

THE ALTERNATIVE LENDING REPORT

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PROTECTING THE FACTOR IN FACTORING AGREEMENTS

(Part 1 of 2)

By Josh Simpson, Esq.

Like any financial transaction, factoring has quite a few inherent risks. For the factor those risks include the seller breaching the purchasing agreement, or contract, governing the transaction or purchase. The most common form of default, of course, is default in payments owed to the factor. And that's where it can get tricky.

To understand the legal complexities with collecting defaults, we need to start from the beginning of the transaction.

Underwriting

What does underwriting have to do with collecting on judgments? As David Tatge, a Washington, D.C., attorney with Epstein Becker & Green, points out, "all persons in business with others should, ideally, do due diligence regarding the financial capacity of the persons with

whom they intend to contract, before they contract, to assure that if there is a breach that any damages can be collected."

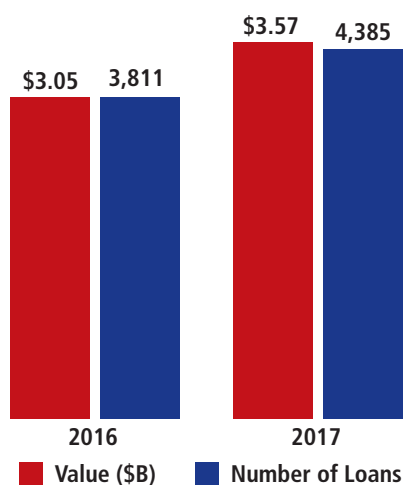
Due diligence in underwriting is the first line of defense against default because it helps ensure that the companies you do business with, and that the invoices you purchase, are sound.

The Contract

Let's assume you've done due diligence and want to proceed with buying the receivables. Now make sure you have the best contract possible. Doris Galindo, a Miami, Fla., attorney says, "The best way a purchaser can protect itself is through its documents — that is, the contract itself, and any other documents governing the transaction." Such protection typically takes the form of "provisions that help

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SBA 504 LOAN ACTIVITY



Number of loans and \$ value, YTD through June 9

Source: U.S. Small Business Administration

504 LOANS: KEEPING THE PIPELINE OPEN FOR COMMUNITY IMPACT

By Allen Taylor

The Small Business Administration is one of the most successful independent agencies of the U.S. federal government. Created by the Small Business Act of 1953, the agency takes its mission of helping America's small businesses succeed seriously. In 1958, the Small Business Investment Act initiated small business development loan opportunities that, over time, has evolved into the 504 program. The nexus of 504s are the 230 non-profit Certified Development Companies (CDC) that service the loans.

According to program chief Linda Reilly, 504 lending is on a growth trajectory. Last year, through June 9, the SBA approved 3,811 loans for a little more than \$3.05 billion. As of the same date in FY 2017, the SBA has

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BIZFI UP FOR SALE OR WINDING DOWN?

By Steve Evans

Amid a rocky year and reports of deepening staff cuts, whispers of a sale or possible wind-down now swirl around Bizfi, one of the original SME online marketplace lenders. Bizfi quietly laid off more staff June 12, according to a source with knowledge of the situation and who claims the New York-based lender recently lost its credit line from a major investor.

Reached by phone June 13, Bizfi CEO John Donovan said, "I'm not making any comment."

Several sources told SmallBusinessLending.io in May that the alternative lender had laid off more than a third of its 150 employees, while cutting back significantly on loan production. The SME marketplace lender has struggled to find additional financing, the sources said. One individual claims over-leveraging has been Bizfi's biggest obstacle to acquiring more capital.

As of June 13, Bizfi's sales operation was still in action, with an employee confirming by phone that the company was making small business loans. With management mum on Bizfi's condition, the immediate future of the company remains unclear.

Last month a Bizfi press rep said executives are "heads down right now." It seems they still are.

"Staff has been reduced," a press rep authorized to speak for Bizfi corporate confirmed to SmallBusinessLending.io earlier this week – a day before the latest round of supposed layoffs. The rep would not address whispers about a pending sale of the company. However, when asked point-blank if Bizfi would report major news in the next two weeks, the spokesman said, "I sure hope so. There are many opportunities that management and the board are looking at."

Calls to one of Bizfi's main investors, Metropolitan Equity Partners, were not immediately returned. Metropolitan has poured \$85 million into Bizfi since 2015, including \$20 million for growth capital within the last year, according to data compiled by S&P Global Market Intelligence.

