Issue: Ensure that Innovative Fintech Companies Have Requirements Around Consumer Protections, Transparency and Affirmative Obligations That Mirror Those For Banks

Financial technology companies (fintechs) are non-depository institutions such as online marketplace lenders, payment processors and others nonbank providers that are growing at a rapid pace. Thirteen of the online lending sector's largest firms made $15.91 billion in U.S. loans in 2014, up 700 percent from 2010, and in the first six months of 2015 the same firms extended $12.47 billion in credit nationwide.[1] Online lending has been growing as a credit source for small and microbusinesses (see Figures 13 and 14).

The growth of the industry has ignited the interest of several federal regulators. In December 2016, the OCC announced an intention to explore a national bank charter for fintech companies and sought public comments. Among other issues, the OCC sought feedback on issues around financial inclusion for underserved borrowers and how obligations similar to those under CRA, that apply to the nation's traditional banks, might be extended to fintech and online marketplace lenders.[2]

Online marketplace lending involves the facilitation of loan originations outside of the traditional consumer banking system by collecting information from a borrower and underwriting a loan with a lender entirely over an internet platform, a process designed to be efficient and cost-effective for lenders and user-friendly for borrowers. Lending platforms typically issue loans in amounts ranging from $1,000 to $35,000 with maturities of three to five years, and may include fixed or variable interest rates, origination fees and/or other charges that may not all be apparent to the borrowers.[3] They may set minimum FICO credit scores or use other proprietary data-driven underwriting methods particular to the platform. The lending platform that makes the loan may receive origination fees (usually one percent to two percent of the loan balance) and/or servicing fees (typically one percent of the outstanding loan balance).

1 California Department of Business Oversight, *Survey of Online Consumer And Small Business Financing Companies* (April 8, 2016). Retrieved from http://www.dbo.ca.gov/Press/press_releases/2016/Survey%20Response%20Summary%20Report%2004-08-16.pdf.

2 Office of the Comptroller of the Currency, *Exploring Special Purpose National Bank Charters for Fintech Companies* (December 2016).

3 Department of the Treasury, *Opportunities and Challenges in Online Marketplace Lending.* (Retrieved from https://www.treasury.gov/connect/blog/Documents/Opportunities%20and%20Challenges%20in%20Online%20Marketplace%20Lending%20vRevised.pdf.) Also, Price Waterhouse Coopers Research Report, *Peer Pressure: How peer-to-peer lending platforms are transforming the consumer lending industry,"* February 2015.

While online lending platforms have the potential to expand access to credit for the underserved, several concerns have arisen around fintech companies[4] and the prospects of the OCC extending a national bank charter to them, including:

- Whether fintechs will be subject to requirements similar to those that banks must meet under CRA;
- Whether a national bank charter for fintech companies will undermine or preempt stronger consumer protections in state law as well as state interest rate caps;
- Whether "rent-a-charter" schemes, in which fintech companies lend and operate in partnership with a nationally chartered or state-chartered bank, allow fintechs to get around state interest caps and other consumer protections;
- While innovative data-driven underwriting methods may expedite credit assessments for borrowers and reduce costs for lenders, they also carry the risk of disparate impact in credit outcomes and could hide the potential for fair lending violations;
- Many consumer protections that apply to consumers when borrowing through online lending platforms do not extend to small business borrowers;
- The lack of more transparent pricing terms for borrowers and standardized loan-level data for investors; and
- Fintechs remain untested through a complete credit cycle and higher charge-off and delinquency rates for recent vintages of consumer loans may be an early indication of larger risks should credit and economic conditions deteriorate.

Who Can Act:

The U.S. Congress, the Comptroller of the Currency (the OCC), the Federal Deposit Insurance Corporation (FDIC), the Federal Reserve System, the U.S. Department of the Treasury, the U.S. Securities and Exchange Commission (SEC), the Consumer Financial Protection Bureau (CFPB), the Federal Trade Commission, and others

NCRC's Position:

