are not currently considered prime, but may improve their credit quality in the near future.⁵⁷ These companies are charging comparable rates (e.g., Avant's reported APRs range from 9.95 – 36.00 percent) to serve middle-to-low income or younger borrowers.⁵⁸ As credit models mature, the near-prime to sub-prime category is expected to expand.

Student Loan

RFI commenters responded that online student loan marketplace lenders are offering low-risk borrowers refinancing rates that are in most cases lower than their existing federal loan rates.⁵⁹ Student loan borrowers refinancing loans through online marketplace lenders tend to have prime or super-prime FICO scores with documented, established work and repayment histories, and much higher than average income.⁶⁰

From reviewing RFI responses and convening market participants Treasury understands that online marketplace lenders are able to offer rates that are competitive relative to federal student loan program for a variety of reasons. First, the federal student loan program does not price interest rates based on borrower risk. Second, private loans do not offer the same repayment and loan forgiveness terms of federal student loans.⁶¹ Third, low interest rates have enabled growth in a favorable credit environment. Student loan

55. Blue Elephant Capital Management, Center for Finance Services Innovation, Community Reinvestment Fund, Distributed Finance Corporation, Insikit, KPMG, Lend Academy, and Lending Club and RFI responses.

56. Oportun RFI response.

57. Avant and Upstart Network RFI responses.

58. Avant company website <https://www.avantcredit.com>.

59. CommonBond, SoFi, and Lend Academy RFI responses.

60. CommonBond and SoFi RFI responses. Treasury understands near super-prime borrowers to include those with credit scores at the higher end of the spectrum, generally higher than prime borrowers.

61. Federal loans include generous repayment options and potential loan forgiveness for borrowers who face financial hardship, options unmatched by private student lenders. For example, federal student loans include deferment and forbearance options and income-driven repayment plans where borrowers may be eligible to pay as little as ten percent of their discretionary income and may have their loans forgiven after 20 or 25 years of repayment.

online marketplace lenders have only been able to access the capital markets to fund transactions with borrowers with the aforementioned characteristics, which may make it difficult for student loan online marketplace lenders to expand beyond borrowers of exceptionally high credit quality. Treasury found that the majority of online marketplace lenders are refinancing existing debt, rather than expanding access to credit in the student loan market.

Small Business

RFI commenters argued that marketplace lending has the potential to unlock access to the capital markets for small business borrowers.⁶² Structural challenges in the small business lending market can often make it difficult for business owners to obtain affordable credit. RFI commenters suggested that providing small and microbusinesses with smaller loans in a shorter time period is changing the available avenues for capital for these companies.⁶³ Small business online marketplace lenders responded that their target customer include: (i) small businesses with good credit seeking immediate capital; (ii) small businesses unable to receive loans from community banks due to small loan requests; (iii) small business owners with low personal FICO scores; and (iv) online businesses lacking hard assets that could serve as collateral. Although target customers have positive cash flows, small business online marketplace lenders state they often service business owners who may have weaker personal FICO credit scores.⁶⁴ Some companies offer working capital loans as small as \$300, while others offer loans up to \$500,000. Companies offering term loans to small businesses tend to charge rates ranging from 8.00 – 25.00 percent APR to 7.30 – 98.40 percent APR.⁶⁵

Distribution Partnerships

Many RFI responders pointed to referral partnerships between online marketplace lenders and both CDFIs and depository institutions as opportunities to expand access to credit both to consumers and small businesses. RFI commenters noted that an online marketplace lender can provide a CDFI with access to its automated platforms in order to refer customers that are outside of the online marketplace lender's credit box.⁶⁶ One online marketplace lender engaged in referral partnerships with banks and CDFIs, noted that the company receives referrals of borrowers unable to be served by traditional lenders. Once the customer is able to meet minimum credit criteria, the borrower then is referred back to the traditional lender.⁶⁷ CDFIs that responded voiced optimism in the ability for referral partnerships to fill a gap for consumers and small businesses unable to receive financing. As referral partnerships develop, commenters argued the arrangements may bring the benefits to borrowers in low-income communities, who could potentially have the most to gain from access to more affordable credit.⁶⁸

Other RFI commenters noted that co-branded or white label partnerships with banks or CDFIs can materially reduce customer acquisition costs for online marketplace lenders, thereby increasing the

62. Coalition for Responsible Business Finance, Funding Circle, GLI Finance, and PayNet RFI responses.

63. Electronic Transactions Association and Funding Circle RFI responses.

64. CAN Capital, Dealstruck, Electronic Transactions Association and OnDeck RFI responses.

65. OnDeck Capital Inc, December 31, 2015 Form 10-K, Filed March 3, 2016 and Bond Street website, <https://bondstreet.com>.

66. Lending Club RFI response.

67. Dealstruck RFI response.

68. Accion U.S. Network RFI response.

potential to serve more borrowers.⁶⁹ Stakeholders argued that these partnerships can help online marketplace lenders to expand their customer base and origination volume, and in turn, allow the financial institution partners to access new products or markets and adopt the operational efficiencies of online lending.⁷⁰ Small business underwriting has traditionally been less commoditized than consumer loans. For instance, there has been more experimentation with new sources of data like daily transactions; this may lead to a greater proportion of co-branded or white label partnerships that focus on small business rather than consumer lending.

Bank consortiums working with online marketplace lenders for any type of partnership commented that significant due diligence is required of both parties to ensure practices are compliant with prudential and other legal requirements.⁷¹

3. New Credit Models and Operations Remain Untested

RFI commenters consistently pointed to a gap in servicing and collections capabilities by online marketplace lenders. Many RFI commenters noted that new underwriting models and underlying operations have yet to be tested through a full credit cycle.⁷² Where depository institutions have tended to perform most functions internally, many online marketplace lenders are choosing to specialize in certain core functions while outsourcing other services. The heavy reliance by online marketplace lenders on a small number of servicing and collections firms has been a cause of concern from consumer advocates in the event of a rise in defaults and delinquencies. Some firms, however, maintain their own internal departments to service and collect loans. Investors commented that back-up servicing arrangements are necessary requirements for investment in online marketplace lending loans.⁷³

4. Small Business Borrowers Will Likely Require Enhanced Safeguards

Consumer advocates and industry commented on both the potential benefits and risks of online marketplace lending for borrowers.⁷⁴ Potential benefits noted in some RFI responses included increased price competition within credit segments and lower APRs, greater convenience, faster decisions and funding, reduced clerical risk, heightened transparency, and reduced search costs.⁷⁵ These attributes could bring value and benefits to consumers looking for lower credit costs or faster decision-making. In addition, efficiencies that lower the cost of extending credit could potentially increase access for the underserved to safe and affordable financial products.

