Davis Polk

Small Business Online Lending Market Focus of Regulatory Action Proposal

November 30, 2016 | Client Update

In a recently released **white paper**, former Small Business Administration head Karen Mills and former Economic Council aide Brayden McCarthy call for regulatory action in the small business online lending market. The online lending market has shown promise in bridging the gap in small business access to credit and includes, among other players, balance sheet lenders, peer-to-peer platforms, and lender agnostic platforms. The market experienced an initial phase of rapid growth and proliferation Mills and McCarthy call the “Wild West.” As this phase comes to an end, the market enters its second phase characterized by increased participation by large lenders and partnerships between conventional and online lenders. Mills and McCarthy propose a regulatory action plan that strives to address concerns about systemic risk without chilling market growth and innovation. The plan outlines six specific recommendations covering the following:

– a non-bank charter option (as is being considered by the OCC)
– borrower protections
– third-party vendor management
– fiduciary duties for loan brokers
– disclosure requirements
– creation of National Advisory Board on financial innovation

Law Clerk Madison J. Roberts contributed to this post.

If you have any questions regarding the matters covered in this publication, please reach out to any of the lawyers listed below or your usual Davis Polk contact.

Margaret E. Tahyar
+1 212 450 4379
margaret.tahyar@davispolk.com