Sources familiar with the matter say Bizfi is being shopped around to potential acquirers in two parts: the MCA book of business where loans are made off the company's balance sheet, and Bizfi's sales operation, or ISO possibly being offered as a separate unit.

Bizfi in November said it did more than \$127 million in SME loans in the third quarter of 2016, though that was down 15% from \$144 million in the second quarter.

So far, 2017 is shaping up no better and in some cases worse than last year for SME lenders. Avant, Lending Club and OnDeck have all seen disappointing results with reduced loan volume and abandoned plans to roll out new products while the sector struggles.

Bizfi, formerly known as Merchant Cash and Capital, was founded in 1990. The company's original focus was on merchant cash advance products, with later expansion into medium-term loans, government backed loans, equipment financing, and financing based on outstanding invoices and receivables. The company was renamed Bizfi in 2015, combining aggregation, funding and a marketplace on a single platform.

Founder Stephen Sheinbaum served as president and CEO until November 2014. Prior to forming Bizfi, he practiced law for 18 years.

As the company's fortunes faltered last year, the Bizfi board named Donovan as CEO in October 2016. A 30-year veteran in the payments and alternative finance industry, Donovan is one of the founding employees of Lending Club.

Metropolitan has been one of Bizfi's main investors since the company's inception. In March 2014 Comvest Partners provided Bizfi with \$75 million in debt financing, according to Crunchbase.

Since 2005, Bizfi has delivered more than \$2 billion in financing to small businesses nationwide, according to its website. 

DRB CALLS RIVAL 'PARASITIC, IMMORAL' IN FLORIDA FACTORING LAWSUIT

By Steve Evans

When you call the competition “parasitic” in court, chances are the fire is just getting started.

So it is with a lawsuit filed by factoring company DRB Capital, LLC against rival Jacob Joseph & Associates in Broward, Florida circuit court. DRB has headquarters in Delray Beach, FL; JJ&A is based in Coral Springs.

DRB accuses JJ&A of essentially poaching customers on the secondary market. According to the suit, JJ&A staff allegedly troll courthouses looking for petitions filed by DRB and other factoring companies for court approval of transfer of structured settlement payment rights. The lawsuit claims JJ&A then attempts to persuade individuals to terminate those transfer agreements with DRB and do business with JJ&A, instead.

DRB accuses JJ&A of taking “a parasitic approach to obtaining customers, rather than seeking its own customers through legitimate marketing strategies.” DRB claims “tortious interference and violation of Florida’s Deceptive and Unfair Trade Practice Act” and seeks injunctive relief, unspecified monetary damages, fees and costs.

DRB in the suit says it has spent millions of marketing dollars building a database of prospects for its factoring business, noting that most states have enacted some form of structured settlement protection act that factoring companies must abide. To comply, after signing a contract with customers, DRB then files a court petition for approval of the structured settlement payment rights. The contract prohibits its customers from entering contracts with competitors, however, many states

allow a cancellation period – typically three days.

Who Wrote the ‘Dear John’ Letters?

On at least one occasion, DRB claims a customer sent a notice of cancellation after the deadline to do so had expired. DRB alleges the letter killing

DRB calls its rival’s business tactics “immoral, unethical, oppressive, unscrupulous and/or substantially injurious to consumers.”

the deal was actually drafted by JJ&L and sent to the customer for her signature, along with a new JJ&L factoring contract. The customer then forwarded the letter to DRB, according to the suit. A JJ&A principal denied this, the suit states, but as evidence DRB points out that the customer’s cancellation letter, her new contract with JJ&L and other documents were all stamped by the same notary.

In other instances, DRB says JJ&L approached customers and implied their deals with DRB were “fraudulent,” then encouraged them to switch. DRB calls the alleged tactics “immoral, unethical, oppressive, unscrupulous and/or substantially injurious to consumers,” while offending “established public policy.”

DRB is also holding out for punitive damages. No court date has been set. Attorneys on both sides did not immediately respond to requests for comment.

Dog Eat Dog in the Factoring Business

Such cutthroat competition as alleged in the suit reflects the broad-


er state of the factoring industry. The Consumer Financial Protection Bureau occasionally jumps into the fray. The CFPB sued Access Funding in a Maryland court over allegedly unfair and deceptive business practices. That case involved deals under which Access Funding had already received court approval on its petitions for structured settlement factoring deals. The CFPB claimed, though, that Access had deceived the court about whether its customers had received independent professional advice before contracting with Access – as

required by Maryland law.