RFI commenters expressed concerns that an uneven regulatory and supervisory regime creates risks with respect to existing consumer protection laws and traditional consumer protection issues. RFI responses noted the need for uniform consumer protections across financial institutions and online marketplace lenders,

69. Alliance Partners RFI response.

70. Lendio RFI response.

71. Alliance Partners RFI response.

72. Distributed Finance Corporation, National Association of Industrial Bankers, and QRX Systems RFI responses.

73. Blue Elephant Capital Management RFI response.

74. Association for Enterprise Opportunity, Credit Union National Association and the Support Center RFI responses.

75. Kabbage and Lending Tree RFI responses.

and that consumers expect the same consumer protections regardless of type of lender.⁷⁶ RFI responses expressed concern that it is not apparent if consumer protection laws and regulations can be effectively enforced because many entities in this market might not be subject to federal supervisory authority the same way as financial institutions. Some RFI responses argued that there is no need to modify the regulation of unsecured consumer credit when online marketplace lenders serve as third party service providers of financial institutions, and thus are subject to the supervisory authority of federal regulators.⁷⁷

Many RFI commenters across the stakeholder spectrum argued that small business borrowers need enhanced safeguards.⁷⁸ Small business loans do not currently operate under all of the same consumer protection laws and regulations as personal loans, but may receive protection only under contract law or the enforcement of fair lending laws under ECOA. Consumer advocates argued that many small business borrowers should be treated as consumers. With online marketplace lenders catering to the capital needs of micro and small businesses, advocates noted that these borrowers have similar needs for safeguards.⁷⁹

Advocates argued that consumer protections should apply to small business lending whether the lender is a traditional financial institution, an online marketplace lender, or another nonbank entity. Similarly, as online marketplace lenders to small businesses are using more data sources to determine credit worthiness, RFI responses commented on the need for stronger data privacy laws for small businesses.⁸⁰ Some RFI responses suggested that the way in which the cost of credit is disclosed should be standardized so that small business borrowers may understand the true cost of their loans as well as conduct comparison shopping.

5. Greater Transparency Can Benefit Borrowers and Investors

RFI commenters largely agreed on the need for, and benefits of, greater transparency.⁸¹ Treasury considers transparency to mean clear, simple, and consistent terms that borrowers and investors can understand. Some online marketplace lenders are disclosing extensive loan-level data, clear rates and terms, and transparent loan performance metrics. Other actors, however, are neither clearly nor systematically disclosing information to borrowers and investors.⁸² Comments on transparency were generally divided into two categories: first, clear communication of APRs and lending terms to borrowers; and, second, loan-level disclosure and greater resolution into loan-level asset-backed security data for investors.

Many RFI responses argued strongly for standardized and clear terms and disclosures to borrowers.⁸³ RFI commenters called attention to the Small Business Borrowers' Bill of Rights, a private sector led set of principles proposed by a coalition of lenders designed to provide fair and transparent practices for small

76. American Bankers Association & Consumer Bankers Association, Peer-to-Peer Finance Association, Independent Community Bankers of America, and National Consumer Law Center RFI responses.

77. Lending Club and PayPal RFI responses.

78. Alliance Partners, Amalgamated Bank, City of Chicago, and Center for Responsible Lending RFI responses.

79. Accion U.S. Network and the Support Center RFI responses.

80. U.S. Public Interest Research Group RFI response.

81. Association for Enterprise Opportunity, eOriginal, and The Support Center RFI responses.

82. North American Securities Administrators Association RFI response.

83. City of Chicago, Connect Lending, Fundera, and Small Business Majority RFI responses.

business borrowers. As of publication, fifty-five signatories and endorsers have pledged to support small business borrowers' rights to transparent pricing and terms, non-abusive products, responsible underwriting, fair treatment from brokers, inclusive credit access, and fair collection practices.

With respect to investor disclosures, investors and companies both called for consistent disclosures for investors and a centralized registry to track both loan-level data and transactions.⁸⁴ The current rules applicable to disclosures in securitization transactions offered in registered offerings under the Securities Act of 1933 do not apply to private offerings. As the marketplace lending securitization transactions, to date, have been conducted only as private offerings and not as registered transactions, the disclosures provided in those offerings, both initially and on an ongoing basis, are not subject to the same disclosure requirements as would apply to an SEC registered securitization transaction. Some RFI responses argued greater transparency could come from broader application to private placements of Regulation AB II, which requires comprehensive disclosures for registered securitizations. Several RFI commenters strongly supported the creation of industry-led standards to promote transparency and liquidity in privately-placed online marketplace lending securitizations.⁸⁵

6. Secondary Market for Loans Undeveloped

RFI commenters agreed on the current lack of secondary market activity for online marketplace lending loans, referring to online marketplace lending member payment dependent notes largely as “lend and hold” or “lend and securitize” products.⁸⁶ RFI responses referenced several impediments for secondary market growth of whole loans including smaller loan size and underdeveloped trade and portfolio management infrastructure. An active secondary market, RFI commenters noted, would enable more accurate mark-to-market of loan portfolios.⁸⁷ Trading platforms for online marketplace securities have started to emerge, but are not widely used.⁸⁸ RFI comments noted that a well-functioning securitization market with active repeat issuance could reduce the funding risk of online marketplace lenders as economic conditions change.⁸⁹ The frequency and size of securitizations started to increase significantly over the past two years, driven largely by direct lenders securitizing loans off their balance sheet to fund additional originations, and by investors buying whole loans from platform lenders and securitizing loans to sell to other investors.⁹⁰ RFI commenters described regulatory uncertainty around *Madden v. Midland Funding LLC*,⁹¹ limited ratings from credit rating agencies, and lack of visibility into underlying collateral as the primary hurdles for growth. RFI commenters suggested that once a securitization market is established with significant repeat issuances, the activity would lower funding costs for online marketplace lenders, thereby lowering borrowing costs for

84. Global Debt Registry RFI response.

85. PeerIQ and Structured Finance Industry Group RFI responses.

86. Manatt, Phelps & Phillips and North American Securities Administration Association RFI responses.

87. Godolphin Capital Management and Monja RFI responses.

88. Insikt, Mannatt, Phelps & Philips, and QTX Systems RFI responses.

89. PeerIQ RFI response.

90. Orchard RFI response.

91. In *Madden vs. Midland Funding, LLC*, 786 F.3d 246 (2d Cir. 2015), the federal Court of Appeals for the Second Circuit held that the National Bank Act does not preempt state-law usury claims against third-party debt collectors who seek to collect on a loan assigned to them by a national bank. The Supreme Court is presently deciding whether to hear the case or leave the Second Circuit's decision standing.

consumers.⁹² Investors, trade associations, and data providers who submitted agreed that an active secondary market would hinge on the growth of the securitization market.

Prosper and Lending Club are currently the only online marketplace lenders registering with the SEC their offering of member payment dependent notes. To date, no online marketplace lender has registered with the SEC an offering of payment dependent notes linked to small business loans. As evaluation of small business loans is unique to each business and therefore not fungible, the ability to provide necessary disclosure on an aggregated or anonymous basis about small businesses has, to date, not been shown to be able to satisfy the disclosure requirements of federal securities laws. Additionally, the individual components within algorithms used to make credit decisions for business loans are not well understood. With only a few companies registering securities offerings for sale, retail investor activity is currently limited to consumer loans.