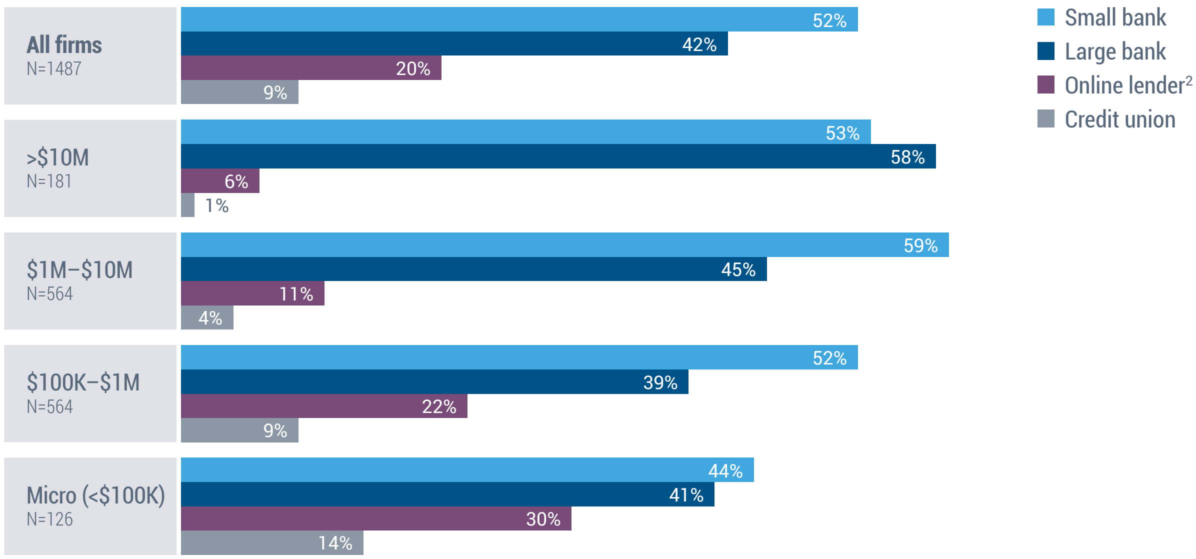
If the OCC develops a national bank charter for fintech companies, the OCC must extend to them similar requirements around CRA that banks comply with today. It should not preempt stronger state law protections and interest rate caps. It must also establish stringent safety and soundness, and rigorous supervision and examination of compliance with fair lending and consumer protection laws for newly chartered institutions.

A national bank charter is a tremendous benefit for fintechs since, among numerous other features, it allows them to lend nationwide without having to seek permission state by state. It has the potential to benefit consumers and communities only if it is accompanied by rigorous CRA-like obligations in addition to rigorous supervision and oversight. Safety and soundness reviews must also be stringent.

4 Ibid.

Banks are the dominant credit source overall but online lending is a noteworthy source for employer firms with less than $1 million in revenues.

CREDIT SOURCES[1] APPLIED TO BY REVENUE SIZE OF FIRM (% of loan/line of credit applicants)

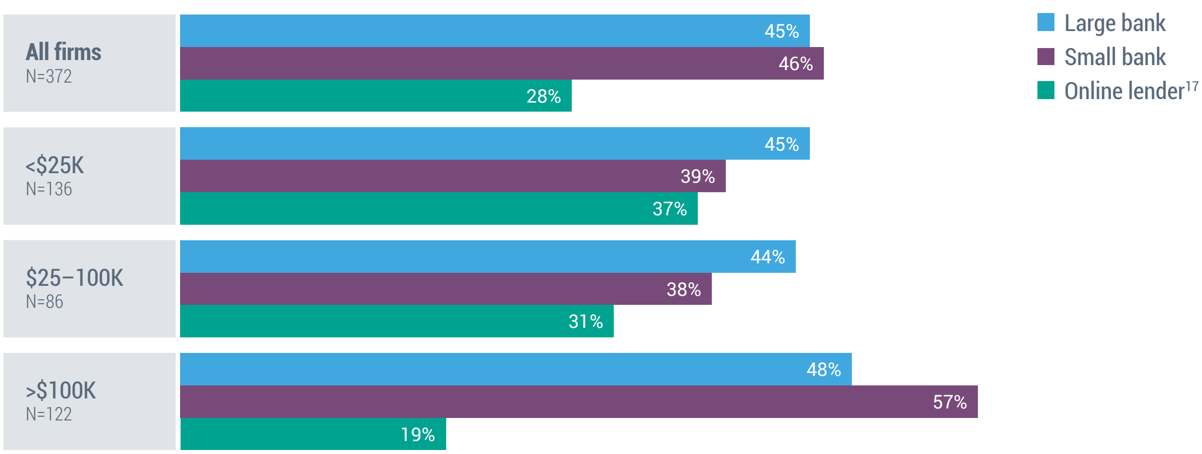


1 *Select answer choices shown. See appendix for more detail. Respondents could select multiple options.*
2 *"Online lenders" are defined as nonbank alternative and marketplace lenders, including Lending Club, OnDeck, CAN Capital, and PayPal Working Capital.*

FIGURE 13. Source: Federal Reserve Banks of New York, Atlanta, Boston, Cleveland, Philadelphia, Richmond, St. Louis, *2015 Small Business Credit Survey*

The smallest nonemployer firms turned to online lenders for funding almost as frequently as they turned to small banks.

CREDIT SOURCES[16] APPLIED TO BY REVENUE SIZE OF FIRM (% of loan/line of credit applicants)



Total N does not always equal the sum of sub-categories because firms are not required to answer all of the survey questions.

FIGURE 14. Source: Federal Reserve Banks of New York, Atlanta, Boston, Cleveland, Philadelphia, Richmond, St. Louis, *2015 Small Business Credit Survey*