FTC FinTech Series: Marketplace Lending
June 9, 2016
Transcript

STEPHANIE ROSENTHAL: Good morning, everyone. If you guys could please take your seats, we're about ready to get started here. Good morning. My name is Stephanie Rosenthal, and I'm the Chief of Staff of the Division of Financial Practices here in the Bureau of Consumer Protection at the Federal Trade Commission.

I'm really excited to welcome everyone here today to Marketplace Lending, our first forum discussion in a series of events that's going to explore emerging financial technologies and their implications for consumers. Before we get started with today's substantive program, I have a few administrative details to go through. First, please silence any mobile phones.

And if you do have to use your phone or electronic device this morning, please be respectful of the panelists, and try to do it out of the way, and quietly. Please be aware that if you leave Constitution Center this morning, you're going to have to go back through security to get back in. So particularly for our panelists, please try to limit that as much as possible, or build in enough time to get back through security to get back in so we can stay on schedule.

I think all of you received a lanyard today with your FTC security badge. We reuse these for multiple events, so before you leave, please return this to event staff. We'll have a box on your way out to drop the badges in. If an emergency occurs that requires the evacuation of the building, an alarm will sound. Everyone should leave the building through the 7th Street exit, which many of you came in.

After leaving the building, turn left and cross 7th Street, and then cross E to the FTC's emergency gathering area. And remain in that area until you receive further instruction. If an emergency occurs that requires you to leave just the conference center but stay in the building, please follow instructions voiced over the PA system.

Please be advised that this event may be photographed, and is being webcast and recorded. By participating in the event, you're agreeing that your image and everything you say could be posted indefinitely on ftc.gov, or on one of our publicly available social media sites. And restrooms are in the hallway just behind me.

During the panel discussion today, if you're interested in submitting a question to one of our panelists, please write it down on the question cards which, if you haven't received, are available at the information table where you came in. And if you hold those up, Patrick, our paralegal, will-- who's standing right over there. If you hold it up, he'll come by and grab it from you.

We will do our best to get those questions answered on the panel, but given the short time we have for discussion today, if they don't get answered, our panelists and the moderators will remain in the area after the panel, and after we conclude today to engage in further discussion with you all. And now I am very pleased to introduce the chairwoman of the Federal Trade Commission, Edith Ramirez.

[APPLAUSE]

EDITH RAMIREZ: Thank you, Stephanie, and good morning, and welcome, everyone. As Stephanie noted, it's the FTC's first in a series of events that we're hosting to bring together leading experts to discuss emerging financial technologies and their impact on consumers. So welcome. We're really excited to be launching this FinTech forum series.

Now, for decades consumers have relied largely on brick and mortar banks and investment firms to help them get access to credit, to invest their money, and to chart their financial goals. And when it comes to making payments for everything from buying clothes to giving donations, in the past, most of us have used cash, credit cards, or even checks.

But new technologies have transformed our options on all of these fronts. Today, with the tap of a screen, we can choose from an array of different products and platforms to complete these and other daily transactions. And while traditional financial institutions still dominate, it's becoming increasingly clear that innovators are disrupting the financial services sector. Now, the view of young adults may be an indication of what's to come.

In a recent survey of about 10,000 millennials by Viacom, 68% said that they think that the way we access our money in five years will be completely different than it is today. And 33% of them believe that in the future, they won't need a bank at all. Now, for some people that may be the case. We now see crowdfunding platforms link investors with entrepreneurs who are passionate about the same causes and projects.

Consumers can now quickly compare multiple options among marketplace lenders when they need a loan. And we can now use our cell phones to pay for everything, from coffee, to movie tickets, to groceries. While FinTech's services vary greatly, they have the potential to empower consumers by providing more choices and unprecedented convenience. More than ever, technology is driving the way consumers store, share, spend, and borrow money.

But while the proliferation of new financial options provide significant advantages to consumers, these new options also raise important questions. For example, are consumers fully informed about their financial transactions? Are there safeguards in place to protect users from fraud? And how can we continue to ensure that our personal information will be safe, even as access to our information expands?

These are just a few of the issues that the FTC will be examining today, and in our future FinTech series. Today, of course, the focus is on marketplace lending, an industry that's grown rapidly in recent years. As you know, these platforms connect consumers and small businesses that want to borrow money with individuals and institutions that want to invest.

They have the potential to increase consumers' access to credit, and to provide more effective and efficient ways for them to find, apply for, and access loans. Marketplace lenders have already had a significant impact. The California Department of Business Oversight recently conducted a survey of 13 online marketplace lenders, and found that in 2014, they collectively provided nearly $16 billion in lending and other financing, primarily to individuals.

That number's substantial, but it's still small when you compare it to traditional financial institutions. By way of comparison, Bank of America's consumer loan portfolio was 489 billion in 2014. And, as many of you know, it's been a bit of a rocky spring for the marketplace lending sector. We've heard public reports that there's a decline in the availability of investment capital for these kinds of loans.

But observers generally agree that given the advantages it offers both lenders and borrowers, marketplace lending is likely here to stay. Our aim is to advance the dialogue about the impact of marketplace lending. It's important to examine not only the potential benefits of this form of lending, but also the risks it may present for consumers.

For instance, a recent white paper published by the Treasury Department highlights the risk of disparate impact in credit outcomes, as well as the challenges that consumers may face in seeking to verify and correct the data that's used in credit decisions. In light of the FTC's broad jurisdiction over non-bank financial entities and our decades of experience enforcing consumer lending laws, we want to ensure that consumers are treated fairly when they navigate this changing landscape.

This includes ensuring that the same protections that consumers have in traditional lending contexts also apply to marketplace lending. The FTC Act allows us to protect consumers from a broad range of deceptive and unfair practices, from misleading ads to privacy abuses, and unreasonable data security practices.

And of course, we also enforce a wide range of other financial consumer protection statutes and regulations that apply in the financial services arena, including TLA, ECOA, the Graham Leach Bliley Act, the Fair Credit Reporting Act, and the Fair Debt Collection Practices Act. As in other areas, the FTC will remain vigilant to ensure that market participants adhere to all applicable laws. Our hope is that today's forum will take our work in this area a step further.

Our speakers and panelists will discuss, among other topics, adequate lending disclosures, issues related to credit reporting, robust privacy and data security practices, protections against unauthorized charges, fair lending concerns, and debt collection practices.

Our first panel will focus on the current state of marketplace lending and its implications for consumers, and our second panel will address the continued evolution of lending markets, and the role of consumer protection regulation and enforcement going forward.

The FTC's Office of Technology, Research, and Investigation will also provide a survey of marketplace lenders, including an analysis of how they advertise and market themselves, and the data that lenders attempt to collect from the consumers.

As the marketplace lending sector continues to evolve, questions about how best to protect consumers will continue to surface, and my hope is that today will lay the groundwork for enhanced understanding of the issues, improved consumer awareness, and ongoing study of the impact of emerging financial technologies on consumers, and the marketplace as a whole.

Together we can help ensure that consumers enjoy the benefits of innovation as they work to build a strong financial future for themselves, and for their families. So thank you very much for joining us today, and let me now hand the floor over to Malini Mithal, our acting associate director in our division of Financial Practices. Thank you very much.

[APPLAUSE]

MALINI MITHAL: the panel one panelists could please come up? Good morning. I'm Malini Mithal, and this is Elizabeth Kwok. We are both with the FTC, and we are moderating the first panel today, the current state of the marketplace lending and its implication for consumers. I'd like to take a moment to thank our panelists, and to introduce them. I'm going to start with Shaheen Hasan.

She's a manager on the program team at the Center for Financial Services Innovation, CFSI. In her role she works to inform and advise the marketplace about the needs of consumers, and how to offer high quality financial services to improve their financial health. Next to her we have Ed Mierzwinski. He is a consumer program director and senior fellow at the Federation of State Public Interest Research Groups, US PIRG.

And he often speaks before Congress, state legislatures, and agencies on a wide range of consumer issues. Next to him we have Jessica Milano. She is the Deputy Assistant Secretary for Small Business Community Development and Housing at the US Department of Treasury. Miss Milano manages a portfolio of policy issues, including small business, access to capital, affordable housing finance, and community and economic developments.

And next to her we have Peter Renton. He is a founder of Lend Academy, an educational resource for P2P marketplace lending industries. He is the co-founder of the Lend It Conference, a conference series dedicated to the P2P and online lending industries. Now, we have a lot of ground to cover, so we're going to go ahead and get started, with Liz asking our first 10 questions on our first topic.

ELIZABETH KWOK: Good morning. So as we all know, marketplace lenders are typically described as online platforms that connect potential borrowers with potential investors, and while borrowers can include individual consumers as well as small business consumers, today we're going to be focusing on individual lenders.

With that in mind, let's talk more about the specific mechanics of marketplace lending. So if we could begin by describing the process of getting a loan through a marketplace lender, including how consumers are approved or denied, and how a loan is funded?

PETER RENTON: I'd be happy to take that. So, consumers typically go to a website that's run by one of the marketplace lenders. They vary between different ones, and obviously it's a different process for a consumer than it is for a small business. A small business obviously has-- there's a lot more data that they need to provide in order to make a decision.

But let's just say with the consumer, you go in and you put in a very small amount of information, some personal identifying information, and then you receive-- typically you receive an interest rate, and whether or not you have been approved, then you go through a few more processes-- I've done this myself several times, just to really understand the entire process.

And you go through this-- there's the truth in lending form that you have to OK, and you go through, and typically it takes about 3 to 5 minutes. And at the end of the day, you know whether you're approved or not. And typically, depending on the lender, you might get your money within a day, or it might take up to two weeks, depending.

ELIZABETH KWOK: And could you expand maybe a little bit more on how loans are funded, or anyone else on the panel?

PETER RENTON: Well, I can-- I mean, loans are funded by a variety of different investors, with the case of, like, Lending Club, Prosper Funding Circle. They are true marketplaces which have a broad cross-section of investors. It could be an individual investor, it could be an insurance company, it could be a bank. It could be a hedge fund.

There's a huge variety of investors, with some of the larger platforms that are not pure marketplaces. They fund loans off their balance sheet, and that's typically a facility that they've obtained often through a bank, or some other kind of specialty finance company.

ELIZABETH KWOK: And with such a wide array of potential funding sources, what are the typical marketing channels that marketplace lenders are using to reach consumers?

PETER RENTON: I can keep going if you want, or-- happy to answer everything, but-- I want to give others an opportunity.

SHAHEEN HASAN: I can speak to this. I mean, we're starting to see-- is this on? I think it's on.

ELIZABETH KWOK: It's on.

SHAHEEN HASAN: We're starting to see some interesting partnerships, distribution partnerships in particular between marketplace lenders and banks. And not just banks, but also CDFI's. Essentially we're seeing opportunities to leverage-- for some of these more incumbent players to leverage these technologies in underwriting to reach turndown applicants that they might not be able to serve profitably. So, you know, we at CFSI see this as a promising trend.

Certainly there are challenges that come with it but, with these new distribution partnerships, we're seeing more-- there's more potential to reach more of those underserved consumers. Eh?

ED MIERZWINSKI: Yeah, I would just add that I think that one of the ways that the marketplace is different than the old marketplace is, of course it's a much more complex ecosystem, and therefore the way that companies are finding customers, there are a variety of new ways, and a variety of the new ways that companies are using include some pretty sketchy new internet related marketing channels that there are some good companies in them.

But there are some very bad companies in them. The FTC has gone after a lot of lead generators, lead aggregators, and data brokers, and I would submit that companies need to be very careful which of these firms they align with, because some of the firms may eventually be sued by the Federal Trade Commission.

PETER RENTON: Yeah, I think that's-- it's fair to say, particularly on the small business side, there have been historically some shady operators. I think if you look at the volume of loans going through the platforms, my-- you know, I think that a lot of them have done a great deal of due diligence on their lead gen partners, and I think you'd find today there is virtually zero loans being done through those shady partners.

I think that wasn't the case a couple years ago, but today I would posit that there's-- almost all of those partners have been very thoroughly vetted.

ELIZABETH KWOK: Great. And as we've been talking about a very complex ecosystem, we'd like to talk a little bit about who all the parties are involved in a marketplace lending transaction. You know, there's platforms, investors, consumers-- so if someone on the panel would like to elaborate?

JESSICA MILANO: Sure. Can you all hear me? So, the treasury recently released a white paper on marketplace lending, and I encourage those of you that have interest in understanding this a little bit more in-depth, we actually go through in that paper the various models, and the various touch points that the different models have with traditional lenders and consumers, and partnerships. So the question was sort of how do we think about all of these touch points?

And I think it is sort of based on the various business models that marketplace lenders have developed, whether you're a platform model or direct lender. And if you-- you can sort of think about it in terms of customer origination, the model for originating loans, and then marketing channels, which these guys have already discussed. So the way we do this is with a chart.

It's actually quite a-- I think a complicated thing to try to explain without a visual, but as Peter mentioned, direct lenders typically make loans off their balance sheet to consumers or small businesses, and platform models are typically partnering with issuing banks to help originate the loans. The difference there is, of course, state licensing versus using a bank charter to be able to do national originations. So that's one important distinction.

ELIZABETH KWOK: Great. And once a loan has been funded, are there third party servicers involved? For example, in internal operations such as servicing, or any potential debt collection?

JESSICA MILANO: I mean, there's a number of companies operating in the space, and I don't know that there's a uniform model that applies to all of them, so it's kind of difficult to answer these broad questions with any level of nuance. I would say in our paper what we've found is the majority of companies are doing in-house servicing until the loans become delinquent, and then they are using third party servicers.