7. Regulatory Clarity Can Benefit the Market

RFI responses reflected a diverse set of viewpoints on the best role of the federal government in the growing market. Some RFI commenters called on the government to take a stronger role supervising online marketplace lenders, similar to the laws in place governing financial institutions.⁹³ Some RFI commenters called for a uniform regulatory regime for marketplace lenders, consolidating regulatory responsibilities into one agency.⁹⁴ Others suggested an ongoing interagency working group.⁹⁵ Conversely, several RFI commenters argued that existing regulations are adequate to safeguard against the risks posed by the industry.⁹⁶

A large number of RFI commenters agreed on the need for regulatory clarity. Specifically, many RFI responses called on regulators to clarify roles and requirements for the different market participants including lenders, servicers and purchasers in order to alleviate market pressures.⁹⁷ RFI responses drew attention to several areas of debate, including:

- *Consumer Protection*—Regulators should evaluate the fragmented nature of regulatory oversight, the lack of federal supervisory authority for certain nonbank lenders, and the sophistication of big data in current regulations.
- *Small Business Protection*—Policymakers should determine if small business borrowers of online marketplace lenders should receive similar protections to consumer borrowers, and clarify any current oversight and enforcement.
- *Cybersecurity and Fraud*—As online marketplace lenders and financial institutions face threats of both cybersecurity and fraud; regulators should continue to study how safeguards can mitigate these potential threats.⁹⁸

92. Securities Industry and Financial Markets Association RFI responses.

93. American Bankers Association & Consumer Bankers Association, Independent Community Bankers of America, National Association of Federal Credit Unions, and National Pawnbrokers Association RFI responses.

94. Affirm, Milken Institute Center for Financial Markets, and Online Lenders Alliance RFI responses.

95. Coalition for Responsible Business Finance, and OnDeck RFI responses.

96. Electronics Transactions Association, Pepper Hamilton, Rapid Financial Services, and WebBank RFI responses.

97. Cross River Bank Orchard Platform, and Milken Institute Center for Financial Markets RFI responses.

98. Cross River Bank, Lend Academy, and Missouri Credit Union Association RFI responses.

- *True Lender Designation*—Many market participants noted that clarity on which entity – the issuing depository institution or the online marketplace lender – is the true lender in the platform business model would alleviate uncertainty.⁹⁹
- *Bank Secrecy Act and Anti-Money Laundering Requirements*—RFI commenters noted that compliance with Bank Secrecy Act and Anti-Money Laundering requirements are determined by an online marketplace lender’s third-party agreement with an issuing depository institution.¹⁰⁰ As most online marketplace lenders are not directly regulated by prudential regulators, compliance is not uniform.
- *Risk Retention*—Some advocates argued the application of some form of risk retention to marketplace lending loans is necessary, and pointed to the Dodd-Frank Act risk retention requirements for asset-backed securities.¹⁰¹ Others drew comparisons to predatory mortgage lending practices, noting that risk retention requirements for online marketplace lenders could align interests of lenders with borrowers and investors. Conversely, many stated that risk retention would have different outcomes on different business models, and noted that non-economic interests, such as reputational risk from making bad loans, already serves as “skin in the game” for lenders.

Treasury found when reviewing the responses to the RFI and convening market participants that the industry was unclear as to whether the risk retention rules applied to the member payment dependent notes. The Dodd-Frank Act’s risk retention provisions are generally applicable to securitizers or sponsors of asset-backed securities, requiring securitizers to retain an economic interest equal to at least 5 percent of the credit risk of the assets collateralizing the securitization. The final rule was jointly adopted by the FDIC, FRB, OCC, and SEC as well as the Federal Housing Finance Agency and the Department of Housing and Urban Development. The rule became effective for residential mortgage-backed securitizations in December 2015 and will be effective for all other securitized asset classes beginning in December 2016.

For the sale of securities to have risk retention requirements, they must be asset-backed securities as defined under the Securities Exchange Act of 1934. Online marketplace lenders involved in selling member payment dependent notes in public offerings are selling securities to investors composed of the payment dependent notes and investment contracts; not interests in pools of loans. The risk retention requirements apply only to the securitizer in the securitization of marketplace lending notes, not to the originator selling the notes.

99. Conference of State Bank Supervisors and National Association of Consumer Credit Administrators, and Online Lenders Alliance RFI responses.

100. Prosper RFI response.

101. Americans for Financial Reform RFI response.

V. Recommendations

Building on market research and the RFI responses, Treasury developed the following recommendations to facilitate the safe growth of online marketplace lending while fostering safe and affordable access to credit for consumers and businesses. These actions are meant to leverage Treasury’s existing resources and to encourage the industry and other federal partners to actively engage in the development of standards and best practices.

1. Support More Robust Small Business Borrower Protections and Effective Oversight

Small businesses approved for financing from online marketplace lenders in 2015 were not very satisfied with the experiences, reporting a 15 percent lender satisfaction score according to the 2015 Small Business Credit Survey. The top three frustrations were high interest rates (70 percent), unfavorable repayment terms (51 percent), and lack of transparency (32 percent).¹⁰² The survey found that small businesses approved for financing from community banks reported a 75 percent lender satisfaction score.¹⁰³

Depository institutions and online marketplace lenders are generally subject to the same statutory requirements when originating small business loans. However, depository institutions are subject to a higher degree of oversight by the prudential regulators. Effective oversight could enable greater transparency in small business online marketplace lending that could lead to better outcomes for borrowers.

Further, strong evidence indicates that small business loans under \$100,000 share common characteristics with consumer loans yet do not enjoy the same consumer protections discussed earlier. Focusing on these common characteristics below this size threshold, combined with effective oversight, would protect self-employed and microbusiness owners while minimizing the compliance burden on larger small business loans. Treasury is willing to work with members of Congress to consider legislation that addresses both oversight and borrower protections.

Through efforts like the Small Business Borrowers’ Bill of Rights, the private sector has started to organize support from online marketplace lenders for transparent pricing and terms, non-abusive products, responsible underwriting, fair treatment from brokers, inclusive credit access, and fair collection practices, suggesting this can be done without adding undue burden or cost to this emerging industry.

2. Ensure Sound Borrower Experience and Back-End Operations

Servicing challenges are currently limited due to the favorable credit climate and the fact that most online marketplace lenders collect loan payments through Automated Clearing House (ACH).¹⁰⁴ It is common for online marketplace lenders to service loans only until the loans become delinquent, and then to outsource servicing to collection agencies. Some online marketplace lenders engage back-up servicers to ensure continuity and mitigate counterparty risk. In a less favorable credit climate, it is unclear if the current servicing infrastructure would respond adequately to increased delinquencies.