Enter the Fed

Much of the legal action with the CFPB involves factoring companies dancing around the issue of what constitutes “consumer-financial products or services” as opposed to straight factoring deals under the Consumer Financial Protection Act. These disputes have often involved tiered cash advances from a factoring company to a customer, with payouts as the deal progresses through court approval. Customers remain on the hook for the cash advances if the deal fails to win the court’s blessing, while factoring companies routinely tell customers they are obligated to complete a transaction even if they decide the deal is not in their best interest.

Under the CFPA, a business practice is abusive if it takes advantage of consumers’ lack of understanding of the material risks, costs, or conditions of a financial deal.

The full text of the lawsuit can be found [at this link](#). 

PROFILE OF A SMALL BUSINESS LENDING APPLICANT

By Allen Taylor

The Federal Reserve Board of Cleveland, in February, concluded that online small business borrowers are more satisfied than businesses who have not borrowed money while bank borrowers are the most satisfied of all. This conclusion was published in a working paper titled ["Is 'Fintech' Good for Small Business Borrowers? Impacts on Firm Growth and Customer Satisfaction."](#)

Based on a survey of small business borrowers conducted from September to November 2015 by the Federal Reserve Banks of New York, Atlanta, Cleveland, Philadelphia, St. Louis, Boston, and Richmond, the data indicates that small business loan applicants

who apply for loans from online lenders don't have it easy even though it is easier to get a loan from online sources than from a bank.

Ann Marie Wiersch, senior policy analyst at the Cleveland Fed, said, "We find that firms that apply to online lenders tend to be smaller, newer firms. They tend to be less profitable and are less likely to say revenues are growing. From that standpoint, we are likely to see, by traditional metrics, that they are somewhat more risky borrowers or less creditworthy."

Fifty-two percent of the 5,420 survey respondents applied for a loan from a small bank, 42% with a large bank, 20% to an online lender, and 9% to a credit union.

Eighty-three percent of online lender applicants had annual revenues of \$1 million or less. In contrast, 61% of those that sought credit through traditional lenders only were smaller firms. Forty-eight percent of the online lender applicant pool were in business five years or less compared to only 36% of the traditional bank lender applicant pool. Online lender applicants were also less likely to be profitable and twice as likely to cite credit availability as a top business challenge.

Minority-owned businesses outweighed other businesses in the online lender applicant pool by 22%.

When it comes to debt, the Fed found that online lender applicants are as likely to hold debt as traditional bank borrowers, but have less of it. They are also less likely to pledge collateral than traditional bank borrowers.

Regarding the reasons for seeking a loan, online lender applicants are more likely to borrow for business expansion, operating expenses, or to refinance existing debt. Factors influencing where small businesses apply for a loan are weighted toward online lender applicants for every reason other than existing relationship with the institution. Online lender applicants value the perceived chance of being funded by 64% to 35%, cost of the loan by 60% to 54%, speed of decision by 50% to 33%, product flexibility by 45% to 36%, and application ease by 45% to 36%. Traditional borrowers prefer banks over online lenders based on relationship by 66% to 31%.

Online lender applicants are also more likely to apply for multiple loans. In fact, the survey revealed 50% of them applied for three or more loans, 18% applied for two, and 32% applied for just one. Only 17% of traditional bank borrowers applied for three or more loans while 57% applied for just one; 26% applied for two. Traditional bank borrowers were more successful as 83% received at least some of the funding they applied for versus 77% of online lender applicants. Just 20% of online lender applicants received the full loan amount applied for, but more than half of traditional lender applicants were approved for the full loan amount.

Reasons for credit denial among



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INDUSTRY NEWS

- Alternative Lending Deals On Pace For Low**
Today, 8 of the 22 global private fintech companies valued at \$1B or more are alternative lenders. But 11 years ...
- Microloans Give Needed Boost to Small Businesses**
MESO was established in 2005 to assist in developing commercially viable businesses with an emphasis on minority and underserved entrepreneurs ...
- 92% of Financial Professionals Not Confident Advising on P2P Products**
Last month, members of the Peer-to-Peer Finance Association exceeded ESB of cumulative lending following a strong first quarter of 2017 ...
- ELFA/IMN Investors' Conference: 'Things Are Good' in Equipment Finance**
The biggest takeaway from the 16th Annual Investors' Conference was the feeling that the equipment finance market is poised for ...
- UK-Based LendInvest to Test Investors**
Responding to criticism from UK regulatory agencies, LendInvest is introducing a rigorous vetting process for investors ...

