

Client Alert

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FTC Announces FinTech Forum on Crowdfunding, Peer-to-Peer Payments

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On August 3, 2016, the Federal Trade Commission (FTC) released two items in connection with its series of events on the implications of FinTech for consumers. First, the FTC announced it will be hosting the next event in the FinTech Forum series on October 26, 2016. The event will address crowdfunding and peer-to-peer payments. Second, the FTC posted some key takeaways on its Business Blog from the first event in this FinTech Forum series, held on June 9, 2016, which addressed marketplace lending.

The FTC's announcement regarding the October 2016 FinTech Forum describes the event as being "designed to bring together perspectives from across the landscape"—specifically, the perspectives of industry participants, consumer groups, researchers, and government representatives. The half-day forum will include separate panels exploring the "growing sectors" of crowdfunding and peer-to-peer payments individually, including the different models of crowdfunding and peer-to-peer payments that FinTech companies may employ, as well as the potential benefits and drawbacks of these models for consumers. Just as the FTC did in its forum on marketplace lending, the forum on crowdfunding and peer-to-peer payments will address the applicability of existing consumer protection laws, particularly the FTC Act's prohibition on unfair or deceptive acts or practices (UDAP).

Like the upcoming event in October, the June 9, 2016 FTC forum on marketplace lending brought together panelists who could provide different perspectives on marketplace lending, including researchers, industry participants, government representatives, and consumer advocates. The panelists discussed different models of marketplace lending and the opportunities new technologies present to expand access to consumer credit. In addition, panel discussions focused on potential consumer protection issues associated with marketplace lending and how regulators can work to meet these challenges.

The FTC's Business Blog post reinforced a key theme from the marketplace lending forum in discussing how current laws apply to marketplace lending. Specifically, the blog post noted that the FTC Act, the Truth in Lending Act, the Electronic Fund Transfer Act, the Fair Credit Reporting Act, the Gramm-Leach-Bliley Act, the Equal Credit Opportunity Act, and the Fair Debt Collection Practices Act "govern market activities from loan disclosures to credit reporting to privacy practices to debt collection." Perhaps owing to the limited enforcement authority of the FTC with respect to consumer financial laws, the FTC emphasized its UDAP authority over non-banks, particularly in how consumer data is used and shared. Non-bank marketplace lenders and other FinTech companies should be aware not just of the restrictions and requirements in these existing laws, but also of the FTC's continued engagement in policing non-banks that provide consumer financial services.

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