102. The survey defines satisfaction score as the share satisfied with the lender minus the share dissatisfied. The Federal Reserve Banks et. al “The Joint Small Business Credit Survey 2015.”

103. Community bank defined in survey as institution with assets of \$10.0 billion or less.

104. Consumer borrowers have the legal right to terminate such pre-authorized ACH payments.

To best serve these borrower needs, industry should adopt standards designed to provide a sound borrower experience from customer acquisition straight through to collections in the event of delinquency or default. Market participants should develop contractual or other mechanisms to align the interests of borrowers and investors. Online marketplace lenders should strive to provide strong customer service from origination to repayment, even in cases where borrowers face financial difficulties. Customer service should include quick turnaround time for customer requests for information and error resolution. Treasury believes all online marketplace lenders—those performing debt collections and those contracting the service to third parties—should exercise prudence when engaging with borrowers in financial distress. Additionally, online marketplace lenders and contracted servicers should provide accurate and actionable information, ensuring borrowers are empowered to make choices that encourage borrower success and mitigate defaults. Consequential information for borrowers in distress could include The Fair Debt Collection Practices Act (FDCPA) guidelines, dispute resolution options, and credit counseling. Treasury recommends regulators continue to monitor servicing activities for consumer, small business, and student borrowers, and to hold servicers accountable.

It is vital for all platforms to develop back-up servicing plans to ensure loans continue to be managed if the firm ceases operations. Treasury suggests online marketplace lenders endeavor to have comprehensive arrangements in place to continue servicing and collections of loans in the event the platform fails.

As referral, white label, and co-branded partnerships between online marketplace lenders and traditional financial institutions develop, Treasury recommends that depository institutions and CDFIs work with online marketplace lenders to adhere to industry standards and identify back-up servicing options.

3. Promote a Transparent Marketplace for Investors and Borrowers

The investor and investment services comments drew attention to a lack of transparency across online marketplace lending capital markets activity. For a well-functioning market to develop, commenters pointed to the need for a wider investor base, an active and stable secondary market, and transparent securitization activity. Treasury believes the industry should adopt:

- Standardized representations, warranties, and enforcement mechanisms;
- Consistent reporting standards for loan origination data and ongoing portfolio performance;
- Loan securitization performance transparency; and,
- Consistent market-driven pricing methodology standards.

In order to improve transparency for investors and borrowers, Treasury recommends the creation of a private sector driven registry for tracking data on transactions, including the issuance of notes and securitizations, and loan-level performance. This registry should be available to the public. Treasury encourages the private sector to work with consumer advocates to ensure strict privacy, and data security standards are met. As noted previously, very few companies provide information in public securities filings. Treasury encourages financial services industry groups to independently establish loan-and-pool level disclosures and reporting standards.

4. Expand Access to Credit Through Partnerships that Ensure Safe and Affordable Credit

The data highlighted in this white paper points to online marketplace lenders primarily serving prime and near-prime consumer borrowers. For technology to truly expand access to underserved markets, more must be done to serve borrowers who are creditworthy, but may not be scoreable under traditional credit scoring models. These borrowers include so-called “no file” or “thin file” consumers, or small businesses with less than three years of operations. CDFIs have significant experience serving this market.

Traditionally, CDFIs are high-touch lenders, providing a wide range of products, flexible underwriting, and technical assistance to educate and support individuals and businesses in low-income areas. Through partnerships, CDFIs may be able to utilize online marketplace lenders’ underwriting technology and back-end operations to increase efficiencies and lower costs. Online marketplace lenders could, in turn, tap into the local knowledge and understanding of credit markets of CDFIs to reach more borrowers in distressed communities.

It is of critical importance to design programs and terms that fit the needs of CDFI borrowers. CDFIs and online marketplace lenders entering into referral, co-branded, or white label partnerships should create financial literacy materials detailing credit management best practices. Through the CDFI Fund’s Capacity Building Initiative, Treasury can develop a module that assists CDFIs with creating business advisory services, small business financial education literature, and debt management guidelines to support responsible borrowing in underserved communities. Online marketplace lenders can leverage small business development services provided by CDFIs, allowing CDFIs to gain access to wider distribution using online acquisition and business development channels.

Another tool of the CDFI Fund is an innovation challenge. In 2015, the CDFI Fund created an innovation challenge to seek new ways to expand or increase investments in underserved communities across the country. An innovation challenge provides funding for the development of a model, method, tool or product that builds capacity and expands investments in underserved areas. Association for Enterprise Opportunity (AEO) won the 2015 challenge with a proposal to develop a screening and assessment tool to match small businesses searching for loans from banks or online marketplace lenders with a CDFI that may be able to meet their needs when other lenders cannot.

It is also important for CDFIs, online marketplace lenders, and prudential regulators to work together to ensure the safety and soundness of these types of collaborations. When considering the details of any partnership, both financial institutions and online marketplace lenders should determine the distribution of duties and responsibilities, direct and indirect costs, and compliance requirements. Thorough due diligence and risk assessments should take place prior to any strategic partnership to ensure the new products and services are consistent with a financial institution’s customer needs and risk tolerance. Treasury encourages prudential regulators to evaluate these partnerships, to assess CDFI and online marketplace lender responsibilities, and to identify associated risks.

5. Support the Expansion of Safe and Affordable Credit Through Access to Government Held Data

A commitment to exploring innovative uses of open data has remained a core focus of the Federal Government throughout the Obama Administration. Since President Obama signed the Memorandum on *Transparency and Open Government* in January 2009, agencies across the Federal Government have started to make open and machine-readable data accessible to entrepreneurs, innovators, and others who can use data to develop new products and services. Through the Office of Management and Budget’s Memorandum *Open Government Directive* agencies are implementing principles of transparency by publishing “information online in an open format that can be retrieved, downloaded, indexed, and searched by commonly used web search applications.”¹⁰⁵ Treasury has participated in these efforts on Data.gov, and continues to identify ways to promote data and transparency in financial services.

Two areas of relevance to this market include wider use of smart disclosures and data verification sources.

- *Smart Disclosure:* Smart disclosure refers to the release of information in standard machine readable formats that can be easily processed by third-party software. The White House Task Force on Smart Disclosure recommended that federal agencies expand the use of smart disclosure, particularly in sectors like lending where there are many providers, and product terms vary across many dimensions.¹⁰⁶ In such complex markets, it can be prohibitively time consuming and complicated for consumers to read and process all the relevant disclosures on their own. In the context of online marketplace lending, smart disclosure will allow third-party companies and nonprofits to create comparison shopping sites for loans, similar to popular travel and flight comparison shopping sites today. Consumers can then use these sites to more easily compare terms to determine which specific offer might best fit their needs. To expand the use of smart disclosure in marketplace lending, Treasury recommends the CFPB and FTC include the use of smart disclosure in its guidance and standards on consumer disclosures.
- *Data Verification:* Several regulations that relate to marketplace lending require that lenders and investment platforms verify financial capacity (e.g., income and assets), before the borrower can borrow. For example, mortgage and credit card lenders must establish that borrowers have the capacity to repay their loans, including through collecting income information. Online marketplace lenders also have independent incentives to better measure borrowers’ financial capacity to improve their own credit risk assessments. If lenders make more accurate credit assessments, then they will have a lower risk of lending to borrowers unable to repay.