TECHNOLOGY & PRODUCT LAUNCH

- Lending Tree Launches CompareCards Credit Card Resource For Business Owners**
- Navitas Credit Launcher Business Lending Site**
- FAM Offers High Revenue Merchants Business Solutions**

NEW INVESTMENTS

- Digital Assets InterNet in Over**

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Strategy

CHARACTERISTICS OF CREDIT APPLICANTS

Firms that applied
with an online lender
N=209⁶

Firms that applied
with a traditional lender
N=1204⁷

83%	ARE YOUNG FIRMS Share of applicants in existence 5 or fewer years	61%
48%	ARE YOUNG FIRMS Share of applicants in existence 5 or fewer years	36%
54%	ARE FIRMS WITH GROWING REVENUES Share of applicants reporting an increase in revenues in the past 12 months	58%
38%	ARE PROFITABLE FIRMS Share of applicants operating at a profit	58%
25%	ARE FIRMS WITH CREDIT CHALLENGES Share of applicants reporting credit availability is a significant challenge	12%
36%	ARE MINORITY-OWNED FIRMS Share of applicants that are minority-owned firms	14%

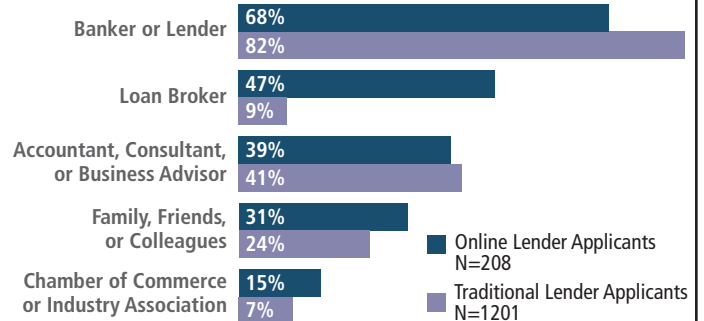
Note: Online lender applicants are defined as those firms that applied for financing at one or more online lenders, including firms that applied at both online and traditional lenders.

⁶ In total, 209 firms applied for financing with an online lender, defined as a nonbank online lender, including alternative and marketplace lenders. The N values for each variable shown in the table vary from 185 to 209, depending on the number of respondents that answered the question.

⁷ In total, 1,278 firms applied for financing with a traditional lender (large banks, small banks, and credit unions). The N values for each variable shown in the table vary from 1,109 to 1,204, depending on the number of respondents that answered the question. Firms that applied only to "other" lenders (including government loan funds and community development financial institutions) are excluded.

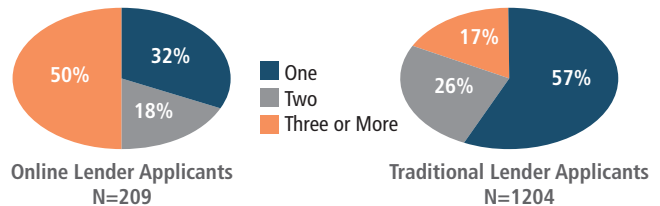
Source: 2015 Small Business Credit Survey, responses for employer firms; authors' calculations

SOURCES OF FINANCING ADVICE



Note: Select answer choices shown. Respondents could choose multiple options. Online lender applicants are defined as those firms that applied for financing at one or more online lenders, including firms that applied at both online and traditional lenders.

NUMBER OF FINANCING APPLICATIONS SUBMITTED



Note: Shares calculated based on the number of products applied for and the number of sources per product. Online lender applicants are defined as those firms that applied for financing at one or more online lenders, including firms that applied at both online and traditional lenders.

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both applicant pools included low credit score, insufficient collateral, weak business performance, and insufficient credit history. Online lender applicants, however, were denied more often for each of those reasons. Traditional lender applicants outweighed online lender applicants only in the "unsure" category.

Finally, the survey measured satisfaction levels of loan applicants and discovered that online lender applicants were less satisfied than traditional loan applicants.

