Banking and Finance Law Daily Wrap Up,LOANS—Comment letters on online marketplace stress regulation, small business market ,(Oct. 1, 2015)

By Andrew A. Turner, J.D.

Concerned that nonbank marketplace lenders are subject to little oversight, the American Bankers Association and the Consumer Bankers Association emphasize the need for consumers to receive the same protections regardless of their financial services provider in a comment letter to the Treasury Department. On the other hand, comments from the U.S. Chamber of Commerce Center for Capital Markets Competitiveness cautioned Treasury to avoid erecting barriers that may slow the development of technology in lending, while urging the breakdown of unnecessary obstacles that are making it difficult for traditional banks to serve small businesses. The industry groups were responding to a Request for Information on online marketplace lending.

Bank industry groups. The ABA and CBA asserted that online marketplace lending fundamentally resembles traditional lending, activities-based regulation is key to responsible innovation, oversight is needed to ensure compliance with appropriate regulations, and sustainability remains a concern. Online loan products resemble traditional loans and target traditional borrowers, in their view, with the largest differentiator between bank loans and alternative loans resting in the funding source.

The bank industry groups assert that all lenders should be subject to equal regulation for transparent pricing, fair lending, data security, and collection methods. Regulation should focus on the activities being performed, rather than the delivery channel, in their view, with regulatory oversight to ensure compliance by nonbank lenders, as with banks. Another area of concern is whether the business model for marketplace lenders, relying on origination and servicing fees as their primary sources of income, is sustainable as interest rates rise.

Business industry group. CCMC focused on three points:

- Treasury should recognize the importance of online small business lending, but consider it as part of a broader effort to expand small business access to credit.
- Small business access to credit has dried up in large part because new regulatory regimes have imposed new costs, and made banks more risk averse.
- Treasury should recognize the need to fill the needs of small businesses' access to credit by addressing the adverse impacts of these regulatory impacts and allowing for the marketplace to evolve through new innovative means of financing.

Companies: American Bankers Association; Consumer Bankers Association; U.S. Chamber of Commerce Center for Capital Markets Competitiveness

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