Online marketplace lenders currently do not have access to comprehensive data sources to conduct capacity verifications with the borrower in real time. Under the My Data initiative, federal agencies are making it easier for individuals to access their personal data held by government agencies. For example, the Social Security Administration has launched a program to enable workers to download a

105. Office of Management and Budget, “Open Government Directive,” December 2009, <https://www.whitehouse.gov/open/documents/open-government-directive>.

106. National Science and Technology Council, “Smart Disclosure and Consumer Decision Making: Report of the Task Force on Smart Disclosure,” May 2013, https://www.whitehouse.gov/sites/default/files/microsites/ostp/report_of_the_task_force_on_smart_disclosure.pdf.

machine-readable file containing their annual earnings history. Social Security also allows beneficiaries to download an electronic Benefits Verification Lender, which is frequently requested by lenders to prove income from retirement, disability, and supplemental security income benefits. Treasury supports continuing this work with other federal agencies to explore additional opportunities to allow borrowers to voluntarily share government data that can verify their financial capacity to make loans and investments safer and more accurate.

One such opportunity Treasury recommends is automating the IRS Income Verification Express Services (IVES) with a data sharing Application Programming Interface (API). This API would reduce operational costs; reduce paperwork and waiting period burdens on borrowers; facilitate compliance with consumer protection rules regarding the verification of borrowers' ability to pay; and potentially expand access to credit. The IRS should take steps to create this API, including conducting a feasibility and resource requirements study and launching a pilot test version of the API with dummy data. The potential API would allow lenders to test prototype loan application interface and back-end system improvements, which would inform the IRS's ultimate API design.

6. Facilitate Interagency Coordination through the Creation of a Standing Working Group For Online Marketplace Lending

Online marketplace lending models are evolving and market participants are forming new partnerships with regulated and unregulated entities. As discussed earlier in this white paper, the activities of online marketplace lenders have implications for a number of federal agencies that govern various aspects of this market. Several RFI commenters noted that identifying and understanding how existing federal and state regulations apply to new models and practices can be a challenge. The formation of an interagency working group is a common federal policy tool for facilitating coordination on cross-cutting issues that could improve market efficiencies for this rapidly changing industry. Treasury recommends the working group include Treasury, CFPB, FDIC, FRB, FTC, OCC, SBA, SEC and a representative of a state bank supervisor.

The interagency working group would enable the member agencies to coordinate efforts towards identifying areas where additional regulatory clarity could protect borrowers and investors and expand access to credit. Possible areas to address are identified below; however, this list is meant to be suggestive rather than definitive. To stay current, the interagency working group should also identify further areas of focus.

- *Identify & Promote Awareness of Existing Regulations that apply to Online Marketplace Lending:* Treasury encourages working group participants to share information about the applicability of current regulations, enforcement efforts, and potential regulatory gaps. In addition, the working group should seek to educate stakeholders about existing rules and regulatory authorities in this market.
- *Support Responsible Innovation:* Treasury encourages working group participants to evaluate and coordinate the use of tools for promoting responsible innovation. The OCC has recently begun exploring the possibility of a centralized office on innovation within the agency, while the CFPB has explored a limited No-Action Letter policy called "Project Catalyst." Through Project Catalyst the CFPB has created a process to reduce the regulatory uncertainty that may exist for certain emerging products or services which stand to benefit consumers. There is potential for agencies to support innovations that expand access to safe and affordable credit.

- *Examine the Impact of Nontraditional Data on Credit Scoring Models:* The working group should discuss how regulators can help encourage innovation in the use of public and private sector data sources that can improve compliance with ability to repay regulations and credit risk assessments. Objective research is needed to monitor the true effects of emerging approaches to credit modeling, and to suggest technical and regulatory strategies that can help harness the benefits of improved accuracy while preserving our values of transparency, fairness, privacy, equity, and opportunity.
- *Monitor Risk through the Credit Cycle:* Treasury urges the working group to discuss possible methods to monitor risk through the credit cycle including engaging with market participants to report forward looking loss projections that can help the market gauge the economic impact of untested algorithms.

VI. Looking Forward

The new business models and new underwriting tools underlying the growth of online marketplace lending have been developed in a period of very low interest rates, declining unemployment, and strong overall credit conditions. It will be critical to monitor how online marketplace lenders test and adapt models if and when credit conditions become weaker. Will new credit scoring models prove robust as the credit cycle turns? Will higher overall interest rates change the competitiveness of online marketplace lenders or dampen appetite from their investors? Will this maturing industry successfully navigate cyber security challenges, and adapt to appropriately heightened regulatory expectations? In addition to the recommendations discussed in the previous section, Treasury believes the following trends and developments should be closely watched.

Evolution of Credit Scoring

The use of new variables and more complex algorithms in credit scoring models has the potential to create both new opportunities and new risks. The extent to which the benefits will materialize remains uncertain given that limited public research exists on these topics. This is partly because credit scoring models are proprietary and data sources are expensive to construct or not available to outside researchers.

Ongoing research is needed to enrich the public's understanding of evolving credit scoring models, including the implications of these models for core values such as fairness and consumer protection. More accurate scores are not necessarily better for each individual borrower or groups of borrowers, although they may be lawful. For example, borrowers who are high risk, but would have been misclassified as low risk under a less accurate model, may be worse off when they are classified correctly (e.g., if they receive the same loan for a higher price). Moreover, some research suggests that credit models that use advanced statistical techniques may—like other forms of risk scoring—reflect and potentially exacerbate the effects of underlying bias and discrimination. On a system-wide level, the impact of increasingly sophisticated models on overall credit access and outcomes for disadvantaged groups merits careful monitoring.

Industry participants have argued that increased automation will help expand access to credit and lower costs overall. Some privacy and consumer advocates have expressed concerns that in the event credit models become more accurate, the outcomes may lead to increasingly stratified outcomes. For example, some have argued that more accurate models will create a vicious cycle where those already disadvantaged will pay more for credit, and therefore be more likely to become financially fragile and default, and the cycle will repeat itself. Finally, advocates have also pointed to the risk that online marketplace lenders could use new data sources and data mining techniques to identify and target consumers who are particularly vulnerable to exploitation—such as those who are financially fragile or less sophisticated.

Impact from Changing Rates Environment

The growth of online marketplace lenders has coincided with a period of historically low interest rates and record issuance across a wide range of fixed income instruments. In many cases, online marketplace lenders offered consumers the opportunity to refinance other debt that had stickier pricing.