"Some of what drives satisfaction is transparency," Wiersch said. "Borrowers understanding the interest rate, for instance."

Even when approved for a loan, online lender applicants were less sat-

isfied than traditional lenders with the overall experience. Typical reasons included interest rate, repayment terms, lack of transparency, wait time, and the application process. Online lender application satisfaction levels were lower for the first three reasons than satisfaction levels for traditional borrower applicants and higher on the last two. In fact, online lender applicants were less satisfied with interest rates and repayment terms by 85% to 29% and 66% to 23%, respectively.

The Fed conducted a similar survey of small business owners in 2016 with similar results. The biggest difference, according to Wiersch, is that dissatisfaction with interest rates was lower last year than for 2015.

Data extrapolated for this article comes from the Cleveland Fed report titled "[Click, Submit: New Insights on Online Lender Applicants from the Small Business Credit Survey](#)."

Got a news tip?

The Alternative Lending Report is always interested in talking with pros who know the score or can suggest a scoop.

If you've got the juice, send us an email at editor@smallbusinesslending.io or call us at (516) 876-8006 with news and insights.

Always confidential.

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New Technology & Product Launches

Elevate Launches Elevate Labs

Elevate Credit, a provider of online credit solutions for non-prime accounts, launched Elevate Labs at its new San Diego-based Advanced Analytics center, underscoring the company's commitment to innovation in the non-prime credit market. The company says it annually invests \$40 million in its technology and analytics capabilities, including investments in proprietary risk technology and platforms to support scaling and innovation, regulatory compliance and improvements in underwriting. bit.ly/2s96ro7

Flipkart to Add Online Loans to Its Marketplace

Indian e-commerce platform Flipkart stated that with the creation of a new team for financial services and products, Flipkart will be providing the public the option of obtaining loans from e-lending firms. Flipkart already offers "No Cost EMI" or equated monthly installment payments to enable shoppers to access big-ticket products without bearing the burden of lump-sum payments, and the EMI is said to be at no additional cost. bit.ly/2rZjWtZ

Lendy Boosts Broker Network with OFF3R and Welltrado

Lendy has expanded its broker network with two new partners that will focus on marketing its recently launched bond product. The peer-to-peer lending platform has teamed up with OFF3R and Welltrado to boost the soft launch of its property bond, which marked its first foray into the fixed income space in April. bit.ly/2rpo1ap

Waddle's Direct Feeds Helps Fix SMB Cash Flow Gap

Waddle has launched Direct Feeds, a facility that enables borrowers to view payment transaction data, such as deposits, automatically within Xero, allowing for an instant up-to-date view of their cash flow and borrowing costs. With Waddle, draw-downs and repayments mimic the func-

tion of a traditional overdraft; however, customer payments automatically repay the line of credit without the need for borrower repayments. bit.ly/2rg34uu

Amazon Uses Its Machine Learning Tools for Lending

Amazon reportedly has one of the more sophisticated machine learning toolsets around, used for drone deliveries, online tailors, and its AWS offering, and is now using it for small business lending, according to a company spokesman. "We have a machine learning model. Amazon loans are offered on an invite-only basis to sellers on Amazon who qualify based on various criteria, including account tenure, and meeting the highest levels of customer experience." bit.ly/2rpMKv3

Sancus Finance Launches Revamped P2P Platform

Peer-to-peer invoice finance platform Sancus Finance has launched a revamped platform to connect investors with business borrowers. The move comes after Sancus Finance underwent a restructuring last year due to losses that prompted it to launch a strategic review. bit.ly/2s8WCqk

FinCompare Raises Seed Funding for Financing Comparison Site

FinCompare, a fintech startup based in Berlin, has raised €2.5 million in seed funding led by SpeedInvest and UNIQA, Austria's largest insurance group. FinCompare is a comparison platform for financing options aimed at smaller enterprises seeking funding starting at €10,000. bit.ly/2syWqDu

TransUnion Looks to Cut Implementation Time with "Find My Offer"

TransUnion launched "Find My Offer" to help lenders deliver relevant

credit offers to consumers online. A set of configurable white-label web screens that support a lender's prequalification and digital prescreen initiatives, lenders can use Find My Offer to acquire new customers and expand existing relationships, and the website integrates with TransUnion's DecisionEdge suite to allow lenders to use existing underwriting criteria for online marketing. bit.ly/2ru7MUt

