

# Banking and Finance Law Daily Wrap Up, TOP STORY—Treasury Department lays out opportunities and challenges in online marketplace lending, (May 10, 2016)

By [John M. Pachkowski, J.D.](#)

The Treasury Department has released a white paper regarding its review of the online marketplace lending industry that commenced with the Treasury Department's Request for Information in the summer of 2015.

The white paper entitled, "[Opportunities and Challenges in Online Marketplace Lending](#)," provides an overview of the evolving market landscape, reviews stakeholder opinions, and provides policy recommendations. The white 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.

It should be noted that the white paper explicitly stated that "this document is not an endorsement of any particular market segment, type of lender, or business model."

**RFI.** The Request for Information sought public input on the growing online marketplace lending industry so as to allow policymakers to:

- study the various business models and products offered by online marketplace lenders;
- assess the potential for online marketplace lending to expand access to credit to historically underserved borrowers; and
- determine how the financial regulatory framework should evolve to support the safe growth of this industry (see *Banking and Finance Law Daily*, [July 17, 2015](#)).

**Feedback.** Following release of the RFI, the Treasury Department received [over 100 comments](#). Comments from bank trade groups, such as 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. 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 (see *Banking and Finance Law Daily*, [Oct. 1, 2015](#)).

**Emerging themes.** From the feedback on the RFI, the Treasury Department noted that a number of trends emerged which included:

- the use of data and modeling techniques for underwriting;

- expanded access to credit to certain borrowers who might not otherwise have received capita;
- concerns that new credit models and operations remain untested through a complete credit cycle;
- enhanced safeguards small business borrowers;
- greater transparency in pricing terms for borrowers and standardized loan-level data for investors;
- an active secondary market for loans to enable more accurate mark-to-market of loan portfolios; and
- the need to regulatory clarity around the roles and requirements for the various participants.

**Recommendations.** The white paper provided a number of recommendations to the federal government and private sector participants that encourage safe growth and access to credit through the continued developments of online marketplace lending. These recommendations were:

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.

**Emerging trends.** Finally, the 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.

**Industry reaction.** Rob Nichols, president and CEO of the American Banker Association, issued statement welcoming “the emphasis on partnerships between banks and marketplace lenders.” He [added](#), “What is needed is proactive oversight to ensure that rules are followed and borrowers are treated fairly regardless of the provider. Banks already have a culture of compliance and strong regulatory oversight which should be emulated by all credit providers.” However, Nichols cautioned, “Adding more regulations and restrictions on all lenders—bank and non-bank—will only make it harder and more costly for the smallest of loans to be made. These loans are the ones that drive growth on Main Street and flexibility is critical to meeting small business credit needs.”

Lisa McGreevy, president and CEO of the Online Lenders Alliance [stated](#), “What we need is a new way of looking at how financial products are delivered in the 21st century. OLA is committed to fostering new and innovative ways to ensure that consumers and businesses can access the responsible, fast and convenient online loans.” She added, “The Treasury report

provides a framework for the government and online lending companies to work together to help expand online access to credit for consumers and business customers.”

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

MainStory: TopStory BankingOperations ConsumerCredit Loans PrudentialRegulation SecuritiesDerivatives