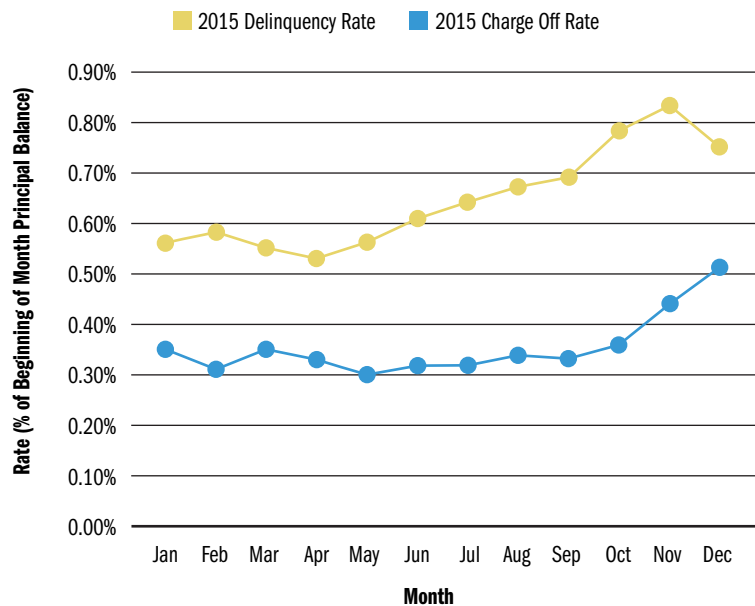
In December 2015, the FOMC raised interest rates for the first time since 2006, increasing the target range of its policy rate by 25 basis points, from 0.0–0.25 percent to 0.25–0.50 percent. A number of online marketplace lenders raised rates in response to the announcement. All lenders may be subject to

higher default rates if borrowers begin to experience stress in a higher rate environment. From the consumer side, a sustained increase in rates may test a borrower's ability to repay. Additionally, because consumer loans made by online marketplace lenders are unsecured, it is unclear how borrowers will prioritize payments on those loans against mortgage, auto, or other obligations.

Despite the industry's growth in favorable credit conditions, delinquency and charge off rates for consumer online marketplace lenders increased through 2015. While rates remained below 1 percent, estimated delinquency rates steadily increased from 0.56 percent in January to 0.75 percent in December 2015 and estimated charge off rates increased from an 0.37 percent in October to 0.51

percent in December 2015 (Figure 11).¹⁰⁷ As new algorithms were built and developed in the period of near zero short-term interest rates, it will be critical to monitor how online marketplace lenders test and adapt models in a less favorable credit environment. As of publication in Q2 2016, it is not yet clear whether the uptick in delinquencies will prove temporary, or if will continue to be an upward trend.

Figure 11: 2015 Monthly Delinquency and Charge Off Rates



Source: Orchard Platform

Potential Liquidity Risk

The health of investor-driven lending models relies heavily on the ability of online marketplace lenders to continually attract funding from venture capital, institutional investors, hedge funds, financial institutions, or other investment vehicles. As the industry has matured and gained traction within the investment community, online marketplace lenders have become better known to investors with a variety of different investment strategies. In a recent survey, Richards Kibbe & Orbe and Wharton FinTech noted that 82 percent of investors surveyed in 2016 characterized themselves as somewhat familiar with online marketplace lending, up from 75 percent in 2015. Additionally, 50 percent of firms surveyed have capital allocated to online marketplace lending, up from 29 percent in 2015.¹⁰⁸

The online marketplace lending securitization market has scaled quickly since the first transaction in 2013. The total volume of securitization reached over \$7.0 billion, with over 40 deals from 2013 through 2015.¹⁰⁹ The underlying assets have largely included consumer, small business, and student loans.

107. Orchard Platform, "Monthly Industry Report: Consumer Unsecured", February 2016. Note that Orchard defines delinquencies as "Monthly Coincidental 30 Days Late Rate."

108. Richards Kibbe & Orbe, LLP, 2016 Survey of U.S. Marketplace Lending, April 2016.

109. PeerIQ Marketplace Lending Securitization Tracker, 1Q 2016.

Despite the increased awareness and investment activity, market participants are concerned about investor retention.¹¹⁰ Large investors and financial institutions are showing signs of reluctance to invest in whole loans, member payment dependent notes, and securitization transactions. These investment trepidations are reportedly due to online marketplace lenders' lack of predictable cash flow, untested credit risk assessments, and increasing competition with high yield products.

Evidence of these funding challenges can be found in recent activity in the pricing and downgrade reviews of securitization transactions. The capital markets environment has become less favorable for online marketplace lenders pricing securitization transactions. In the Prosper notes-backed CHAI 2016 PM-1 transactions, the Class C Notes—the riskiest bonds in the transaction—priced approximately 5 percentage points higher than similar offerings in 2015.¹¹¹ Additionally, faster-than-expected buildup of delinquencies and charge offs prompted Moody's Investor Services to place Prosper notes-backed Class C Notes issued by CHAI 2015-PM1, CHAI 2015-PM2, and CHAI 2015-PM3 on review for possible downgrade.¹¹²

As securitization activity increases, market analysts expect a more diverse set of online marketplace lenders accessing the capital markets, which may lead to transactions with varying underlying credit quality. Prudent loan underwriting, securitization transaction pricing, and robust governance and disclosures are necessary to ensure market soundness as this segment develops. Ongoing research will be necessary to monitor the liquidity of online marketplace lending and impact on the credit markets.

Eye on Cybersecurity

While cybersecurity is not a focus of this white paper, it is generally a concern for all types of firms in the financial sector. In light of the frequency and sophistication of cybersecurity incidents, Treasury encourages financial sector firms to adopt appropriate baseline protections and best practices to prepare for and reduce the risk of cyber incidents and protect consumers. Treasury seeks to facilitate the sharing of timely, reliable, and actionable cybersecurity information to help the sector defend against cybersecurity threats, mitigate damage from incidents, and limit potential contagion; it also recommends that financial sector firms join the Financial Services Information Sharing and Analysis Center. To maintain resilience in the event of an incident, Treasury encourages firms to develop detailed response and recovery arrangements that set out the roles and responsibilities of the board, management, and other key internal parties, as well as their coordination with external parties, such as regulators, law enforcement, vendors, and customers.

Monitor Bank Secrecy Act Requirements

Depending upon the type of institution issuing the loan, online marketplace lending may be subject to Bank Secrecy Act (BSA) requirements, including developing and maintaining effective customer identification and anti-money laundering programs, keeping records of transactions, and reporting suspicious activity and certain cash transactions to the Financial Crimes Enforcement Network (FinCEN). Loans

110. Broadmoor Consulting RFI response.

111. Telis Demons and Peter Rudegeair, "Bond Offering Tied to Prosper Marketplace Loans Gets Chilly Reception," *The Wall Street Journal*, March 25, 2016, <http://www.wsj.com/articles/bond-offering-tied-to-prosper-marketplace-loans-gets-chilly-reception-1458934559>.