Reverse Consolidation Breaks the Cycle of Cash Advances

Cast Capital has released a Reverse Consolidation Program that deposits money directly into the owner's business bank account on a weekly basis to satisfy all current cash advance positions. Cast Capital withdraws a smaller daily payment at an agreed upon purchase of future receivables for an extended pay-back period until current cash advances come to term. bit.ly/2smN8ts

Biz Lender FastPay Accelerates Payments Down Media Supply Chains

Business lender FastPay is integrating its financing offering with an accounts payable feature for its users called COMPLETE, a portal through which companies can access receivables financing so they can pay their own vendors. The solution was developed for advertisers and agencies and provides faster supplier payment capabilities. bit.ly/2ruy4WC

Fundbox Expands Product Offering with Direct Draw

Small business cash flow optimization platform Fundbox launched a new product called Direct Draw, allowing small businesses to apply for credit with only a business bank account and without requiring personal credit. Fundbox algorithms review the transactions in the customer's account to learn about the business and make a credit decision, and customers can draw funds at any time. bit.ly/2ruys7I

THE ALTERNATIVE LENDING REPORT

Industry News

Another NY Court Casts Doubt on the MFS/Volunteer Pharmacy Case

Just as an Orange County, NY judge found in Merchant Funding Services, LLC v. Micromanos Corporation that a uniquely structured merchant cash advance was not a criminally usurious loan, so too did the Honorable Maria S. Vazquez-Doles on June 8th, concurring that the attorney representing the defendants misquoted the contract's language in their motion papers to suit their argument that the agreement was in fact a loan. bit.ly/2rYoYVA

Amazon Has Secretly Become a Giant Bank

Amazon is planning to expand its lending to small businesses in the US,

the UK and Japan, in a direct challenge to the big banks which have historically dominated. Now, having done about \$3B of originations in total and \$1B within the past year, Amazon is expanding offers to more of the 2 million businesses on its "marketplace" platform. bit.ly/2rte3Qk

China Rapid Finance Targets Three Million New Users by Year's End

China Rapid Finance, the Chinese online lender that recently listed in New York, expects to add up to 3 million users on its lending platform this year despite the government's push to tighten restrictions on the online lending sector. The company raised \$69M on the NYSE in late April, and recently attracted over 545,000 new borrowers. bit.ly/2sm6kHM

Allied Market Research Expects Global P2P Lending Market to Reach \$460B by 2022

According to a new report published by Allied Market Research, the P2P lending market was valued at \$26 billion in 2015 and is projected to reach \$460 billion by 2022, growing at a CAGR of 51.5% from 2016 to 2022. In 2015, small business loans

dominated the market, whereas consumer credit loans are anticipated to grow at a robust rate in terms of market share. bit.ly/2sqxGNT

ABA Wins Extension on CFPB's Small Business Lending Request for Information

In response to a request by the American Bankers Association and 12 other trade groups, the Consumer Financial Protection Bureau announced that it would extend by 60 days the comment deadline on its request for information on small business lending data collection. Comments will now be due on Sept. 12. bit.ly/2sZuu91

New York State Assembly Proposes Online Lending Task Force

The New York Assembly drafted its answer to the recent joint-committee hearing on online lending called Bill A8260 to establish a task force on online lending institutions. As it's proposed, the task force would include individuals from the online lending community, the small business community, the financial services industry, and the consumer protection community appointed by the Assembly, Senate and Governor. bit.ly/2rZ2DYg

P2P Lenders in UK Stay Away from Apps

Peer-to-peer lenders have largely avoided the area of apps, so far. Of the biggest UK P2P players, only Funding Circle has an app for investors, while Zopa has one in development, and others such as RateSetter, MarketInvoice and Landbay have focused on the overall web, desktop and mobile user experience. bit.ly/2rZmAxx



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Industry News

Moody's: Credit Card Companies Are Easing Lending Standards

According to a new report by the credit rating agency Moody's, credit card defaults are rising as lending standards have started to fall from the early post-recession days. The report shows even with unemployment at low levels, those charge-offs have increased significantly for some U.S. lenders, exceeding expectations of a modest rise. bit.ly/2s9nqa0