ELIZABETH KWOK: OK, so let's continue this topic about how marketplace lending works. So let's talk about, in the typical lending transaction, we've talked about there are a number of different players. Who all interfaces directly with the consumer?

JESSICA MILANO: Typically the lender of the platform.

PETER RENTON: Yeah. It's the platform.

ELIZABETH KWOK: OK. And so who would handle disputes or consumer complaints over loan terms or servicing? And do consumers know who to contact?

PETER RENTON: Yeah. It's the company where they're obtaining loan from, which is the online platform, and all of them have-- every step of the way, that as you can see, there's an e-mail address, there's 800 numbers. You can stop your application halfway through, call an 800 number, and get your questions answered. And that same number would apply if you have a dispute about your loan.

ELIZABETH KWOK: OK.

MALINI MITHAL: Ed, did you have something?

ED MIERZWINSKI: I would just say I don't have any reason to doubt what he has said, but I think it's a great opportunity for enterprising reporters, or the FTC itself to take a look at the marketplace, and make a table. Look at all of the websites. Are they all optimized for mobile? Can a consumer get all that information on his mobile phone, or her computer as well? Are all the companies in compliance? It's not that big a marketplace yet, so it would be a pretty good weekend project.

JESSICA MILANO: And we should also note the CFPB recently made a public announcement that they were accepting complaints. I don't know that they've received any to date, but they are looking at this as well.

ELIZABETH KWOK: OK. And then what-- I know that Peter mentioned speed, that you can get these loans very quickly. So let's talk about things like that. What are the potential benefits of marketplace lending?

JESSICA MILANO: Sure. You want to go, and then I'll go?

PETER RENTON: You go.

JESSICA MILANO: So, you know, I think that the benefits are speed, obviously is a big one, for folks. That you can do it in the privacy of your own home any time that's convenient for you. And in some cases, you know, we haven't quite gotten into the underwriting yet, but to the extent that these models are better able to underwrite or price risk, consumers may be able to get a better rate, particularly if they're refinancing from existing debt at a higher rate.

On the small business side, which I know we're not supposed to talk about, we are seeing a little bit less of a debt consolidation, and a little bit more of businesses that are young, young businesses, service-based businesses, businesses that traditionally have some difficulty getting access to startup or early stage capital from traditional sources being able to turn online and get access to capital.

PETER RENTON: I would just add that if you're focusing purely on expanding the availability of capital across the population, I would say that this industry is doing that from the mere fact that it's cheaper and quicker. If those two factors are a limiting factor for someone applying for credit, then this industry will provide them.

But it's really on the small business side where we're truly expanding access to credit in a big way, where banks, the sub $500,000 loan banks have pretty much exited that business for the most part. And the marketplace lending the platforms have really taken up the slack there, and that's where they really dominate.

MALINI MITHAL: And in terms of speed, I think one thing that was mentioned earlier is that it can take 3 to 5 minutes, it can take a day, two weeks-- what is the typical timeframe? Is it on that shorter end, or is it on the longer end?

JESSICA MILANO: In our research we've found-- I think we put 24 to 72 hours in the paper, I think is sort of the typical.

PETER RENTON: Yeah. I'd say that's pretty typical these days, that there are some platforms that are quicker than others, but 24 to 72 hours is probably average.

MALINI MITHAL: Right. So we've been talking a little bit about how the marketplace works, and some potential benefits. Liz is going to ask some more questions about the market, and one thing we do want to flush out is any other implications for consumers. You know, pros or cons. So with that, I'm going to turn it over to Liz.

ELIZABETH KWOK: Yeah. We've been discussing a little bit about speed, and as Peter just mentioned, some platforms are quicker than others with their decisions. So in that vein, how do marketplace lenders determine credit worthiness? And of course, that's a complicated question, but if we could start with a general idea?

JESSICA MILANO: I mean-- sorry, I'm probably, as a government representative, going to punt on this, because it's proprietary models, but--

PETER RENTON: No, I'm happy not to punt. So, if you look at who is actually the people behind the credit models at these marketplace lending platforms, they're bankers. They're pretty much universally from the banking industry. So what you're going to find is these credit models have a lot in common with the way banks underwrite.

The fact of the matter is, though, if you want to get a $10,000 loan from a bank, that's pretty difficult to do these days. And so what these platforms do, they're providing those unsecured

loans in a very similar way, the way banks have done, with the addition of technology, with the addition of a bank might have-- those banks that still do $10,000 unsecured loans may take days or weeks.

The platforms will utilize technology with sort of the proprietary algorithms, and each platform is different. They will have their own algorithm. They will apply technology to make it efficient and quick.

ED MIERZWINSKI: I would just add that regardless of whether the platform is proprietary, I hope the Prudential regulators are looking at the banks, or looking at their partners, and looking at the secret sauce, and investigating it, and seeing whether it complies with the Equal Credit Opportunity Act, the Fair Credit Reporting Act, whether there are correlations, and whether the models make sense.

We cannot have opaque black boxes running our economy. That may be something that excites the investors some of the people in the room may be writing trade journals for, but for the average consumer, who I represent, I want to make sure that the products are fair.

PETER RENTON: And that's a valid point, but I'd also say that most platforms-- not all, but most platforms partner with an issuing bank. And so this bank has, you know, all the-- the regulations, and all of the best practices that apply to banks apply to these platforms, because they're actually being issued by a bank.

And so what you're going to find is that these banks, the FDIC, the OCC have come in and actually looked at these platforms, and made sure what Ed was just saying, that those practices are-- you know, they're transparent, and they're fair, and I think you'll find that when you go, and if anyone here wants to go and dig into the underwriting practices of these platforms, they'll find that-- I expect I would be pleasantly surprised that they are just what should be in place.

JESSICA MILANO: So-- that's right. To the extent that you're talking about a platform model where a lender is partnered with an issuing depository institution, that arrangement would be covered by the-- I believe it's the bank service company after a typical third party vendor situation. And in order for the depository institution to issue that loan, it would need to comply with the federal banking financial regulations, and there is oversight of that.

I think in terms of underwriting, you know, on the consumer side, what we have heard, what we've seen so far to date is that the proprietary algorithms, or the models that they are developing to underwrite still produce results that are highly, highly correlated with FICO.

MALINI MITHAL: I'm sorry, can you--

JESSICA MILANO: They're highly correlated with FICO. I mean, it's a scoring system, and that's how you keep costs low, and are able to partner with depository institutions. I think in terms of more innovative data, more alternative data, we're seeing a little bit more of that on the small business side, which there's probably more of in the paper if you guys want to read more about that.

MALINI MITHAL: Actually, we've received a request generally to speak a little bit louder, so I will try that, too. But go ahead, Liz.

ELIZABETH KWOK: So Peter and Jessica, you've both touched on these proprietary algorithms, and Jessica, you just mentioned that these are still highly correlated, the results, with FICO scores, and that maybe online alternative data is more on the small business side. But in those situations, where, you know, online alternative data is being used, how can consumers know that that data is accurate?

JESSICA MILANO: I mean, I think it's important that consumers have an ability to check and correct the data that's being used, and I think that's a concern that we pulled out in the paper. You know, how can you know, if alternative data is being used, that it is accurate? And I think it's an area that's right to highlight.

I think that some companies are trying good faith to have best practices in place around that, but if it's-- I think these microphones are cutting in and out, is part of the issue. It's certainly something that there should be sort of uniform standards on.

PETER RENTON: And I'd also say that when you talk about alternative data, most platforms are not using it to price risk to make an underwriting decision. What they're using it for is to verify identity, because these are online platforms. There's no face to face transaction, core communication.

So they want to make sure the person who's applying for that loan is who they say they are, and these-- so the alternative data, especially when it comes to the social networks, there's a lot of information about people out there right now, just to determine who they say they are, and they won't just--

If there seems to be some kind of misleading information out there, what platforms typically do, they won't just deny the person, they will flag it, and they'll have a human interact with that person, just to make sure that they are who they say they are. Today I don't know of any platform who is on the consumer side. On the [INAUDIBLE] side it's very different. On the consumer side, I don't know any platform that is basing their underwriting on alternative data.

ELIZABETH KWOK: And Peter, you just touched upon this, but how accurate are marketplace lenders in predicting credit risk?

PETER RENTON: Yeah. I mean, I think-- well, we haven't gone-- you know, these marketplace lenders, I think they-- I would say they're as accurate as the banks were. I think that in some ways they are probably more accurate, because I think the data analytics that happened today are so much better than what was in place 10 years ago, and I think as far as-- one thing that I think, to be fair, is that these platforms, most of them began post the financial crisis.

So Lending Club and Prosper were in existence before that. Their loan book was small, but they did-- both those companies, to be fair, did go through the financial crisis, and came out

surprisingly well. But many others have not been through it, so many people are reserving judgment until we go through the next recession.

ELIZABETH KWOK: Great. And in terms of the algorithms, and all the data that's being used to verify identity and assess credit risk, does marketplace lending create any unique fair lending risks?

JESSICA MILANO: I mean, I think it's-- certainly, there's at least the potential to create fair lending risk. I think that this market is untested through a complete credit cycle, as Peter just said, and we-- you know, found in our RFI findings that there's certainly a need to study more how these loans perform, how they're being priced, the borrowers that are applying, the borrowers that are receiving the loans.

And one of the ways that we try to address that in our recommendation and is sort of suggesting that there should be some sort of federal coordination, or an interagency working group that could look into studying at least the potential for lending violations further. But, you know, I think it's an important concern that we should be addressing, but I think it's important to note that it's not something that we're currently seeing.

ELIZABETH KWOK: And once a consumer's credit information is obtained, how often are loans denied, and how is the decision-- you know, obviously without going into the algorithm, whether to approve a loan?

PETER RENTON: Well, it varies. It varies dramatically between lending platforms, but keep in mind that this is online, and your 12-year-old kid could go in and apply for a loan, and they're going to be denied. My point is that anyone can start an application to apply for a loan.

So with that in mind, the approval rates are fairly low, so that, you know, just-- and it depends, like, some marketing channels that these platforms use have extremely high approval rates, because they know people being sent from them are really great potential customers for a loan. Others, if you're clicking on a Google AdWords ad and going to a site, that's going to have a much lower approval rate, because that could be anybody.

MALINI MITHAL: OK, with that, let's turn to a topic that Ed touched on earlier. I think Ed was raising the issue of, you know, marketplace lending, involves some consumer data, exchanging different hands, whether it's lead generators, aggregators, et cetera. So let's kind of dive into that topic a little bit more.

I think, Peter, you mentioned earlier that, you know, it's not much consumer information that's being collected, but let's expand on that. If anyone wants to comment on what categories of sensitive consumer information, such as bank account info and SNNs are marketplace lenders collecting from consumers?

ED MIERZWINSKI: Well, I would just say that I presume they're collecting all of that, and that they are collecting as much information as they can obtain anywhere else to put it into the secret sauce, and that's why it's important that the regulators continue their due diligence, and make

sure, particularly with partner banks under Prudential regulators, make sure that all the laws are being complied with.

I'm very concerned in general about not only the collection of information by any platform, whether it's a lending platform or an advertising platform, but also the secondary use of information about a consumer. What are the steps that companies are going to take to disclose to consumers their privacy policies? And are the companies going to have affiliated firms that they can share with under the exceptions, under the Gramm-Leach-Bliley Act?

Or are consumers going to be protected by the full protections of the Fair Credit Reporting Act?

It's a new model for lending. It's a new model for collecting information. This business is only part of it, to be fair, and the Federal Trade Commission has been looking at a lot of other parts of it. But to me, I think the right word, again, is ecosystem.

PETER RENTON: Yeah, that's a fair point. I think that there needs to be a good ecosystem. But anyone here can whip out their phone right now and apply for a loan on Lending Club, or Prosper, or Avant, or SoFi, or whatever. You can see what they ask. What they ask, there's like, 14 different pieces of information, and that's it. So there isn't page after page.

And sure, they're going to ask for your social security number, they're going to ask for your name, address, e-mail address, bank account. Most of these platforms will mandate that you have a bank account. They need to be able to send the money somewhere, and most of them require that that happens. But as far as page after page of information, that's just-- that's the way banks did it, and we don't do it that way.

ED MIERZWINSKI: Can I just ask you a question, though, Peter? That's what-- there are 14 things from the consumer. Are they getting information from anywhere else?

PETER RENTON: Sure. They will. When you're applying for a loan, you are saying-- you say you're earning $5,000 a month. They want to know that you're earning $5,000 a month. They don't want to just take your word for it, so they're going to potentially pull payroll information. Now, they do this-- everything is disclosed.

You can go-- before you actually look at the loan application, down at the bottom of the loan application, there are links to all the different information, different agreements you have to agree to. You can go and read all those. It's all there up front. Nothing is hidden. And so, yeah, there is definitely going to be information that they will pull with the borrower's permission, so that they can verify what the borrower was saying is correct.

MALINI MITHAL: OK, one thing that Ed was just talking about is secondary use of information, so let's turn to that. What do marketplace lenders do with all the data they gather? Do the companies use the information solely for loan purposes, or for other purposes as well? Anyone know?

PETER RENTON: So, people that get approved, that information is never sold. It's never shared. To my knowledge, I've never heard of any incidents like that. People that are denied, some companies have agreements with other lenders, often traditional lenders, you know, like a Springleaf, or someone who works in more of the sub-prime, near prime area.

So just in order-- so they will send that information on to those other lenders, in order to try and help that borrower get approved, because keep in mind that most marketplace lenders are operating in the prime, near prime, or super prime area. So many borrowers come to those platforms who were not in that, so then they will share that information with another lender to try and help them get approved for a loan.

