

Client Alert

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CFPB Calls for Complaints About Marketplace Lenders

By Donald C. Lampe, Obrea O. Poindexter, and Sean Ruff

On March 7, 2016, the Consumer Financial Protection Bureau (“CFPB”) made its first official moves on “marketplace lending,” which also may be known as “peer-to-peer” lending. The CFPB described marketplace lending as the use of an online “platform” to connect consumers or businesses who seek to borrow money with investors willing to buy or invest in such loans. Ordinarily, the online lending platform operator handles consumer-facing functions such as application taking, underwriting, and customer service. Though not clear in the CFPB’s announcements, it is generally understood that these loans are unsecured extensions of credit funded directly to the consumer’s account. While the CFPB mentions businesses as potential customers for marketplace loans, the agency appears to be directing these issuances to consumers.

The CFPB simultaneously issued two announcements: (1) a [press release](#) describing the expansion of its consumer complaint portal to include marketplace lending products; and (2) a [consumer bulletin](#), titled “Understanding online marketplace lending,” which lists and explains factors consumers should take into account when considering online marketplace loans.

The CFPB added this new category of lending to the consumer financial products and services that currently are the focus of the agency’s consumer complaint portal, including mortgages, private student loans, vehicle loans, money transfers, debt collection, payday loans, prepaid cards, and a range of nonbank products. Consumers of marketplace loans now will be able to submit complaints about marketplace lenders through the CFPB’s online complaint portal.

As has been the case with some other consumer financial products and services, the CFPB “activated” the consumer complaint portal for marketplace lending before issuing a larger participant rule covering the unsecured consumer credit market. As a practical matter, this means that the agency could use data it gathers from consumer complaints to regulate the marketplace lending market, either through a larger participant rule or other guidance. If past is prologue, providers of marketplace loans will find themselves connected to the agency’s consumer complaint portal even before the CFPB declares its supervisory authority over the particular market.

Together with the press release about the complaint portal, the CFPB published a consumer bulletin designed to educate consumers about marketplace lenders and their distinguishing characteristics. The bulletin lists a number of factors that consumers are encouraged to consider before taking out a loan from a marketplace lender. The CFPB states: “If you consider a marketplace lender as one of your options when shopping for a loan, keep in mind that marketplace lending is a young industry and does not have the same history of government supervision and oversight as banks or credit unions. However, marketplace lenders are required to follow the same state and federal laws as other lenders.”

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The CFPB makes clear that marketplace lenders are subject to the same legal standards as other, more “traditional” financial institutions. At the same time, the CFPB’s statements could be interpreted as discouraging consumers from considering a loan or other product from a marketplace lender, as the CFPB seems to suggest that such lenders are untested and under-supervised.

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