Tech Companies Invade Banks' Territory with Customer Loans

Amazon's push into lending shows how the landscape of banking has been radically reshaped since the crisis and one of many examples of how traditional

banks are facing tough new competition. Data from the Federal Deposit Insurance Corporation shows that loans of less than \$1M accounted for 20% of total loans to commercial and industrial businesses in the US at the end of 2016 – down a full 10 percentage points since 2007. bit.ly/2tkmOh7

Small Business Borrowing Dips to Six Month Low, Potentially Signaling Pullback in Economy

Small businesses in the U.S. are borrowing at a slower pace, as lending data dipped to a new six-month low in April. The PayNet Small Business Lending Index reported a decline to 123.1, a decrease of 5% signaling a potential slowdown in the economy. bit.ly/2sr4cj5

note round from a combination of existing and new investors, increasing the total equity raised to \$32.3 million. bit.ly/2roVVfz

SoFi Officially Applies for Bank Charter

In May, SoFi CEO Michael Cagney announced the company would be applying for a bank charter "in the next month" and on June 6, SoFi applied for a de novo bank charter. There will be an open comment period on the application for the next month, which will close July 6. bit.ly/2rtWrUG

ID Analytics Study Reports Alternative Credit Scores Increase the Credit Eligible

The results of a study released by risk management company ID Analytics looked at credit applicants at key lenders in auto, telecommunications, credit card and marketplace lending industries from 2012 to 2016 and were able to predictively score 75% of those previously deemed unscorable, between 10% and 40% of whom would have been seen as credit eligible without a risk increase. The study showed how the use of alternative credit scores can significantly increase the number of people considered eligible for credit. bit.ly/2rpbLSy

Loan Losses Cut Credit Union Profits

Credit unions' net income inched up 2.6% in the first quarter as loan loss provisions rose sharply from a year earlier. The \$2.3 billion earned in the first quarter represented 0.71% of total average assets, down from 0.75% in 2016's first quarter, and the lowest first-quarter return on assets since at least 2012, according to the NCUA's latest quarterly industry report. bit.ly/2ruaRUy

Applied Data Finance Increases Credit Facility with Victory Park Capital and Secures Additional Equity

Applied Data Finance, a technology-enabled lender and asset manager, announced that investment firm Victory Park Capital has increased its existing credit facility with ADF from \$50 million to \$75 million and extended it through 2021. Additionally, ADF raised \$6.5 million in a convertible



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The advertisement features a collage of logos for various fintech and lending companies, including SIKONO, OFF3R, Lendy, WELLTRADO, INDIALENDS, I ❤️ SAGE, Liberis, nCompare, 点融 (DIANRONG), STEADFAST APARTMENT REIT III, Alcentra, Capital, TransUnion, sancus (straightforward financing), and F2ST P2Y.

THE ALTERNATIVE LENDING REPORT

Loan Tape

Select Banks with Significant Exposure to Small Business Loans

A cross-section of publicly traded community banks with market capitalizations of at least \$100M and at least 3% of assets in small business loans with outstanding principal of \$1M or less, according to FDIC. Call data as of 12/31/17. Market data as of June 14, 2017.

COMPANY	TICKER	MKT. CAP (\$M)	CURRENT PRICE (\$)	12-MO. CHANGE	SMALL BIZ LOAN %
Signature Bank	SBNY	8,202.79	150.10	19.5%	14.4%
Glacier Bank	GBCI	2,811.19	35.95	38.2%	3.5%
United Community Bank	UCBI	1,990.84	27.70	48.5%	6.7%
Towne Bank	TOWN	1,930.60	30.80	43.7%	4.3%
Peoples Independent Bank	INDB	1,813.62	65.75	42.5%	4.2%
Ameris Bank	ABCB	1,790.35	47.68	57.9%	6.8%
BancFirst	BANF	1,589.83	99.00	61.2%	3.8%
Pacific Premier Bank	PPBI	1,486.98	37.00	51.5%	7.7%
State Bank Financial	STBZ	1,072.34	27.07	32.7%	3.7%
Sandy Spring Bank	SASR	964.25	40.39	41.1%	4.3%
German American Bancorp	GABC	744.98	32.40	50.1%	7.0%
Farmers and Merchants Bank	FMCB	501.40	605.00	(0.3%)	31.5%
Macatawa Bank	MCBC	329.26	9.63	40.4%	7.8%
Southern First Bank	SFST	256.44	35.45	45.9%	9.0%
Bank First National	BFNC	241.74	36.00	28.6%	9.2%
Howard Bank	HBMD	193.87	18.65	46.5%	8.9%
Sunshine Bank	SBCP	179.06	21.72	46.4%	7.1%
Pacific Mercantile Bank	PMBC	186.57	7.85	12.9%	7.3%
Commonwealth Business Bank	CWBB	136.06	14.96	46.7%	5.9%
California Bank of Commerce	CABC	111.63	19.00	40.7%	16.8%
NorthEast Community Bank	NECB	104.09	8.70	33.4%	3.1%