MALINI MITHAL: And are consumers aware of that? That the platform is sharing their information with other groups in that way?

PETER RENTON: I am not aware. I do not know the answer to that question.

MALINI MITHAL: OK. Does anyone else know?

JESSICA MILANO: I mean, it seems in general that there's just a lack of the consumer perspective, and so perhaps there could be more efforts that are around the data collection about consumers' experiences. Are they finding the terms to be transparent, and are consumers understanding what these disclosures mean? There just seems to be a lack of data on this, and there certainly is a need for more research here.

MALINI MITHAL: OK. So when marketplace lenders provide consumer data to others, you know, what kind of information do they provide, I guess pre-sale? You know, is it kind of like, you know, we've heard a lot about the ping tree in payday lending, where you put up some consumer information.

You know, a lot of people might be able to come in and see it. How are you controlling what information is seen by potential buyers, and how are-- what kind of steps are being taken to vet those potential buyers to make sure that they're actually going to be matching the consumers with a loan?

PETER RENTON: Well, I think that's evolved over time. You know, back in the early days, it was a bit of a free for all. I must admit that on the early days of Prosper, you could see people would use their real names, you'd have photos of yourself, and then-- nowadays, and even that has completely, completely changed. So there's no personal identifying information whatsoever.

The platforms have been carefully-- used to be zip codes, company names, there used to be-- used to be a Q&A, a free format Q&A with investors. Today it's very difficult. There's no personal identifying information that is shared with investors whatsoever. All you have is some credit information, and a rough location of where the borrower lives. But there is-- you can't reverse engineer the information to try and find out who the person is. It's just not possible.

MALINI MITHAL: All right. So I guess-- I think part of my question about how marketplace lenders make sure that the companies they're sharing information with are lenders-- does anyone have anything to add to that? No? OK. So, I guess my prior few questions have focused on marketplace lenders that sell leads.

For marketplace lenders that buy leads, how do marketplace lenders monitor the sources of their leads, and weed out leads collected using problematic or deceptive practices? I think that's something that Ed was also kind of referencing earlier, that there had been a lot of FTC actions where you have companies that were using information that was supposedly collected for a loan, or for one purpose.

But then they get it for another purpose and use it that way, and the consumer doesn't understand that that's going to happen with their information, which we have often alleged violates the FTC Act. So is there any kind of information about what's going on in marketplace lending in this area?

PETER RENTON: So I would just-- I want to preface this by saying when I talk about marketplace lenders, I talk about platforms that, actually, borrowers can go to to apply for a loan. So you said there were marketplace lenders who are lead gen-- they're not marketplace lenders. They are lead gen companies-- you know,

Credit Karma, Lending Tree are the two big ones. You know, companies, I mean, with-- they operate with different models, but as far as the platforms themselves, I mean, when they get sent to a lead from Lending Tree or from Credit Karma, they certainly are getting information that will be able to help them make an under-writing decision.

That's when I said that some channels have very high approval rates, because if someone's coming from Credit Karma and you know that they've got to 750 FICO score, and they've got $100,000 yearly income, you know that before you even receive the information, that's information that is very much able to be made. Helps to make an underwriting decision.

But there just isn't this free flow of information between lenders. Lenders are not sharing personal information. The lead gen companies are sharing it, but the Lenders themselves are just not sharing that information.

ED MIERZWINSKI: I would just add that I think the FTC's vigilance in this area has helped to clean up the marketplace, and forced the companies that still exist, sound like they're doing a better job than other companies that may not exist anymore were doing several years ago. But if you look at-- I would encourage you to take a look at some of the FTC's cases.

Look at Leap Lab, with the payday lenders. Look at Gigats, a recent case with educational lead generators. That company, the FTC wanted $90 million in damages, but the company claims it only has $360,000 left, so there are a lot of sketchy operators out there.

I'm glad to hear the big companies are not doing business with them, but that's why it's important to have a strong Federal Trade Commission, and strong regulation by the Prudential regulators in

the CFPB in this marketplace, because how does a consumer know that she is logging on with a good company, and not a bad company that just pops up?

MALINI MITHAL: And also on the-- I guess data side, data security questions, you know, what steps are lenders taking, or platforms taking to make sure that they're securing the consumer data they receive? Whether it's the, you know, 14 pieces directly from the consumer, or the profiles they're creating by obtaining other information? What's being done to make sure that this data is being held securely?

PETER RENTON: Well, you know, I'm not an IT director at one of these lending platforms, so I can't comment on specifics, but when I talk to these people, they say that this is-- their attitude is, like, their data is, in many ways, their most important asset.

And so I've heard the term, like, you know, bank-level security is what their attitude is, because they realize that if there's a breach of their data, or sharing of the data that is unauthorized, that could be their downfall. So I feel like that's something that is held in very, very high regard.

MALINI MITHAL: We talked about third-party service providers earlier. Do third-party service providers have access to sensitive consumer data?

ED MIERZWINSKI: I would be shocked if they did not, but they would be subject to the same rules as the bank, or the lender would be under their regulator's requirements.

JESSICA MILANO: I mean, that's correct. Essentially if you're talking about a platform model where you have a platform partnering with an issuing bank, the bank would be originating the loan, so the bank would have access to the data. But it would also be supervised.

MALINI MITHAL: So does marketplace lending raise any unique data security concerns? Or are they kind of similar to concerns we might have seen in other industries or areas?

JESSICA MILANO: I think they're very similar.

MALINI MITHAL: OK. So with that, we're going to turn to Liz for another topic.

ELIZABETH KWOK: Yes. So now that we've talked a little bit about the data, let's switch gears a little bit and talk about clarity of payment structure and fees. You know, as Shaheen has mentioned, there's a lack of information, perhaps, on the consumer experience, but actually, one question from an audience member is about what is the typical consumer loan site? What are typical APR or interest rates, and what is typical loan duration?

JESSICA MILANO: I gotta check here.

PETER RENTON: While Jessica's checking, I can start-- so the range-- I mean, they range from a low of 4%, with some of the super prime borrowers, you know, up to a high in the low 30's, for as far as APR goes. This industry really has moved away from the payday type interest rates, and that, as I said, this-- we don't go into subprime in this industry very much at all.

And it's different platforms, like SoFi is an example of a platform that sticks purely in the super prime space. And you've got Avant, who sticks more in the near prime space. And then you've got things like Lending Club and Prosper that are sort of between those two.

And I think there's a variety, but if I had to say an average, the average loan term is-- three year loans is the most common product. Most platforms offer that. There's some one and two year loans, and if I had to say, an average API would be in the low teens.

JESSICA MILANO: Yeah. I think that's consistent, now looking at our chart. You know, I think that on the consumer side, essentially you're trying to be competitive to credit cards. So you're seeing rates that are competitive to credit card rates, with term ranges that we've recorded here anywhere from two to five years.

On the student loan side, it looks like a rate of-- sorry, a range of rates from about 3 on the low end, up to about 8 on the high end, for 5 to 20 year terms. And these are rates that we took as of December 2015.

ELIZABETH KWOK: And when will the consumer learn of these terms in this process? You know, you've gone in, you've disclosed maybe your 14 pieces of information, but at what point does the consumer know what fees, and APRs, and duration they would be facing?

PETER RENTON: Well, typically on the very next screen you click you click Submit when you've done your-- if you put in your information, the very next screen, you said here's your interest rate.

ELIZABETH KWOK: And has anybody on the panel kind of seen consumers complaining about lack of transparency, or that they didn't adequately understand the terms of their loans?

PETER RENTON: Any complaints I hear are people who get denied. And, you know, when someone gets denied, they may feel like they deserved to be approved, and they get upset about it.

JESSICA MILANO: You know, I guess for our part, and I'm going to pivot a little bit, but the New York Fed does an excellent survey of small business credit every year, and what that survey has found is about one in five small employer firms have turned on to online lenders in the past year, and only about 15% of those borrowers have actually been satisfied with that experience. And I think the top three frustrations were transparency, high interest rates, and repayment terms.

PETER RENTON: Yeah, I would say we're not really talking much about small business, but small business definitely has more work that needs to be done on those particular topics, on transparency on clear terms, and it actually--

There are several initiatives that the industries have put forward to move in that direction, where there's trying to match what we have on the consumer side with the Truth in Lending Act. Bring that over into the small business side, so it's simple and transparent, and easy to understand.

ELIZABETH KWOK: Ed?

ED MIERZWINSKI: No, I would just add that I think consumer groups are very-- we actually have high hopes for this industry, despite the way you think my tone might be.

And in particular, in the-- first of all, in the consumer space, once the CFPB, if we can strengthen the payday, high cost loan rule, and whack those models out of existence, finally, there's a lot of opportunities here for this marketplace to expand into that area, if it makes fair loans subject to the Military Lending Act, and state loan caps, et cetera, et cetera.

But small business is an area that-- very small business, I'm talking about, the banks have not treated well for a long time. And that's a tremendous opportunity for this industry to move into. Unfortunately, the consumer protection laws only applied primarily to credit for family, personal, or household purposes, I believe is the phrase. But we need to probably extend some of the consumer laws to small businesses.

JESSICA MILANO: It's in our paper.

PETER RENTON: Yeah.

JESSICA MILANO: Only--

PETER RENTON: It's in the paper.

JESSICA MILANO: And contract law apply to small business loans. Yeah.

ELIZABETH KWOK: And so do marketplace lenders use recurring payments? And if so, are consumers opting in each time, or is this an automatic set up? And if there's automatic options, then is this mandatory?

PETER RENTON: Yeah. Yeah. You've basically said you need a bank account to apply for a loan, because they need to deposit it into the bank account. They want to use that same bank account to take out monthly payments that happens in an automated way. And so it's not like you're-- you'll receive an email if you opt in, you'll receive an email each time reminding you that, hey, your payment's going to come out in a week, but it is an automatic process.

ED MIERZWINSKI: I'm sorry. Wasn't the question, though, is it mandatory? Can you have it without it?

PETER RENTON: So--

JESSICA MILANO: My understanding is that you can, but it's not necessarily very easy to make use of that option. You've got to call the company.

PETER RENTON: Yeah. I know that-- I've heard from borrowers who have decided they want to write checks to these platforms. Platforms don't like it because it's a much higher cost for no

higher revenue to process those transactions. I can't say it for every single platform, but for the major platforms, it's not mandatory, but it's not something that is offered as an option.

ED MIERZWINSKI: Then all I would add is that I hope that the Prudential regulators and the CFPB are looking at compliance with the FTA on that.

ELIZABETH KWOK: Peter, you just touched a little bit about the notifications that consumers will get, reminding them a payment is coming out. Has anybody on the panel heard about whether consumers have a general understanding about their frequency and amount of their payments, or is there confusion about this process?

PETER RENTON: I have never heard of anyone being confused about this process. It may be, but this is a loan, like a car loan, like a home mortgage. It comes out every month, and I think that's a fairly easy to understand product.

MALINI MITHAL: And I think part of our questions are directed at, of course, we have a lot of cases enforcing EFTA and regulation E, and some concerns we've seen in other areas have been with recurring payments and consumers not understanding that these payments will be taken out on a regular basis.

Or obviously they're concerned that such condition could be an extension of credit on a mandatory pre-authorized electronic funds transfer, of course, would violate EFTA and regulation E. So I think we're just trying to suss out, is that something that we're seeing in this market, as we've seen in many, many other areas?

ELIZABETH KWOK: And as we've discussed all the different fees and loan terms, and the different players in this, if anybody on the panel could shed a little bit of light on how each participant makes money in a typical marketplace lending transaction?

JESSICA MILANO: Sure. OK. So again, it comes into play which model the lender is using, whether it's a direct model or a platform model partnering with an issuing bank. I think in the direct model, it's a combination of interest income if they're holding the loan on balance sheet, and fees.

In the platform model, it's a combination of first a platform would pay the depository institution a fee for issuing the loan, and the depository institution would be able to-- can everyone hear me? Sorry, you guys are looking. And the depository institution would be able to earn interest on the loan for the few days that it held the loan. And then the platform would earn income from transaction fees for matching investors and borrowers, and from servicing fees.

MALINI MITHAL: OK. And do any of lenders add on credit insurance, and any idea what those loss rates are if-- by the way, these are audience questions, and we appreciate them. If you have any other questions, please send them up through Patrick, who is around here some-- there he is.

PETER RENTON: So, credit insurance was the question?

ELIZABETH KWOK: Yes. Here, I'll repeat the question. Do any of the lenders add credit insurance, and any idea what the loss rates are if they do?

PETER RENTON: In this country, credit insurance is really not often through these platforms.

ELIZABETH KWOK: OK. Another audience question is can you comment on the impact of that *Madden* decision on available credit to consumers in the Second Circuit?

JESSICA MILANO: So, *Madden* is a case still pending before the court, so as a public official I'm not going to be able to comment on it. But there has been some good, independent outside research done in this space by some researchers up at-- I want to say Columbia, or at NYU. So there is some independent academic research out there that you can collect.

PETER RENTON: Yeah, there's been a lot written about it, and it's still pending. I mean, you can go to go to Lend Academy and read a lot about-- you're talking *Madden* versus *Midland*, you'll find a whole bunch of articles there that talk about it. Yeah, I think I'd probably rather not comment. I'm not an attorney. I'd probably rather not comment on it. We can invite Brian Korn up in here, who could comment on it, if you want.

MALINI MITHAL: OK, well we'll go to another audience question. It's another question about data that's being collected. What protections should be in place by FinTech companies that collect banks login credentials, such as username and password, and routing information from consumers?