112. Moody's Investor Services Press Release, "Moody's places on review for downgrade marketplace lending ABS issued by Citi Held for Asset Issuance," February 11, 2015. See https://www.moody.com/research/Moodys-places-on-review-for-downgrade-marketplace-lending-ABS-issued--PR_343705.

made by depository institutions and nonbank mortgage lenders and originators are subject to certain anti-money laundering/counter-financing of terrorism obligations. FinCEN, which administers the BSA, will continue to monitor the online marketplace lending industry for potential money laundering and terrorist financing risks and will continue to assess the need for additional regulation under the BSA.

Growth of Mortgage and Auto Loan Market

Beyond general unsecured consumer, student, and small business loans, online marketplace lenders are moving into the mortgage and auto loan markets. Although still nascent businesses for online marketplace lenders, existing online marketplace lenders view auto loans and mortgages as having the potential to help them broaden and retain their customer bases. Additionally, some new entrants are building niche businesses that focus exclusively on mortgages or auto loans.¹¹³ RFI responses acknowledged the potential role of technology and data in the residential housing market.¹¹⁴ The mortgage lending and auto loan markets are still in early stages of development for online marketplace lenders, and Treasury will continue to monitor origination volumes and loan performance as the sector matures.

113. Income & Technologies RFI response.

114. National Realtors Association RFI response.

Appendix A: Examples of Federal Regulations & Requirements

| Law | Example of relevant requirements or provisions | Federal Agencies |
|---|--|---|
| Bank Secrecy Act | In conjunction with implementing regulations in 31 CFR Chapter X, requires financial institutions to implement anti-money-laundering procedures, apply customer verification program rules, and report suspicious activity that meets a certain dollar threshold. | FinCEN*, OCC, FRB, FDIC, NCUA |
| Bank Service Company Act | Section 1867(c) provides the federal banking agencies with the authority to regulate and examine the performance of certain services by a third-party service provider for a depository institution (or for any subsidiary or affiliate of a depository institution that is subject to examination by that agency) "to the same extent as if such services were being performed by the depository institution itself on its own premises." This authority governs the marketplace lender only to the extent it performs banking functions. | FRB, OCC, FDIC, NCUA |
| Electronic Fund Transfer Act (Regulation E) | Provides certain consumer rights regarding the electronic transfer of funds to and from consumers' bank accounts. Requires disclosure of terms and conditions of electronic transfer, limits consumer liability for unauthorized transfers and establishes procedures for preauthorizing transfers and error resolution procedures. | OCC, FRB, FDIC, NCUA, FTC, CFPB* |
| Electronic Signatures in Global and National Commerce Act | Authorizes the creation of legally valid and enforceable agreements utilizing electronic records and signatures and requires businesses that want to use electronic records or signatures in consumer transactions to obtain the consumer's affirmative consent to receive information electronically. | No specified regulator. Every agency is "regulator for records otherwise within its jurisdiction. |
| Equal Credit Opportunity Act (Regulation B) | Prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex or marital status, or age, or the fact that all or part of the applicant's income derives from any public assistance program or the fact that the applicant has in good faith exercised any right under the federal Consumer Credit Protection Act or any applicable state law. Authorizes disparate treatment and disparate impact claims. Requires creditors to provide borrowers with notice of any action taken on their application for credit. | CFPB*, FRB, OCC, FDIC, NCUA, FTC, DOJ |
| Fair Credit Reporting Act (Regulation V) | Requires a permissible purpose to obtain a consumer credit report, and requires persons to report information to credit bureaus accurately; imposes disclosure requirements on creditors who take adverse action on credit applications based on information contained in a credit report; requires creditors to develop and implement an identity theft prevention program. | FTC, CFPB*, FRB, OCC, NCUA, FDIC |

* Has rulewriting authority for described statute with respect to online marketplace lender and affiliate activity.

| Law | Example of relevant requirements or provisions | Federal Agencies |
|--|---|-----------------------------------|
| Fair Debt Collection Practices Act (Regulation F) | Provides guidelines and limitations on the conduct of third-party debt collectors in connection with the collection of consumer debts; limits certain communications with in connection with a debt, imposes notice and debt validation requirements, and prohibits false and misleading representations, harassing or abusive conduct or unfair practices in connection with collection of a debt. | FTC, CFPB*, OCC, FRB, FDIC, NCUA |
| Investment Advisers Act of 1940 | Persons that engage, for compensation, in the business of advising others as to matters involving securities meet the definition of investment adviser under the Investment Advisers Act. The Investment Advisers Act of 1940 and rules thereunder require investment advisers to meet recordkeeping, custodial, reporting and other regulatory responsibilities. | SEC |
| Section 1036 of the Dodd-Frank Act (UDAAP) | Prohibits unfair, deceptive, or abusive business acts or practices. | CFPB* |
| Section 5 of the Federal Trade Commission Act (UDAP) | Prohibits unfair or deceptive business acts or practices | FTC*, FRB, FDIC, OCC, and NCUA |
| Securities Act of 1933 (Public Offerings and Private Offerings) | Public Offerings: Online marketplace lenders engaged in the public offering of securities are required to register the securities offerings with the SEC, unless the securities or offerings are exempt from the registration requirements of the Securities Act of 1933. Private Offerings: Online marketplace lenders may engage in private offerings of their securities, including offerings made in reliance on the safe harbors in Regulation D. | SEC |
| Securities Exchange Act of 1934 Risk Retention Rule | The final risk retention rule is applicable to securitizers or sponsors of asset-backed securitizations (ABS), including securitizers that are depository institutions. Under the Dodd-Frank risk retention provision, securitizers of ABS are generally required to retain an economic interest equal to at least 5 percent of the credit risk of the assets collateralizing the ABS issuance. | FDIC, FRB, OCC, SEC, FHFA, HUD |
| Servicemembers Civil Relief Act | Entitles borrowers who enter active military service to an interest rate cap on obligations incurred before they entered military service during the period of that service and permits servicemembers on active duty to suspend or postpone certain civil obligations entered into before entry into military service. | DOJ, DOD, FDIC, FRB, NCUA, OCC |
| Title V of the Gramm-Leach-Bliley Financial Modernization Act (Regulation P) | Limits when a financial institution may disclose a consumer's "nonpublic personal information" to nonaffiliated third parties; requires financial institutions to notify their customers about their information-sharing practices and to tell consumers of their right to "opt out" if they do not want their information shared with certain nonaffiliated third parties. | FTC*, CFPB*, FRB, OCC, NCUA, FDIC |
| Truth in Lending Act (Regulation Z) | Requires creditors to provide understandable disclosures concerning certain terms and conditions of their loan and credit transactions with consumers; regulates the advertising of credit and gives borrowers, among other things, certain rights regarding updated disclosures, billing error resolutions and the treatment of credit balances. | CFPB*, FRB, OCC, NCUA, FDIC, FTC |

* Has rulewriting authority for described statute with respect to online marketplace lender and affiliate activity.

