Marketplace Lending vs “Fintech”

- Payments
- Financial Advisory
- Money Management
- Cryptocurrency
- Blockchain
- Marketplace Platforms
- Online Lenders
Platforms: Facilitating A Market Demand?

Consumers

- Access to Affordable Credit
- Fast and Efficient Decisions
- Transparency and Fairness
- Superior Customer Experience

Investors

- Access to new asset classes
- Easy to use tools
- Transparency
- Attractive Risk-Adjusted Returns
Issuing Bank Partnership Model

Platforms seek: reliable funding, consistent regulatory environment – partnering w/ banks can meet these needs

Partnering banks can’t outsource risk; significantly heightened third-party risk management expectations

• FDIC FIL 44-2008 (current guidance)
  • Due diligence
  • Risk assessments
  • Contract structuring
  • Ongoing monitoring

• FDIC FIL 50-2016 (proposed additional guidance)
Roles

**MARKETING**

- Platform designs marketing materials
- Partner bank reviews and approves marketing materials
- Platform markets loans to consumers/small businesses

**APPLICATION / UNDERWRITING**

- Partner bank approves credit policy and underwriting criteria
- Platform implements partner bank’s credit policy into underwriting model
- Online application, platform offers terms, consumer accepts or rejects terms, may have documentation requirements
Roles, continued

APPLICATION / UNDERWRITING

Platform’s automated model processes applications, approvals are conditioned on: adequate investor funding, documentation fulfillment when required

Platform markets loans to investor network. Investors assess loans,prefund purchases in trust account controlled by partner bank

Partner bank funds loans, holds on balance sheet for 1-3 days, sells to investor network, claims prefunded trust account

SERVICING

Platform acts as loan servicer on behalf of investor network (billing, customer service, collections)

Partner bank reviews and audits the platform’s customer service and collections functions, policies, and procedures and monitors complaints
Supervisory Challenges

- “Alternative data” questions – consumer harm/red lining?
- Evolving - not yet a mature industry
  - best practices abound; concrete guidance is sparse
- U.S. Treasury Request For Information
  - Conclusion: Access to credit can be expanded using data-modeled underwriting
- Quantifying capital adequacy off-balance sheet risks
- Culture clash between conservative bankers and fintech entrepreneurs
- Resurrecting some long settled debates
  - Regulatory reach and jurisdictional issues
  - Preemption, rate exportation
  - Disparate results in “True Lender” cases (A) Sawyer v. Bill Me Later; Beechum v. Navient Solutions (B) Cashcall v. Morrisey; Cashcall v. CFPB
  - Community reinvestment
  - Applicability of consumer protections to small business lending
The Future?

- Consumer adoption of digital innovation is a powerful and usually irreversible market force (see Blockbuster, your local book/record store, newspapers, taxi drivers)

- Recently damaged reputation, necessary rehabilitation could weed out fringe/less credible actors

- Possible bank responses: partner, mimic, or acquire

- Performance of this asset class in a downturn?

- Reach of CFPB?

- White label model (i.e., "disruptors" settle in to new role as product service providers to banks)

- Limited Purpose Bank-like Charters for Fintech?

- Fate of preemption (*Madden v. Midland case*; *Cashcall v. CFPB*)