JESSICA MILANO: I mean, I'm not an IT professional, so--

MALINI MITHAL: Right. So I think the question more broadly is just kind of what data security steps should companies be taking? And this is something that we're going to explore more, I think, on the second panel. But if anyone has any comments about that--

ED MIERZWINSKI: I would just say they should use the best available technology that is currently available that is above and beyond whatever the minimal standards of the laws, because that's important.

PETER RENTON: I would also add that I don't know of one marketplace lending platform that requires that information.

MALINI MITHAL: So is that a sign, if there is a marketplace lender asking for that information, you should steer clear?

ED MIERZWINSKI: Can I just ask you, though, Peter, how does a marketplace lender have an automatic deduction from your account without a routing number?

PETER RENTON: So the routing number, yes, not a log in information. So you do your routing number and account number, but there is no log in information that is being shared with those platforms.

MALINI MITHAL: OK, so I think we've touched on a lot of the basics of marketplace lending, on some of the benefits, and some of the potential risks. Are there any other areas that the panelists would like to comment on, that we haven't touched upon?

PETER RENTON: I would like to-- you know, with Commissioner Ramirez, when she in her opening remarks talked about millennials, and the fact that this is a trend that is unstoppable. The next generation coming through who are going to enter their peak borrowing years shortly are simply not going to tolerate the way that credit is applied for, and historically they will think sitting in a bank for an hour, filling out 16 pages of application forms is something their parents or grandparents did. That's something that they will never do.

And so I think that-- and I appreciate people like Ed, who may be skeptical, also saying that this is something that is providing a public service, a public benefit. I think consumers are-- on the whole they are so much better off now in this area than they were 10 years ago. Consumers don't want to do that. Consumers want to be able to, you know, be in their pajamas and apply for a $25,000 loan, and find out whether they'll be approved for it at 10:00 at night.

That's what they want, that's what they can get with this industry, that was impossible 10 years ago, and I think that's what I feel is the real public benefit. And it's done in a where it actually is saving them money.

MALINI MITHAL: OK, thank you, Peter. And before we ask any other panelists if they have any final words, we have another audience question.

ELIZABETH KWOK: Yeah. Peter, you just talked about applying for a loan in your pajamas, and this is an audience question that goes back to payment structure and terms. What is the average loan size in dollar amount, and what is a typical dollar range?

JESSICA MILANO: I have it.

PETER RENTON: The range is $1,000 up to $35,000. Yeah, so, you know, I can tell Jessie--

JESSICA MILANO: So on the consumer side, the range we've captured is, like he said, 1,000 up to about $35,000, $40,000.

PETER RENTON: And the average-- I know the average at the major platforms is around sort of $12,000, $13,000.

ELIZABETH KWOK: Great. Thank you.

MALINI MITHAL: OK. And then we just wanted to hear if there were any other final thoughts from any of our panelists. I think Shaheen has--

SHAHEEN HASAN: Yeah. I'm happy to speak to one thing. We haven't really talked about the underserved market. I mean, many of these models are serving prime or super prime consumers, but I just wanted to say that with the advances that are happening around underwriting, and some

of the alternative data, you know, that can be safely included into scoring those that are unscorable, or at least thin file.

I think there are huge opportunities to go down the credit spectrum, but, you know, responsibly. And so while we've talked a bit about Prudential regulation, we'd like to see more innovation in this space, and perhaps more of a sandbox approach for those innovators that we have particularly seen as at CFSI. Those that are reaching, those that are with lower credit scores.

More opportunities to innovate. You know, creating policies that are more principle-based, that allow some of these innovators to experiment in responsible ways.

JESSICA MILANO: Yeah, and--

JESSICA MILANO: I'm sorry to interrupt.

JESSICA MILANO: No, I just-- to build on what Shaheen mentioned, I think that one of the things that's come across is that the market's still new, and it's still serving mainly on the consumer side, near-prime, prime, and super-prime borrowers. And this is something that we focused on in our work in our paper. How do we leverage the benefits, the operational efficiencies of this new technology in a way that helps more underserved borrowers get access to capital?

And one of the areas, or recommendations that we landed on, in my work at the Treasury, I actually oversee the Community Development Financial Institutions Fund. I work very closely with CDFI's, which are specialized financial institutions that serve low-income communities, and have over 20 years of experience serving the type of borrowers in low-income communities that we're trying to see get expanded access to capital.

And so one of the things we're very interested in is how partnerships, referral partnerships, different types of partnerships, maybe one method in particular where CFDI's can bring the local credit market knowledge, and the experience underwriting and serving hard to serve borrowers, and marketplace unders could bring operational efficiency to the partnership in ways that might be able to expand access to capital.

And the treasury has tried to support that work through an innovation challenge we have in place right now with the team, trying to develop a referral model for this type of arrangement. And we're looking forward to some results from that next fall.

ED MIERZWINSKI: Now, I think I would simply add that I'm encouraged by events like this by the Federal Trade Commission, the Treasury Department, and other regulators who are putting out reports seeking information, trying to study a relatively new marketplace. We do want to expand access to affordable credit to underserved populations, get them--

And we also want to shut down, as the CFPB is doing, predatory credit market participants, such as the payday lenders, and particularly the online payday lenders, who are taking advantage of people. But I think that, again, if there are reporters in the audience, there's a tremendous

opportunity to look at this marketplace more closely, to examine the transparency of the marketplace.

To compare and create ways-- I can look and find 100 different credit card or auto loan websites that will tell me the best or worst deal. I hope I see websites in this area as well that allow me to compare these terms of these companies as well. So going forward, I encourage the FTC to continue to look around and raise questions, like it's raising today.

MALINI MITHAL: Thank you. OK, well, we appreciate your time. Thank you to a great panel. We really learned a lot this morning so far. So thank you so much. I think with that, we are a little bit ahead of schedule, but I think if Phoebe is in the audience, we can go ahead and move on to our next segment. Great. So let me just give a brief introduction.

Phoebe is going to be presenting-- we can all-- yeah. Thank you. Phoebe is going to be presenting-- Phoebe is going to be doing a presentation. Phoebe Rouge is a technologist with the FTC's Office of Technology, Research, and Investigation.

Phoebe has applied her technical and data analysis expertise in numerous Commission matters, including mobile app data collection, payment processing, and debt relief fraud. So we're looking forward to her presentation today. Thanks so much. Do you-- yep. I think this is.

PHOEBE ROUGE: OK. All right. Great. So thank you, everyone, for being here. And actually, as was foreshadowed a little bit in one of the comments from the earlier panelists, it would be a great idea to actually look at all the websites of the different marketplace lenders we could find, and sort of compare as far as where there are terms.

You know, what sort of things are they displaying to consumers. So that's sort of what we intended to do here. So first of all, just going to start out, just gonna say, you know, that the findings that we have here, none of this should be implied as an official pronouncement. This is entirely for descriptive and research purposes.

So as I said, sort of what we set out to do in this study is that we wanted to find out what exactly do consumers experience when they're interacting with the marketplace lenders online. So we wanted to find out, you know, where do the consumers see the various terms and conditions of their loans, how do lenders advertise to consumers.

What types of data is initially requested by the lender, and what types of tracking and analytics might be present on the websites, because that's a pretty common presence on the web. So in going through this, our methodology was first to identify a subset of market lender websites, and I'll talk a little bit more about how we did that.

Then analyze what information we could gather about how they advertise. And then actually visit the websites that we selected, and, you know, observe what types of loans and conditions we see. And then actually go through the process and enter information into the forms on the website, keeping track of what types of information were being requested. And then while we

were doing that, we used the Chrome browser extension Ghostery to basically quantify what sort of tracking was going on.

So just to outline how we're going to go through some of the results, as I said, we'll talk a little bit about how we identified the different lenders, we'll talk about the different loan terms and how they're displayed on the websites, what sort of fees, and some data about the loan issuers. And then data about the advertising. So that includes traditional media, as well as their websites, and some social media aspects.

As far as data collection, we're going to talk a little bit about the third party tracking, and then sort of, like I said, some of the data that's actually being requested of the consumer as they're going through the initial process. So as far as identifying the marketplace lenders, the actual-- like, there isn't a strict definition that we could find easily to do this in a rigorous way, so it's still an evolving term.

It's frequently used in discussing this industry. This forum is an example of that. But it's not always necessary-- so it's not, like, emblazoned on a lot of the websites very easily to see, either. So we had to do a little work to figure out exactly, you know, what's the problem space of marketplace lenders that we're going to be looking at?

However, you know, there are some features that were already talked about in the panel. You know, the online portal is really a pretty essential aspect, and that's how a lot of the interaction and information is transmitted to consumers. Although a lot of them now advertise more broadly in direct mail, and radio, print, TV, et cetera.

And there are a variety of business models, so it's not just one way that the marketplace lender participants really operate. They have alternative credit scoring methods and underwriting. There are some that, you know, we'll talk about peer to peer lending, and there's sort of an overall theme of trying to, you know, connect the consumer with investors, so that they can have access to that capital.

So as far as actually choosing the websites for our study, the 15 that we looked at, we looked at several online lender aggregators that list a bunch of online lenders. Here's our list. The Orchard Platform, Credit Karma were some examples. And then we looked for those companies that were common to those lists, and that gave us a long list that then we excluded those companies, because we were really interested in the consumer perspective.

We excluded companies that didn't market personal loans to consumers. So for example, you know, Kabbage was a company that only marketed, that we could see, to businesses. Of course, several of them in addition to the personal loans offered many other different types, and I'll talk a little bit about that. And then to just sort of limit the number of websites that we were looking at in the study, we looked at the alexa.com homepage ranking and picked the top 15.

And the reason we did that is that-- so if you're not familiar with it, alexa.com essentially ranks the different websites by the traffic, which they gather in a variety of ways, sometimes directly from the website, sometimes through their own methods. And what they do is rank them as far

as-- essentially, which one is most popular and most visited by consumers. So we took the top 15.

And just-- so this is the list of the lenders that we looked at. These are the 15, and their Alexa ranking. And you can see there's a pretty wide range in terms of that measure, that Alexa rank. But some are actually, you know, fairly well visited websites. So here is, essentially, what I was talking about. You know, we looked at personal loans, but we also saw that the websites would mention other types of loans.

And we sort of looked at things like what's on the website-- often there would be a question, what is the purpose of the loan that you're requesting? So we categorized that into different categories, and you can see home improvement was a big one, medical expenses, debt consolidation. These were all things that were advertised as other possibilities that you could use your loan for.

So now I just want to talk a little bit about the loan terms. And this is essentially a chart of each of the companies' websites, and how many clicks it took us to find a given piece of information. So we looked at some pretty general information. So the minimum and maximum ranges for the APR, what's the least and most that you can ask for as a loan amount, as far as what fees there are.

Also, what type of credit check, or what is the impact on your credit going to be for actually going through the process. And then finally, what are the periods for those loans. And when we found that-- so I'll just take the example of fees-- a lot of websites would, on the home page they would mention no fees, or no hidden fees, or something in very generic terms about their fees.

But what we did is we were actually looking, so that at least to the extent that we could tell what are-- you know, if there was something about the fees, like actual specificity on two clicks away, we rated that as a two, because that's how long it took us to actually get the full story. Also, you see the asterisks with the threes. Essentially, that was our way of marking that.

So we only looked two clicks from the initial home page, and if we didn't find it there, we just rated it as a three, and used that for the purposes of our average. And as you can see, there's a pretty wide variety. Around the middle there's sort of a collection where it's essentially about one click in that you can find most of the information. A lot of this depends on the actual website design.

So we saw some websites that essentially are one big, very big, long webpage, and some had more structure to them, where there's different things that you have to click on. But there are also some that really, we had a bit of issue finding the different terms. I mean, one thing was definitely with the fees, it did usually take us a little time to find those.

But as far as just in terms of general description, the most frequent data that we saw was definitely the minimum APR and the maximum amount that you could loan. Those were usually the most prominent. There were three websites that, what they did is they actually took

advantage of some of the dynamic content, and they varied the APR and payment amounts that were displayed to the consumer depending on what different types of input.

So when we were doing the input, we had some different credit profiles to sort of see this thing, and what we saw was that there was some dynamic changing as we were filling it out. Only one website had sort of, that we could see, an explicit credit rating requirement in terms of FICO score. And then as far as websites-- so in terms of just the information that we're talking about here, those key terms-- so two of the websites that we weren't able to see what the maximum APR is.

The loan periods also, we didn't see those in 4 of the 15 cases. And then as far as the possible impact on the credit, as far as whether this is going to affect your credit score going, through the process, again, we didn't see that in four of the cases. And of course, you know, the two clicks is a fairly arbitrary number. There's no sort of statutory requirement here that we're trying to imply. It's more of, you know, just, this is what we were trying to do in terms of duplicating the consumer's experience.

As far as the fees and the APR's, we saw that the APR often would bundle in other fees. So for example, the origination fee, which was very common, we would see that actually just bundled into the APR, and that varied quite a bit.

As the panel was talking about, different marketplace lenders will market to different segments of the credit spectrum. But we saw a pretty wide range, so at the minimum, that ranged-- the least we saw was 4.49%, but there was one lender that their minimum APR was 34%. And on the high end, that ranged from about 12%, all the way up to about 155%. And these are the rates that were displayed on the website.

One thing we did notice is that in terms of partner institutions, as far as who issued the loan, there is actually some commonality there. So 5 of the 15 we looked at used Cross River Bank, and three of the 15 used the Web Bank. As far as a little bit about the specifics of the fees, overall, the most commons that we saw were an unsuccessful payment fee, so if you were paying your loan and that didn't go through.