Appendix B:

Request for Information Questions

1. There are many different models for online marketplace lending including platform lenders (also referred to as “peer-to-peer”), balance sheet lenders, and bank-affiliated lenders. In what ways should policymakers be thinking about market segmentation; and in what ways do different models raise different policy or regulatory concerns?
2. According to a survey by the National Small Business Association, 85 percent of small businesses purchase supplies online, 83 percent manage bank accounts online, 82 percent maintain their own website, 72 percent pay bills online, and 41 percent use tablets for their businesses. Small businesses are also increasingly using online bookkeeping and operations management tools. As such, there is now an unprecedented amount of online data available on the activities of these small businesses. What role are electronic data sources playing in enabling marketplace lending? For instance, how do they affect traditionally manual processes or evaluation of identity, fraud, and credit risk for lenders? Are there new opportunities or risks arising from these data-based processes relative to those used in traditional lending?
3. How are online marketplace lenders designing their business models and products for different borrower segments, such as:
 - Consumer and small business borrowers;
 - Sub-prime borrowers;
 - Borrowers who are “unscorable” or have no or thin files;
 - Depending on borrower needs (e.g., new small businesses, mature small businesses, consumers seeking to consolidate existing debt, consumers seeking to take out new credit) and other segmentations?
4. Is marketplace lending expanding access to credit to historically underserved market segments?
5. Describe the customer acquisition process for online marketplace lenders. What kinds of marketing channels are used to reach new customers? What kinds of partnerships do online marketplace lenders have with traditional financial institutions, CDFIs, or other types of businesses to reach new customers?
6. How are borrowers assessed for their creditworthiness and repayment ability? How accurate are these models in predicting credit risk? How does the assessment of small business borrowers differ from consumer borrowers? Does the borrower’s stated use of proceeds affect underwriting for the loan?
7. Describe whether and how marketplace lending relies on services or relationships provided by traditional lending institutions or insured depository institutions. What steps have been taken toward regulatory compliance with the new lending model by the various industry participants throughout the lending process? What issues are raised with online marketplace lending across state lines?

8. Describe how marketplace lenders manage operational practices such as loan servicing, fraud detection, credit reporting, and collections. How are these practices handled differently than by traditional lending institutions? What, if anything, do marketplace lenders outsource to third party service providers? Are there provisions for back-up services?
9. What roles, if any, can the federal government play to facilitate positive innovation in lending, such as making it easier for borrowers to share their own government-held data with lenders? What are the competitive advantages and, if any, disadvantages for non-banks and banks to participate in and grow in this market segment? How can policymakers address any disadvantages for each? How might changes in the credit environment affect online marketplace lenders?
10. Under the different models of marketplace lending, to what extent, if any, should platform or “peer-to-peer” lenders be required to have “skin in the game” for the loans they originate or underwrite in order to align interests with investors who have acquired debt of the marketplace lenders through the platforms? Under the different models, is there pooling of loans that raise issues of alignment with investors in the lenders’ debt obligations? How would the concept of risk retention apply in a non-securitization context for the different entities in the distribution chain, including those in which there is no pooling of loans? Should this concept of “risk retention” be the same for other types of syndicated or participated loans?
11. Marketplace lending potentially offers significant benefits and value to borrowers, but what harms might online marketplace lending also present to consumers and small businesses? What privacy considerations, cybersecurity threats, consumer protection concerns, and other related risks might arise out of online marketplace lending? Do existing statutory and regulatory regimes adequately address these issues in the context of online marketplace lending?
12. What factors do investors consider when: (i) investing in notes funding loans being made through online marketplace lenders, (ii) doing business with particular entities, or (iii) determining the characteristics of the notes investors are willing to purchase? What are the operational arrangements? What are the various methods through which investors may finance online platform assets, including purchase of securities, and what are the advantages and disadvantages of using them? Who are the end investors? How prevalent is the use of financial leverage for investors? How is leverage typically obtained and deployed?
13. What is the current availability of secondary liquidity for loan assets originated in this manner? What are the advantages and disadvantages of an active secondary market? Describe the efforts to develop such a market, including any hurdles (regulatory or otherwise). Is this market likely to grow and what advantages and disadvantages might a larger securitization market, including derivatives and benchmarks, present?
14. What are other key trends and issues that policymakers should be monitoring as this market continues to develop?

Appendix C: Request for Information Submissions

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| Accion U.S. Network | Fundera | Native American Financial Services Association |
| Affirm | Funding Circle | North American Securities Administrators Association |
| Alliance Partners | GaranteeMarket | OnDeck |
| Amalgamated Bank | GLI Finance | Online Lenders Alliance |
| American Bankers Association & Consumer Bankers Association | Global Debt Registry | Oportun |
| Americans for Financial Reform | Godolphin Capital Management | Opportunity Finance Network |
| Association for Enterprise Opportunity | Habematolel Pomo of Upper Lake | Opportunity Fund |
| Avant | Heritage Foundation | Orchard Platform |
| Banking Up | Income& Technologies | Otoe-Missouria Tribe of Indians |
| Blue Elephant Capital Management | Independent Community Bankers of America | PayNet |
| Bond Street | Insikt | PayPal |
| Broadmoor Consulting | Intuit | Peer-to-Peer Finance Association |
| Buckley Sandler | Kabbage | PeerIQ |
| CAN Capital | Kiva Microfunds | Pepper Hamilton |
| Center for Financial Services Innovation | KPMG | Private Individual (6) |
| Center for Responsible Lending | LDF Business Development Corporation | Prosper Marketplace |
| City of Chicago | Lend Academy | QTX Systems |
| Coalition for Responsible Business Finance | Lending Club | Rapid Financial Services |
| CommonBond | LendingTree | Revenue Trades |
| Community Reinvestment Fund, USA | Lendio | Securities Industry and Financial Markets Association |
| Conference of State Bank Supervisors & National Association of Consumer Credit Administrators | LiftForward | Small Business Majority |
| Connect Lending | Manatt, Phelps & Phillips | SoFi |
| Credit Union National Association | Milken Institute Center for Financial Markets | Structured Finance Industry Group |
| Cross River Bank | Missouri Credit Union Association | The Support Center |
| Crowdnetic Corporation | MonJa | U.S. Chamber of Commerce Center for Capital Markets Competitiveness |
| Dealstruck | Mountain BizWorks | U.S. Public Interest Research Group |
| Distributed Finance Corporation | National Association of Federal Credit Unions | University of Colorado School of Law |
| Duck Tree Tribal Financial | National Association of Industrial Bankers | Upstart Network |
| Earnest | National Association of Realtors | WebBank |
| Electronic Transactions Association | National Consumer Law Center | Woodstock Institute |
| eOriginal | National Pawnbrokers Association | ZestFinance |
| Equifax | | |