Origination fees, as that's often an important part of the business model. We saw that in eight of the cases. And late payment fees were also more common, as far as being explicit on the website. One thing we did see a lot is the mention that there's no hidden fees. We saw that in 8 of the 15 cases.

So we dug a little deeper and said OK, well, when you say no hidden fees, what sort of fees are there, that are not hidden? So among these, the unsuccessful payment fee was in six of those cases. We also saw the late payment fee and the origination fee, but we also saw things like a check processing fee. So, you know, if there was an electronic debit option, there was also a check writing option, but that would be an extra fee.

There was also a 1099 duplicate fee that we saw in the terms, as far as if you were doing your taxes, and needed to order an additional 1099. They would charge you a small fee for that. And

then one of the lenders indicated that they had a fee for collections. So if your loan went into collections, that you would potentially be responsible for some of the fees for that.

So as far as the advertising, we looked at-- this is a chart of traditional media advertising, so not online advertising. And at the top is the largest spender, at the bottom is the least. And we sort of-- because there's a very wide range in the amount that they're spending on advertising, because they are varying size of companies, we just looked at it in terms of a percentage.

And sort of what we see from this chart, other than network TV advertising can be expensive, it's that there's a very wide range of methods that the lenders use to advertise. So some stay with newspapers, some advertise TV and radio. We saw some that advertised on outdoor, which is like billboards, that sort of thing. So there was a pretty wide range in the types of media choices that they used.

So we also looked at online advertising, and one way we did this was looking at a service called MixRank, which shows us Google Display and text ads. And here are just some examples of the types of things that we found. And the most common pieces of information that we found displayed in the ads, again, are the minimum APR, and the maximum amount that someone can loan.

We did see, and as you can see in some of the samples, that-- so three of the 15 actually mentioned credit scores, in terms of, you know, if you have this score, maybe you should apply here. We did notice one thing on the websites-- 8 of the 15, it was actually fairly common, show where they've been featured in other media. So sort of like, oh, and read our article in this magazine, or this paper.

And one thing we were actually a little surprised at, only 4 of the 15 that we saw actually had a mobile application. So that was something we were kind of curious about. We also looked at social media, and the way that we did this is we looked at the official feeds. So each of the lenders in the study had a Twitter timeline. So we looked at all the tweets in that timeline, and we looked at what hashtags are present in that.

And when we collected all of them, it was actually about 22,000 tweets. And we had about almost 3,000 unique hashtags, so these are the 25 most popular. And just some interesting things to note, the most popular there was actually P2P lending. FinTech shows up there. Marketplace lending as a hashtag does show up here. We also see things, you know, for other types of things, like mortgages. Student loans appears a few times. Another interesting thing I also alluded to in the first panel, millennials was actually one of the most popular hashtags there.

So, I also wanted to talk about while we were looking at the websites, we, as I said, used the Ghostery extension. And what that is, it's an extension for a browser that it blocks the third party tracking, but it also notifies you and tells you how many trackers there are, and sort of roughly categorizes them.

Just in terms of methodologically, we made sure that we cleared our cache and history between visiting the sites, just so there wasn't any information going between them. And we recorded,

you know, how many trackers there were, and then we talked about the different categories. And the way that Ghostery works is that it tells you which-- the name of the tracker, according to its database, and it categorizes them as either an advertising, which is a tracker that delivers advertisements, and I'll show you this next chart. Analytics, which is a type of tracker that is providing research or analytics for the website publisher, generally. There are also beacons which really don't serve any purpose, other than to just track and say that this person has visited this website, and requested this resource. There are some that fall under the category of privacy, and these are things like TRUST, or where privacy service is actually looking at this information to verify it.

And widgets were also a part of that. And those are things like like buttons, comment forms, things that will potentially track you, but also offer some functionality on the website. So as far as the different trackers we saw, there was actually a pretty wide variation. So some of the sites we saw as many as 40 different trackers on the website, and some had very few, so only about 5 or 6.

And one thing that I just want to say is that this doesn't say anything about these entities collecting anymore information other than that someone has visited it. That person would know that this person has visited, you know, this marketplace lender, and is possibly requesting a loan, but they don't have any other formation than that. But they still do at least have that piece of information.

And we also broke down sort of the average distribution of these types of marketplace lenders, and what the trackers looked like. So this is a comparison. So to give some context, we looked at the different categories on average that the trackers belonged to, but we also looked at some bank homepages, and the way we did it was something similar to the marketplace lender websites.

We went to the Federal Reserve site, looked at the national chartered banks, and looked for the top 15 according to Alexa ranking. And one of the things we found was that the number of unique third parties that were on the websites was fairly similar. It was 95 for the marketplace lenders, and 81 for the banks. The distribution of the advertising-- so advertising was an equally significant chunk of the tracking.

But with the banks, it was more commonly beacons were used, which are just like tracking pixels. With the marketplace lenders, there was more of an emphasis on the widgets and the analytics, which might make sense if you're thinking of these as having a bit more sophistication, in terms of how they're dealing with their online presence.

So next we'll talk about consumer data collected, and just to go over the methodology again, this wasn't something where we have any sort of inside information about what sort of data is actually being collected. What we did is we went through the consumer experience. So we went to the web page, we entered information into the form.

If we saw a prompt for an SSN or a bank account information, we didn't go any further than that. We didn't create fake bank account information, or anything like that.

We did create website accounts, though. So a number of the sites said in order to fill out the form, you know, you need to sign up with an account. We did, again, clear out the history and the cache between visiting the different sites. And just to emphasize, you know, there could definitely be additional information that's collected later in the application process. In fact, there probably is. But it's outside of the scope of the study.

We didn't see it because we didn't go any further than either the end of the form, or if they collected a social security number. So as far as the different types of consumer data that were collected-- an interesting thing here is that a lot of it is fairly basic, and very common. So things like the name, the date of birth, the desired loan amount. As far as the different colors here, just to explain that, the blue is ones that were directly on the home page.

So things like how much the loan you want, what's the loan for, and what's your credit like, generally in terms of like, low, poor, high, fair, et cetera. Those were things that appeared occasionally on the homepage. Everything else was things that we saw after going through the home page and looking at the different forms. There was a longer set of less commonly gathered things, like related to GPA, or if you have investment accounts, presence, so if you actually have a bank account, that sort of thing. But by and large, it was a very small subset that had those, whereas the most frequently were fairly common information. So just in terms of describing that, we did notice that two of the lenders, it was talked about in the panel, they redirected consumers, so when we entered our different consumer profiles with the different credit quality, we noticed that depending on what credit quality we entered, they might redirect us. So they might say, oh, you know, we can't serve you because your credit isn't the type of thing we serve, but maybe take a look at these guys.

And then 10 of the 15 would inform, and this was often part of the display, was that they informed consumers that if they enter data into this form, you know, this isn't going to affect your credit score.

So, just to sort of go through and review, what we did is we looked at the lenders, we looked at their advertising and websites, and the possible uses for the loans are actually fairly diverse. There's a big variation in how the lenders use their advertising channels.

The most common pieces of information that are seen by the consumer in the advertising, on the websites are the minimum APR available, and the maximum loan amount available. The loan periods and max APR were generally kind of the ones that we found required a little more navigation. Some websites will-- there's a range of the third party tracking that goes on. So some embed a lot more than others.

And in the initial stages of data collection, at least as far as we could see in the study, there's really a few pieces of common information that are very commonly requested.

There is certainly a longer tail of less frequently collected data elements that not everyone is collecting. So hopefully that gives a general overview of sort of what these websites look like, in terms of how the consumer sees them, what information is available, and how they advertise to consumers.

So, I think now we're going to have a short break, and then everyone has to come back by 11:15 to start the next panel. And so thank you.

[APPLAUSE]

[MUSIC PLAYING]

DUANE POZZA: If everyone could start finding their seats, we'll start the second panel. Great. So, can everyone hear me? I'm Duane Pozza, and this is Helen Wong. We're with the Federal Trade Commission. Our second panel is on the future of marketplace lending, and possible approaches for regulation. So I'll do a short introduction of our panelists.

I'll start with Conor. Conor French is general counsel for Funding Circle. He's a founding member, and serves on the board of directors of the marketplace lending association, which he's here on behalf of, a trade association that represents the marketplace lending industry. Lauren Saunders, on the end, is associate director of the National Consumer Law Center.

The National Consumer Law Center has been active in this area, and submitted comments in response to the Department of Treasury's requests for information on marketplace lending, and has raised a number of consumer protection issues that we'll talk about today. Tom Dresslar is the deputy commissioner for policy and planning at the California Department of Business Oversight. He's directing the DBO's inquiry into the online lending market.

The DBO office recently came out with the results of a survey of 14 marketplace lenders that we've heard referenced, and will talk about a little bit more today. And Brian Knight is senior research fellow for the financial markets working group at the Mercatus Center at George Mason University. He points out, unfortunately, his name part isn't accurate. It's not a George Washington, it's a George Mason. So we apologize for that.

Brian most recently worked for the Milken Institute, where he headed up the FinTech and Capital Access programs. We have a lot of interesting topics to get to, and we will have some questions that we will likely direct at one panelist in particular to kick off the conversation, but encourage people to jump in, so we have a dynamic discussion. So, Helen will kick it off.

HELEN WONG: So we heard a lot about the current state of marketplace lending in the first panel, and with the FTC's presentation. And our panelists really provided a framework for how the market is currently functioning. But for our second panel, we're hoping to dive a little deeper, to look forward a bit and figure out implications for consumers as the market continues to evolve. So Tom, I'm going to start with you.

The California Department of Business oversight conducted a survey of marketplace lenders, and found that the volume of marketplace lending transactions increased nearly 700% from 2010 to 2014. Given that some marketplace lenders had a rocky spring, do you think that we'll continue to see this type of growth in 2016 and beyond?

THOMAS DRESSLAR: Crystal balls are always a little tricky. But I think-- the general sense I get from folks in the industry, and, you know, analysts, what have you, is that no, you're not going to see the salad days of, you know, say, the beginning of 2015. We're likely in a-- not we, but the industry is likely in a period of slower growth, of maybe some consolidation.

And what they hope for coming out of that is the survivors will be right sized, operated properly, and eventually the industry will enter a sustained period of growth. But I don't think we're going to see the astronomical growth rates, at least in the near term.

HELEN WONG: So I'm opening up this question to everyone, then. So do you think these changes with potential contractions, how would that affect the consumer experience with marketplace lenders?

CONOR FRENCH: Well, I guess-- I just wanted to point out that the inquiry itself is only focused on 14 specific emerging online lenders, and so the sort of radical numbers and growth rate are probably reflective of the maturity of the companies being studied, as opposed to necessarily indicative of the lending industry as a whole. So I don't know what those statistics would look like.

I also think, you know, one of the things that I would like to see sort of coupled with this inquiry, as well as sort of all inquiries is a little bit of sort of a dual focus around access to affordable and safe credit, because I think that sort of a singular focus on just the consumer protection often leaves so many people under banked and underserved, and that leaves them more vulnerable to the type of predatory practices that you're actually trying to prevent.

HELEN WONG: OK, so let's expand on that a little bit. You're talking about expanding credit to more consumers, and in the first panel we heard that marketplace lenders are currently focused more on prime consumers. But as the market continues to evolve, will marketplace lenders start reaching out to different groups of consumers other than those currently being served, which is mainly the prime consumers?

CONOR FRENCH: I'm sorry to jump back in. I mean, I think we're in a period where that would be incredibly challenging, to go down the credit spectrum. We talked earlier about something like Madden v. Midland. That creates so much uncertainty around what standard applies. Is it a federal standard, is it a state standard?

You know, will the Second Circuit hold-- that I don't know how you could responsibly provision credit down the spectrum until somebody clarifies what rules you're supposed to abide by when you do stuff.

HELEN WONG: Brian, you look like you want to jump in.

BRIAN KNIGHT: Yeah. So I mean, the first panel mentioned that there was some research coming out, and the representative from the Treasury Department demurred. But I don't work at the Treasury Department, so I can talk about it, which is that some researchers looked at the

provision of credit in the Second Circuit, post Madden v. Midland Lending by the top three marketplace lenders, compared to the rest of the country.

And for higher credit loans, there's really no difference in terms of growth. But as you go down the credit spectrum, the provision of credit drops off a cliff in the Second Circuit. And the trading of secondary loans for Second Circuit notes with interest rates above the New York cap-- so the loans that are called into question by the Madden decision has slowed down for non-performing loans.

So we're seeing here, you know, the market is reacting, and you're seeing a drying up of credit. You're also seeing, as there's concerns about increased risk sort of globally, that investors are demanding a higher return. And that is exacerbating some of the funding challenges that these marketplace lenders are finding, is that they're having to raise interest rates on their loans, which is narrowing credit availability, it's raising costs for people.

And so the uncertainty, the market uncertainty in terms of how are these loans going to perform, is the underwriting sound? And then the regulatory uncertainty about, well, which of these loans are valid? How is this going to be regulated going forward, are both putting pressure on credit access.

THOMAS DRESSLAR: We've talked a little bit about Madden as a shorthand. I just want to, as this discussion continues, maybe to spend a minute talking about how the Madden decision affects the access to credit, or the market.

BRIAN KNIGHT: Sure. So the Madden decision does not by its terms deal with marketplace lending, but what it calls into question is whether or not a bank, in this case a national bank, but state chartered banks, have similar provisions, can originate a loan under the laws of their home state. Under federal law, these banks can export their home state interest rate nationwide.

So they can make a loan that is above the state usury cap. Then the question becomes, well, can I sell it to a non-bank, and the non-bank still collect on that interest? And so if the answer is yes, and this is the model that some of the marketplace lenders have been using, is they will get Web Bank or Cross River to originate the loan, buy it, and then continue to operate the loan, service the loan, collect interest.

If the answer is no, that I can only collect this level of interest if I'm a bank, then that calls the bank partnership model into question. And that's not the only model available, but it is one that's used by a lot of consumer oriented lenders.

LAUREN SAUNDERS: Can I jump in here? So, the marketplace lenders that we're talking about, none of them are banks, right? Almost by definition, they're this new industry that is competing to provide access to credit to places that have been underserved, and I certainly would recognize that there are markets that have not been well served by the banking industry.

What they do, typically, to avoid having to comply with state interest rate caps is the whole show is mostly being run by the marketplace lender, but there is a bank involved very briefly in the

process to originate the loan, and as we heard on the prior panel, sell it within a couple of days back to the platform, or the investors on the platform, in order to have the loan originated by the bank, and not have to comply with state interest rate caps.

Now, we are a supporter of state interest rate caps. We don't have caps at the federal level, and caps are critically important to protect consumers. And as I would imagine, a number of you in the room are also looking at CFPB's payday loan rules. And the more I work on payday and the CFPB rule, the more I appreciate interest rate caps. They're really simple, right? We all know what it is, it protects people against high interest lending.

We don't have to have a lot of complicated other rules, and they also really provide a function to ensure that loans are underwritten for ability to pay. Because if you can't charge sky high interest rates, then you can't sustain high default rates. Pivoting back to Madden, I'm familiar with the study that Brian just mentioned, but we heard on the earlier panel that the marketplace industry really is not lending in the subprime space right now.

They weren't before, and they're not now, and you probably can't really see this little chart from the study he talked about, that I just happened to have printed out this morning, but the amount of lending that was going on in the sub-625 FICO score area before Madden was really minuscule. And yeah, I'm sure it did drop off, but we don't think the answer to serving subprime customers is charging really high rates above 36%, and just tolerating high defaults.

And of course, on bigger loans, even, depending on how big you get, even 36% could be rather high.

BRIAN KNIGHT: Yeah. We should note that, one, the lenders' interest rates in this study capped out at about 36%. And two, the risk is not that they're currently what we would define as subprime lenders-- she's right, there aren't that many subprime lenders loaned to by the three in the study. But what you're seeing is reduction in credit for near prime, and sort of the lower primes.

So you're expanding, or you're cutting off credit to higher and higher groups. And so that is, I think, a challenge. And if you're not able to-- with any lending you need a willing borrower, and you need a willing lender. And so to entice credit into the market to lend, you need to compensate them. And interest rates are the primary way to do that.

And if you see in areas where there are rate caps, that if the rate cap is above what sort of the natural rate of credit is, no big deal. If it's a binding rate cap, you can see declines in access, and you also see changes in the structure of the loan. So you see changes in things like fees, where the compensation isn't technically interest, but there's still compensation.

So one question that I think we need to ask is to the extent that we're going to impose interest rate caps, what is the real result of that? Do loans become more complex, because all of a sudden I can't get it in interest, so I'll get it in fees? Or do you see people cut off from credit?

HELEN WONG: So I want to transition a little bit. In addition-- for this same group of consumers, a lot of them might need small dollar loans. And Tom, I want to ask your opinion about this. Do you think that marketplace lending will move into this area, toward more small dollar loans?

THOMAS DRESSLAR: Well, first of all, to the point Conor made earlier about access to credit being a part of the inquiry-- I mean, we've said from the get go that, you know, the folks that we're looking at have definitely stepped up to fill some gaps. Not just on the consumer financing side, but also on the small business financing side, and we have no interest in squelching that.

We want to encourage it. With respect to the question on small dollar lending, that's another way to look at the access to credit issues, not just FICO. You know, prime, sub prime, what have you. In California, our market for under $2,500 unsecured loans has pretty much been broken for years, and the result has been that consumers have been forced to-- to get the financing they need, they have to go to payday lenders.

Just to give you some numbers, in 2015 the folks who are licensed under our finance lenders law, which is the non payday law, so to speak, in terms of under $2,500 loans unsecured, they made 450,000 of those loans. Same year, 2015, there were what 12.3 million dollar payday transactions in California. So that's 12.3 million versus 450,000.

The principal amount, same kind of disparity. 312 million for the non-payday, under $2,5000. For the payday loans, $4.2 billion. So we have got to figure out a way to fix that, and-- as part of our survey, we asked the 14 lenders, you know, how much business are you doing in the under $2,500 space? And the numbers were puny.

So at some point, we're probably going to be interested in sitting down with not just those firms, But others that are interested, and figuring out why it is that you can't make it work under $2,500. We're aware of some of the economic imperatives that make it tough.

But let's sit down and have a good conversation, and figure out how we can work together to improve, so folks don't have to rely on payday lending.

LAUREN SAUNDERS: Can I just make two quick points? And I don't want to hijack this whole panel about interest rates. Let me just say that there have been studies that show that bad loans drive out good, and the high rates that are available, you know, on payday loans, can drive out better rates. But we're happy to see the marketplace lending industry move in at the kind of rates we talked about on the previous panel.

And my biggest concern is that it's a model that is being emulated by the payday industry to make loans of 100% without complying with state laws.

HELEN WONG: So Conor, I want to follow up on this point that you brought up earlier. So do you think marketplace lenders have the potential to provide credit to historically underserved communities that for some reason right now don't have sufficient access to credit? And if so, do you see any roadblocks for marketplace lenders moving in this direction?

CONOR FRENCH: Yeah. And, you know, so outside the scope of our discussion today, you know, at Funding Circle we focus on small business credit, which we think is a historically underserved, at least for the past couple of decades, segment. So I think that that's one area in which we can stay in the prime and near prime, and still have an impact on the underbanked community.

Within consumer, I think a lot of the reticence to go down the credit spectrum is that it's difficult to know which rules are going to apply to you. We, for instance, at Funding Circle, don't actually issue through a bank. We issue through our own licenses, and it is very difficult with the sort of latticework of different state laws. And that's even more complicated for a consumer lender.

And so without knowing how all of the different laws apply as an emerging company, it becomes very difficult not only to lend down the credit spectrum, but also to market to folks there.

And so one of the areas, one of the things we've talked about that-- in these types of discussions here is emulating maybe something that we are seeing in the UK, which is the idea of sort of a regulatory sandbox, or the idea that different regulators are coming together, collaborating, and saying, OK, here's all the different perspectives. These are the things that are going to apply, and we're going to give you a space to sort of test out innovation.

BRIAN KNIGHT: And I think from what we're seeing, there are sort of two challenges. The market challenge, right? Can I get someone, an institution, an individual, venture capital, whoever, to fund these loans, or fund me while I make these loans? Is the return that I'm going to get on these loans sufficient to attract that dollar?

And then, on the regulatory side, as Conor mentioned, you know, there's the questions of can I make a loan that's profitable? And that gets to fees and caps, and all of that. And then there's the question about uncertainty. Am I running a risk of, you know, facing an enforcement action, or something like that? And is the risk worth it to engage in this particular segment of the market?

And if the answer is no, then people are just going to compete for that prime, super prime space, because it's safer. And as we see, if we see a continued pullback in funding in the marketplace space, my concern is that you're going to see a flight to relative safety, and people compete more and more for prime, and be less and less willing to try to expand out to lower down the chain.

LAUREN SAUNDERS: A couple comments I do think there is work that we can do to streamline the process of lending in 50 states under state laws. The conference of state bank supervisors has a multi-lender database licensing system that's been used to simplify the process of getting mortgage licenses, and they're expanding at different kinds of loans, and other kinds of financial products. And I think this work that can be done.

They make it easier to get licenses without having to go through 50 completely different processes. I also think, you know, as we talk about going down the credit spectrum, whether you can really come up with a model that truly underwrites for ability to pay is a real question mark. It's not that hard to assess the credit worthiness of a prime or a super prime borrower.

And we heard on the previous panel that it's largely FICO score, and kind of traditional processes, with maybe a little bit of alternative data thrown in to validate the identity of the lender. But when you've got somebody who's got a documented history of having trouble with credit, then finding which of those people can handle credit is not an easy matter, particularly when you're doing it online and you don't have the relationship.

It's tough, and online payday lenders are as bad as storefront guys are-- the online ones are a lot worse. And if those loans go sour, it gets really rough. So whether we would love to see reasonably priced loans, you know, made down the credit spectrum, but first and foremost, you gotta make sure that somebody truly can afford to repay the loan, and not just credit at any cost.

CONOR FRENCH: And so to add on to that, I think one of the tensions we're also seeing that's going to be very germane to this group of people here is that more data is what's going to allow a lot of people to lend down the credit spectrum. However, it also presents consumer privacy concerns. So for instance, the ability to report, for instance, or mandating reporting of utility bill information and repayment information.

That could go a long way towards making a lot of credit invisibles have a credit track record. However, that can be very complicated from a data sharing perspective. In the small business world, like, we know from the White House that they have the ability to share small business tax returns through an API. That would level the playing field for small business owners to have many more competing options of people who can underwrite their data easily.

You know, but I'm not sure that the government is willing to do that, or to act on that now. So I think that our ability to create a world in which we can have more data, but have that data safe and respect consumer privacy, would be very, very helpful in having responsible underwriting as you go down the credit spectrum.

BRIAN KNIGHT: Well, and I would say one other thing on this is I agree that it is a challenge to underwrite this in a way where the borrower feels comfortable, and the lender feels comfortable, and you have enough interest to make this work. But part of the challenge is that because this is risky, and because it requires deviation from sort of the tried and true, well vetted prime models.

That might require more regulatory forbearance, where companies have to say, I at least need to know the rules. And if I know the rules, I can decide whether or not I can do it. But if I don't know the rules, or if the rules-- if I feel like I can't do this without risking litigation or enforcement action, then they won't do it.

And that might be a choice to be made, is where do we want to draw the line between risk and access? But we should at least acknowledge that there is that choice that's going to have to be made. There is a trade off.

DUANE POZZA: We've talked on this panel and the previous panel a little about looking at alternative sources of data as a way to possibly expand the pool of consumers who might be eligible, or determine creditworthiness of consumers who maybe have thin files, or not much of a

credit history. Does that raise, and this could potentially involve gathering a lot more data-- I have a two part question.

One is do you think that the market is moving that way, in terms of new marketplace lenders moving into this space? And second, is that raising any particular concerns about the security or the privacy of these consumers, if this kind of data is being collected? I guess I'll ask Conor first.

CONOR FRENCH: Sorry, I missed the beginning.

DUANE POZZA: The first is do you think that the market will move in that direction, of new entrants, or maybe established entrants are looking to innovate as they go down the credit spectrum, or expand other communities, try to use alternative sources of data? These new kinds of data you were talking about.

CONOR FRENCH: Yeah. No, it's an excellent question. I think a lot of-- sort of rewind a couple of years, and I think that the alternative data was more headline grabbing than actually used. I mean, it was these sort of great headlines about, you know, Yelp reviews, and all of these different things. And particularly in consumer, the underwriting for consumer loans is pretty commoditizable, and often easier to automate based on FICO.

So I don't know that people are using alternative data in as many ways as people think. I do think that it is a challenge for fair lending to adapt to that. You know, there is the notion of modern day redlining that people are concerned about, and we would like to cooperate. And I go back to being able to collaborate with regulators to figure out how to apply fair lending, you know, would be very useful for the industry as a whole.

But I think there are other issues with fair lending, for instance, that it doesn't protect discrimination based on gender identity or sexual orientation. So there's a lot of other ways in which it would need updating as well. So I think that the use of alternative data is probably-- could be both better understood with cooperation with regulators, and or sort of eliminated if it was not seen as valuable, by replacing it with more reliable data sources that are not currently available.

LAUREN SAUNDERS: So I think using alternative data does pose a number of issues. If we can find data that is truly accurate and doesn't discriminate, and results in more accurate underwriting decisions, I think that's a good thing. But there are a lot of open questions. Some have proposed mandating utilities to report to the credit bureaus, and our office focuses on lower income consumers.

We actually do a whole lot in the energy and utility space, and there are a lot of people who don't become so delinquent that, you know, 90 days, that they would be reported today, but in the winter, when their bills spike, you know, they don't necessarily pay right away. There are repayment plans and utilities that help people keep the heat turned on, that help seniors, and mandated reporting would actually lower the credit scores of a lot of people, especially people of color.

Or might give credit scores to some people who don't have them, but they might be bad scores that nobody in this panel's going to be interested in, but might put a big target on their back for predatory lenders. So we do have concerns about utility credit reporting. As far as other alternative data, we've gotta make sure it's accurate, it's used responsibly, people have the chance to correct errors, or the assumptions that are made based on the data.

We did a report a couple of years ago where some guinea pigs in our Boston office asked for their data, or their quote unquote credit reports from some alternative data sources. These were companies that purported to be able to estimate somebody's income, or their education level. And we were really quite shocked at the inaccuracies that came back.

There are people who had twice as much, or half as much income, or wildly different education backgrounds. And it's not even clear that you have the same sort of rights that you do under the Fair Credit Reporting Act when that sort of data is used. You know, depending on who's using it how, they're using it, it might be covered by the FCRA, but they're probably not complying with it.

It might be technically outside the FCRA, but we need the same source of protection. If I'm turned down, or I get a higher rate because of this secret sauce of data, I should be told that. I should be told, you know, what the data was used, and what assumptions were made, and have the chance to correct it if it's wrong, or to learn, you know, if it was correct.

We don't have those protections today if you're outside the FCRA, and I think we don't have an easy way to mesh the FCRA with big data. It's not like just turning over a simple credit report. They're not going to turn over their whole algorithm. So it's a very complicated area, and definitely having more regulator scrutiny and understanding, and yeah, absolutely.

Working with lenders to know how it's working, what the disparate impacts are, is very important.

THOMAS DRESSLAR: On this issue of the secret sauce, that is one of the focal points of the follow up questions that we sent to the 14 companies as part of our inquiry, the underwriting secret sauce. And you know, we're looking at it from the perspective of tell us exactly how your policies and procedures give us the documents to back it up. How they ensure compliance with the Equal Credit Opportunity Act, the Fair Credit Reporting Act, Regulation B.

So hopefully we will get some good answers from that process.

BRIAN KNIGHT: If I could just add one thing, which is I think it's important we recognize that accurate credit scoring is also consumer protective, right? Credit scores, and, you know, prices for credit, and all of that signal to the borrower the risk that they're taking on. And having borrowers operate without the best information is going to-- I mean, credit scores are probabilistic, right? They don't predict with certainty what's going to happen.

They tell you sort of how much risk you're running. So the person who is currently incorrectly scored as safer than they actually are, it might be fine. But they also are not appreciating, or not

understanding, or not receiving information and feedback about the risk they're running. And that may set them up for trouble. I mean, you know, this country went through a phase where a whole bunch of people took out a whole bunch of debt, thinking it was safe, and that ended in tears.

So, you know, I think we need to be careful. I completely agree about inaccurate data, or anything like that. There needs to be an opportunity to see, an opportunity to challenge-- agree. But we should be careful about anything that discourages the most accurate underwriting available.

DUANE POZZA: That's a good transition. The treasury report flagged that a credit downturn could put pressure on the business models of a lot of marketplace lenders, because of the increased risk of defaults, and issues related to that.

How well equipped are marketplace lenders to deal with increasing numbers of defaults, which would affect both servicing and potential debt collection issues, even in near prime, or possibly for those lenders who are a little bit below that in subprime? And are their consumer protection issues that could arise if we go through a credit downturn? And I'll turn it to Lauren first.

LAUREN SAUNDERS: You know, I don't have enough intimate knowledge about the servicing practices, or the system set up by the lenders to comment about whether they're prepared, but I would say I'm very worried about it. It is a model of originates, securitize, and sell, that tends to be focused more on volume, rather than keeping the loans on your books, and being in there for the long run.

It's a model that turned out to be problematic in the mortgage market, so we've got to be worried about weather these loans are really underwritten for the long term, and whether there are systems to work with people when they get into trouble. I mean, even if you do your absolute best job today at assessing a borrower today, people are not static. They're not in the same situation six months, a year, two years from now than they are today.

In this economy, a lot of people don't have a steady paycheck that doesn't change. We know people-- we see the Uber economy, the steady job is sort of disappearing, and so being able to work with people down the road as they hit a bump, and not just push 'em off the cliff, I think is really important. A lot of the lenders, I think, very quickly sell debts as soon as they get into trouble to debt buyers, and that is very problematic.

The debt buyer industry has a huge, you know, complaint problem. The FTC certainly knows that very well. They get a lot, a lot of complaints about the horrible debt collection abuses by debt buyers.

And, you know, if a lender is collecting their own debt, they've got to be a little more careful, because they've got a reputation to protect, and maybe they want the person to come back. Debt buyers, they don't care. They just going to squeeze that rock as hard as they can to get their money.

CONOR FRENCH: So to jump in-- and I apologize, I did want to respond to a couple of things, because I've heard the word secret sauce now sort of six times or so between the two panels, and I do want to assure folks that financial innovation is about more than risk innovation. It's also about a lower cost structure. Think about what you earn currently from your bank in a savings account, and then think about what that bank would charge for a loan.

That's a massive delta, and shows how much of the APR is attributable to branch networks, and other things that you are not using, especially if you're a millennial. So it's not just about secret sauce. There's a lot of other advantages in marketplace lending. The second point was that-- and this is maybe semantics, but regulatory scrutiny is here. I mean, every day there's another article about a different type of inquiry.

So what I'm talking about is not more regulatory scrutiny, it's cooperation among regulators. And that's not to say people are opposed to that. Both the treasury white paper, wanted to see more of that, as well as the OCC's paper on responsible innovation. I think that's very different than scrutiny. It's buy in from the regulators to try to work with the industry to solve some of these issues.

Sort of turning to the actual question, you know, the marketplace lending model, sort of compensation model, I think, does a lot to motivate us to have performing loans, and to have alignment with both our investors and our borrowers. We earn an origination fee, but we also earn a servicing fee on performing assets. So that keeps a dual alignment with both sides of the marketplace.

In addition, because we're using technology enhanced credit analytics, we're refreshing our risk models all the time, based on performance, so we're able to adapt to changes in the macro economy much quicker than a traditional lender would be able to be. We're also using that same level of investment in technology in our servicing.

Also, a major difference is that we retain the servicing rights to these assets, so the borrower is not suddenly dealing with a bunch of different people, or not knowing who they have to deal with to service their loans. You know, that's us. Now, you could argue, what if we go away?

But all of-- if you read sort of the operating standards of the MLA, one of the most important things we can do is have business continuity plans that involve backup servicing arrangements, so that if we were taken out of the equation, there still would be somebody to connect that borrower to that investor, to make sure that we could service that asset.

BRIAN KNIGHT: I think one other thing to point out is a lot of these marketplace lenders are moving to some sort of balance sheet model, where they do retain the loans on their books. But even with the securitization model, because they're a mono line business, right? This is their business-- the market is there, is going to provide sort of more discipline on a whole than if it was a multi-line business. We're like, well, our lending is kind of slipping, but we have deposits, we have this other stuff.

And we see this-- we saw this in sort of the winter of marketplace lending that happened this year, where Citi pushed back on a series of securities, saying this isn't good enough, there's too much default. You're seeing a lot of these lenders really react very quickly to emerging credit situations. So, you know, I'm not going to say, like, oh, it'll be fine, because I don't know. But you can see that they are sensitive to these issues. They are reactive to these issues.

LAUREN SAUNDERS: Can I ask a question? For those that are securitized, what ability does the servicer retain to work with the borrower? Is there any ability to modify the loan, allow them to skip a payment? You know? Or do we have the same kind of problems that we have with mortgage security?

BRIAN KNIGHT: Well, and I just want to be clear, this is actually a little outside of my expertise, our platform does not securitize the loans. But that would depend, I guess, on the service agreement, the terms of the servicing agreement. And so yes, you could, if you wanted to ensure specific protections, I think that would be a very valuable move by the industry to eventually move toward standardized terms of some of the agreements--

Perhaps the warranties, the things that you're able to do. And that would be something that I think any responsible participant in the industry would be supportive of, as long as it was done thoughtfully.

HELEN WONG: So I want to expand on some of the points that Brian and Conor brought up. In the past few years we have seen more collaboration between marketplace lenders and banks, and traditional lenders, including a few cases of partnerships with large banks, and many partnerships with smaller banks for purposes of originating loans. So do you think these types of partnerships are likely to continue or expand? And we'll start with Tom.

THOMAS DRESSLAR: I'm gonna get in trouble for saying this, but when we have roundtable discussions with the banks that we regulate, which are basically state chartered banks, and as the issue of online lending comes up, there's still kind of a posture of talking about how they need a level playing field, and not really, you know, talking about how do we, you know, join the club, so to speak.

Probably not the right term, but, you know, get serious about developing partnerships with online folks. So, you know, it remains to be seen. I think the trend is kind of-- maybe not necessarily with us, community, banks state chartered banks so much, but you know, like JP Morgan on deck, those kinds of relationships.

But I think there's still a ways to go, at least from what we've seen in California, with banks really being aggressive, moving toward partnerships.

HELEN WONG: So Lauren, if these partnerships continue, what kind of implications do you see for consumers?

LAUREN SAUNDERS: Well, you know, there are a range of different kinds of bank partnerships. You know, at the one end of the spectrum, you have the bank that just very briefly originates and holds the loan, primarily for the purpose of evading state interest rate caps.

At the other end of the spectrum, you could have a marketplace lender white labeling a product offered under the bank name, or vice versa, it being used as a turndown product, and all sorts of things in between, in terms of using different aspects of the technology. So, you know, there can be certainly benefits of the two industries learning from each other, and collaborating.

We do worry about the bank partnerships that are used to evade state interest rates, and as I said, I mean, there's one on the market right now. Maybe not a marketplace lender-- that term is kind of vague, but an online lender, at least, lending at 100% APR and more by using a bank.

But we also want to make sure that there is adequate supervision, and having a bank partnership does have some benefits that you do-- you have the due diligence of the bank, and you have somewhat the eye of the bank regulator. I don't think it's quite the same thing as having the lender directly examined, even if the regulator retains the theoretical ability to examine the lender.

For the most part-- or excuse me, the platform. For the most part, they're looking at the bank, and they're looking at it from the perspective of safety and soundness from the bank, and not necessarily directly examining the marketplace company, and its direct interactions with consumers.

And I think that's a place where the states are important, and the inquiry that California is undergoing right now, as well as the Consumer Financial Protection Bureau, which we'll be doing a rule making later this year to begin examining installment lenders, including marketplace lenders.

BRIAN KNIGHT: So if I could key on something that Tom said about the need for a level playing field, and you know, I mean, I agree, there needs to be a level playing field. But the important thing to remember is that regulation is there to address risk. It's not there to make it so that everyone has an equal chance at winning. So a model that produces less risk, or different risk should be regulated differently.

And banks, being depository institutions, funding loans from deposits that are entrusted to them for safe keeping and access, compared to marketplace lenders who take risk capital, where, you know, if I give it to a marketplace lender, I know it might go away. Whereas my deposit is not going to go away, because the taxpayers are on the hook for it, that those produce different risks.

You know, the treasury report made clear that these marketplace lenders are under all the federal consumer protection laws, right? So when we talk about regulating them, I think we really need to-- it's not a good idea, I think, to just look at sort of the bank model, and just port that over and drop that on, because they're different models, and they generate different risks, and the regulation should reflect that.

DUANE POZZA: So we have talked about the various consumer protection laws that apply, regardless of whether or not the entity doing the lending is a bank, and they apply to the non-bank sector. That includes section of the FTC act, EFTA, TILA, FCRA, ECOA, FDCPA, individual consumer loans. So my next question is about regulation more broadly. Do you think-- it's two parts.

Do you think marketplace lenders currently in the market are aware of and complying with these, or are there some bad actors out there? And do you think that any additional sort of consumer protection regulations or forbearance is appropriate in this area, given the way the market is evolving? And I'll ask Brian first.

BRIAN KNIGHT: So I mean, I believe that most of the marketplace lenders are aware, and are doing their best to comply. And is there a bad actor somewhere? Possibly, but there are bad actors among banks, and among established institutions as well. But from what we're seeing, there really does seem to be an effort to comply in good faith.

I think I would change the second part of your question just a little bit, and say not necessarily is it under-regulated, or-- because that implies a one way ratchet. I think it's mis-regulated. The space is mis-regulated. I mean, you know, this may come as a surprise-- I agree. I also am not a fan of bank partnerships, but for the exact opposite reason, which is that I feel that they do represent a need to get around mis-regulation, but you shouldn't have to go through that.

Instead, there should be a federal standard with appropriate federal regulation keyed to the risk generated by these models. So things like standby servicing, in case the marketplace lender fails, is important. But if they're not taking deposits, then the stuff related to deposits isn't. And so that is one thing I'd say.

The other thing I'd say, as I mentioned earlier, is to the extent we want these lenders to move outside the sort of well understood, safe, you know, confines of prime underwriting. We need to be willing to-- the regulators need to be willing to allow that to happen by providing clarity, if nothing else, as to what they can do and what they can't do, so that they're not risking the fate of their company by trying to move into an underserved, and not necessarily super profitable space.

LAUREN SAUNDERS: So I can't really opine on whether the lenders are aware of the laws, or complying. I would imagine most of them certainly are aware of the laws, and I think the areas where there may be some questionable compliance issues, maybe questions of interpretation of the law-- I think we heard on the last panel the question about regulation E and compulsory electronic payments, which is prohibited under federal law, and yet it's basically happening.

And, you know, I would probably argue, and I have not gone on to any of the lenders' websites or tried to do it, so I can't opine on about what you're doing, but it's our opinion that a default electronic payment violates regulation E, and making it so difficult that you really can't do it any other way would also, I think, be a compliance issue.

Now, you know, I certainly recognize that automatic payments can be easier for everybody. Certainly make the lending model work better. But we also worry about obviously predatory lenders doing it, and, you know, the consumer being in control of their bank account.

And personally, even the loans that I pay automatically, I do it through my own bank's website, so I can control it. And the fact that there's a little bit of risk there is actually part of what enhances the incentive to do good underwriting, too.

DUANE POZZA: We've heard a little about-- regulatory uncertainty has come up a few times, and I just want to flesh this out a little bit more, especially because there might be some regulators watching, or in this room. From the perspective of the consumer protection laws, do you see a lot of regulatory uncertainty in this area? Is it a matter of how things are interpreted? Or do you think that that has more to do with sort of other aspects of risk regulation, or the like? And I'll ask Conor first.

CONOR FRENCH: So I would point out to start that there are five federal regulators of depository institutions, an additional 25 federal agencies that touch consumer finance, and 50 plus state and territory counterparts that also monitor consumer finance. So part of the question is who is regulating what, and there are quite authoritative GAO studies that show that there's a very fractured and overlapping jurisdiction among financial services regulators in this country.

So I think that's one issue, and that's-- taking my experience in the UK, where we are regulated directly by the Financial Conduct Authority, we have a much easier time figuring out what are the customer guardrails that apply to a specific thing than here, where we are trying to read between different things.

I think the other issue, and I mentioned this in passing to Helen was sometimes because some of the regulators don't quite understand the industry, but from talking to them, they do understand when someone's a bad actor. You're seeing enforcement drive what you're supposed to do, as opposed to sort of principles, and understanding those, and then sort of complying, trying to comply with those.

So you're seeing the example made of bad actors to regulated industry, which I do think ends up with an uncertain message, instead of going with sort of a more principals based approach that focused on transparency, the borrower's ability to understand the product. Fairness. You know, are you doing responsible underwriting?

Is the product suitable for a borrower? Things like that, that I think would be guideposts that every regulatory agency would support, and would be a lot easier to understand over time for the industry.

LAUREN SAUNDERS: I always find it amusing to hear this conversation, because I think when we're talking about regulations that are about to be proposed, we hear this is too strict, just go after the bad actors. Just do principles. When, you know, the agencies do principles, we hear it's too vague, what do you mean? I don't know how to comply.

When they do enforcement action, you hear you're regulating through enforcement, so, you know, agencies will get criticized no matter what approach they do, and I think we knew all of it. I agree with principle based regulation. I think it's really important, because we can't have a specific rule for every situation. When we know there are problems, we need specific rules.

And for the most part we actually do have a set of consumer protection laws that apply here, with some uncertainty about state rate caps and the situation there. I think that the data is an area where there's uncertainty. And could I just raise one other issue we haven't touched on at all? In the student loan area, there's a special concern about refinancing federal student loans.

Because federal student loans come with really important protections if somebody gets into trouble, and the right to income based repayment revisions, and even loan forgiveness in certain situations. And if you refinance out of a federal loan, even at a lower rate today, you may be in trouble down the line. So that's not a specific law, but it does raise concerns.

DUANE POZZA: One of the specific issues we talked about on the consumer protection front was fair lending, obviously ECOA, and fair lending laws apply. And one question we have is whether or not there needs to be greater transparency in the algorithms, or ways in which credit decisions are made, so that there's a way to sort of scrutinize whether or not there are violations of fair lending laws.

Or are there other approaches that would enable regulators to look at this and determine whether or not they have any fair lending concerns? I know California has collected information on this, so I wanted to ask Tom, first of all, is there a greater role for regulators, or in looking at creating greater transparency as to these kind of decision making?

THOMAS DRESSLAR: Well, we're still in the process of gathering information, so I think it would be premature to make any assessment on that front. I would say, you know, getting back to the prior discussion-- I lost my train of thought. Oh, the enforcement based versus principle based regulation.

You know, principle based regulation is fine, but if we as a regulator see problems out there with compliance, and our consumers are being financially harmed, we're going to go after it.

That being said, our overarching objective in this inquiry is to determine the effectiveness of the current regulatory regime, and so to the extent that we identify gaps and problems, we're perfectly willing to sit down with the industry and have a conversation about, you know, how do we develop, erect the most effective regulatory scheme possible?

But to do that, to be equal partners in that discussion, we as a regulator need to continue gathering the information we need, so that we fully understand how the various models work.

HELEN WONG: So, Conor, I want to ask you about some examples of self-regulatory approaches that market lenders have started using.

CONOR FRENCH: Perfect, seeing as I'm here on behalf of the Marketplace Lending Association. That's one I'm actually going to rewind a little bit before that. You know, last August we worked with several other-- well, one other marketplace lender, Lending Club, and then several other mission based lenders, Axion and Opportunity Fund.

And then some small business advocates to launch a small business borrower's bill of rights, which, you know, recognizing that there aren't the same enhanced customer protections within small business lending, we wanted to articulate sort of clear self-regulatory standards that would be sort of an industry baseline for how we treat our customers.

Because again, there are many responsible innovators out there that really, really do want to treat our customers fairly, and protect their financial well-being. Sort of based on that, we did realize that this is a broader conversation than small business lending, and that's why I'm sitting here today. You know, that may be the industry of funding that the vertical at Funding Circle is in, but it's a broader conversation about how our financial system matches supply and demand.

And so we built the marketplace lending association, again, with two other marketplace lenders, Prosper and Lending Club, in order to have a more sophisticated dialogue with a broader constellation of regulators, which is something, obviously, is near and dear to me.

But then also to put forth operating standards that go, actually, above and beyond what we believe is required by law, in order to sort of run the full gamut of what does it mean to responsibly innovate within online lending. And we came up with a set that was focused on both investor protections, focused a lot around transparency, and particularly in the wake of the recent financial crisis.

We also had some of the same borrower principles around suitable products-- responsible underwriting, transparency in loan terms. Finally, we wanted to look at what is the concept of safety and soundness mean, or prudential regulation mean in marketplace lending, where you're not taking insured, federally insured deposits?

And we came out with this idea around continuity, and backup servicing arrangements to make sure that if we vanished, we wouldn't leave any of our customers, both borrowers and investors, somehow in the lurch.

HELEN WONG: So you've talked a bit about these operating standards, but are you concerned about free agents who might not follow the standards?

CONOR FRENCH: Certainly. You know, certainly, and that's why we're going to be careful before we expand membership. We want to make sure that we have in place the type of process that we can feel comfortable that folks are abiding by those standards.

With the borrowed bill of rights, you know, by virtue of its sort of limited funding and bandwidth, we had to sort of follow a system that was self-sanctioned so the CEO of each signatory would make a public disclosure of their adherence.

You know, with the marketplace lending association, we're going to go deeper than that, but we're in the process of recruiting and hiring an executive director, and we want to be able to bring that person in before we decide sort of the major strategic direction that something like membership criteria enforcement would take.

HELEN WONG: So I want to open this up to everyone, but can there be one consistent approach with all the different marketplace lending models, and the different niches of consumers that are being served?

BRIAN KNIGHT: I think it depends on at what level of abstraction you're operating. I mean, prohibiting unfair and deceptive trade practices is a pretty good model. You know, it provides for enforcement and protection against someone lying to you, or deceiving you, or something like that.

If you really want to get into the weeds, and I don't necessarily think that's a good idea for regulation, then yeah, the differences in the models are really going to-- and the markets, and the economic realities of the marketplaces that are served are going to necessitate different treatment. But if you want to have sort of a broad principle, then don't lie to people, don't take their money without them realizing it, don't deceive them is a pretty good way to go.

LAUREN SAUNDERS: Make sure they can repay their loan, and work with them when they get into trouble. And let me also say that for a new industry, you know, obviously the bad actors hurt the industry, and bad practices hurt the industry. So I think the more that we flesh out what our potential problems are and nip them in the bud, you know, the better it is for everybody.

BRIAN KNIGHT: And we should note that the marketplace industry has gone through-- some companies in the marketplace industry have gone through some rough times, and have been incredibly reactive, in a way that you may not have seen other financial services companies move that quickly, and that dramatically to address issues.

So to my mind, that shows that there's a lot of market discipline, and that these companies realize that a huge part of what makes them viable is their reputation. And so they're going to be protective of that.

CONOR FRENCH: I was just saying, you know, that brings me to another piece of why the self-regulatory effort, or the effort around marketplace lending association came up, was, you know, I think it was Lauren who earlier said that there may be some payday lenders that are mimicking what marketplace lenders' models are.

And it's very important to us that-- back when it was peer to peer lending this wasn't the case, but with marketplace lending it does feel like a catch all term that some people use just to encompass all online lending, which I don't think is healthy for the responsible actors over time. So the marketplace lending association is in part to differentiate what our industry actually is versus just everyone who uses an online approach.

DUANE POZZA: So we're almost out of time, so I'll throw this open for any final thoughts about any consumer protection issues that you feel haven't been raised, or your sort of view of the optimal place for regulators to act or not act, going forward on the consumer protection side.

LAUREN SAUNDERS: I'd just like to thank the FTC for having this forum. I think the more dialogue we have, the more we all understand each other's perspectives, and the more regulators understand, the more consumer advocates understand, the more industry understands where we're coming from, the better we are.

BRIAN KNIGHT: So I'd like to echo saying thank you for this. And I think the thing I would say is that it's important to remember that no industry, and no particular regulation is sacred. They're both means to an end. They're means to an end to allow people to access credit, they're a means to an end to protect consumers, and so we should always evaluate whether or not they match the economic reality that's currently in play.

And if they are not a good match for this, we need to have the courage to be willing to change it. And maybe that requires Congress, maybe that's something that regulators can do on their own, and certainly a competitive market is going to drive the lenders to do it. But we should be mindful of the fact, keep our eyes on the end goal, rather than get too wrapped up in any particular industry, or any particular, specific rule.

CONOR FRENCH: You know, I guess the sort of final sentiment I would like to convey is that the assumption can't be that the traditional financing options, or the system, or the status quo is working, because it's not. It's leaving many, many, many people underserved and under banked, and so the response can't be massive one size fits all regulation on the customer protection without recognizing that these gaps in credit access exist for a reason.

And so we're happy, again, to work with any regulators, and hope that they would cooperate. But the need for innovation still remains.

THOMAS DRESSLAR: I agree with everything Conor just said. You know, this sector, as I mentioned before, it's filling a need that's out there, that's not being served by banks. And we're all for that. We think that the industry should also be commended for embracing a dialogue with regulators to figure out the best way to move forward, and we look forward to getting all the information we need to be equal partners in having a conversation.

DUANE POZZA: Right. Well, I want to thank our panel for coming today, and a great discussion. Next we'll have closing remarks from Jessica Rich, the director of the Bureau of Consumer Protection.

JESSICA RICH: This is one of those things I can barely see over. Can you see me? OK. So I'm Jessica Rich, director of the Bureau of Consumer Protection here at the FTC, and I really want to thank all of you for coming here and participating in our forum. I promise to be really brief. I just have a couple minutes here, but do want to just take a couple minutes to summarize-- hi, there.

This terrific event, and preview our next forum in the series. So, we learned a lot today, in just a few hours. I guess the first thing we learned is that marketplace lending is growing. One recent study found that the volume of online lending and financing by marketplace lenders grew from about 2 billion in 2010 to almost 16 billion in 2014.

And another study is projecting that loan origination for marketplace lenders could reach $90 billion by 2020. Panelists, as they always do, talked about the potential consumer benefits and risks of this practice, marketplace lending. On the benefits side, marketplace lending has the potential to provide lower interest rates, better loan terms, expanded credit opportunities, and faster service than traditional credit sources.

But on the risks side, we heard about mandatory or default use of pre-authorized electronic payments and the lack of transparency regarding loan terms. Marketplace lenders also collect a wide range of information, both traditional and nontraditional, to evaluate credit worthiness, which raises concerns about privacy, security, the ability to correct inaccurate information used in credit decisions, and the potential for discrimination.

It was really encouraging to learn that marketplace lenders are taking proactive steps to self regulate. We just heard about some of those efforts in the last panel. Without commenting on those particular efforts-- it's very early-- I do want to emphasize that merely having self-regulatory code or a program is not enough.

To be meaningful, these types of efforts need robust procedures to monitor compliance, and tangible consequences when the rules aren't followed. Otherwise you can't be sure that companies have the incentive to comply, or are complying. And again, the standards aren't meaningful if that's the case.

Panelists also discussed the importance of existing consumer lending laws, that include the FTC Act, the Fair Credit Reporting Act, the Gramm-Leach-Bliley Act, TILA, the Electronic Fund Transfer Act, the Equal Credit Opportunity Act. And the Fair Debt Collection Practices Act. These laws do apply to marketplace lending, and they already address many of the issues that were discussed today.

of, advertising inadequate disclosures of fees and terms, failure to safeguard consumers' sensitive information, discriminatory lending, and concerns raised by debt collection and default. Even as the market evolves and delivers exciting new forms of lending, these laws ensure basic consumer protections, which is very important.

They're also good for business, because they help maintain a level playing field, and they foster consumer trust in a growing marketplace. So now let me tell you about our next FinTech event in this series. It's scheduled for October 26, and it's a double bill. It's crowdfunding and peer to peer payments.

Crowd funding, I'm sure many of you know, involves the use of online platforms to fund a project or venture by raising money from a large number of people. Consumers who contribute

to a crowdfunding campaign may provide money in exchange for a specific deliverable, or they may simply want to donate money to a specific cause.

Peer to peer payment platforms allow consumers to engage in financial transactions with other consumers directly, often through mobile devices. These platforms can make transferring money faster and more convenient for consumers than traditional options. Both of these platforms use technology to make it easier for consumers to conduct certain transactions, from funding a project to donating to a charity, to paying a bill at a restaurant.

But they raise concerns, too. The FTC has already been active on these issues. For example, last year we brought our first case, Forking Path, involving the fraudulent use of the Kickstarter crowdfunding platform to raise and essentially steal money. We also released a mobile payments report identifying a number of issues that also bear on P2P payments, and we released consumer education regarding both platforms.

I hope you'll join us October 26 to explore these topics further. So finally, let me just thank the team that put this terrific event together. Helen Wong, Liz Kwok, Stephanie Rosenthal, Duane Pozza, Malini Mithal, Phoebe Rouge, Tina Yeung, Dan Salzburg, TJ Peller, and Jessica Skretch from our divisions of Financial Practices and Consumer and Business Education in our Office of Technology Research Investigations.

And thanks to all of you for coming. The world of financial technology is changing rapidly, and the FTC, all of us at the FTC want to make sure that consumers continue to be protected as we all benefit from this technology. So thanks for coming.