Funds of Interest

All data as of June 14, 2017 or last reported date. Information sources include Nasdaq and company websites.

FUNDS	TICKER	CURRENT PRICE	12-MO. % CHANGE
Funding Circle SME Income Fund (in USD)	FCIF	103.25	4.99%
P2P Global Investments PLC (in GBP)	P2P	9.04	6.29%
Ranger Direct Lending (in GBP)	RDL	8.75	(11.62%)
River North Marketplace Lending (in USD)	RMPLX	25.07	n/a
SME Loan Fund PLC (in GBP)	SMIF	96.07	3.05%
VPC Specialty Lending (in GBP)	VSL	0.82	(3.53%)

Indices of Interest

All data as of June 14, 2017 or last reported date. Constituents refer to either stocks or individual loans included as members of the index. Information sources include Nasdaq and company websites.

INDEX	TICKER	VALUE	CONSTITUENTS	TYPE
KBW/Nasdaq Fintech Performance Index	KFTX	1,204.88	50	Fintech
Cliffwater Direct Lending Index	CDLI	3,213.40	> 6,000	Bus. Loan
Orchard U.S. Consumer Online Lending Index	n/a	1,507.17	1,345,267	Cons. Loan

Specialty Finance Companies with Exposure to Small Business Loans

Publicly traded companies engaged in small business lending through commercial finance operations or BDCs, with at least \$500M in market cap. Market data as of June 14, 2017.

COMPANY	TICKER	MKT. CAP (\$M)	CURRENT PRICE (\$)	12-MO. CHANGE
American Express Bank	AXP	72,029.66	80.09	31.14%
Intuit Inc.	INTU	35,839.62	140.86	32.59%
Prospect Capital	PSEC	2,875.91	7.96	6.62%
The Pitney Bowes Bank	PBI	2,870.25	15.44	(14.27%)
FS Investments	FSIC	2,279.92	9.20	2.91%
Main Street Capital Corp.	MAIN	2,179.30	39.01	20.36%
TPG Specialty Lending	TSLX	1,232.55	20.30	24.39%
Golub Capital BDC, Inc.	GBDC	1,148.62	19.30	12.44%
New Mountain Finance	NMFC	1,114.68	14.45	19.42%
Hercules Capital, Inc.	HTGC	1,091.10	13.14	10.23%
TCP Capital Corp.	TCPC	1,004.76	16.67	13.32%
Solar Capital Ltd.	SLRC	934.81	21.87	16.95%
Goldman Sachs BDC	GSBD	900.86	22.45	13.10%
Fifth Street Finance Corp.	FSC	572.30	4.01	(17.32%)
PennantPark Investment	PNNT	542.19	7.58	14.50%
BlackRock Capital Investment	BKCC	558.66	7.72	(0.39%)

Online Lenders

Publicly traded companies engaged in online lending to consumers as well as businesses. Market data as of June 14, 2017.

COMPANY	TICKER	LOAN TYPE	CURRENT PRICE (\$)	12-MO. CHANGE
China Rap. Finance	XRF	Cons. (China)	7.00	n/a
Elevate Credit	ELVT	Consumer	8.41	n/a
Enova	ENVA	Cons./Bus.	14.50	102.8%
IOU Financial	IOU	Business	0.17	(45.0%)
Lending Club	LC	Cons./Bus.	5.69	28.6%
NewTek	NEWT	Business	16.60	31.9%
OnDeck	ONDK	Business	4.29	(12.8%)
OneMain Financial	OMF	Consumer	22.41	(9.5%)
Square	SQ	Business	23.51	164.4%
Yirendai	YRD	Cons. (China)	24.54	86.1%

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Loan Tape

M&A + Partnerships (May 16 through June 13)

During the period May 16 through June 13, 2017, M&A deal activity and strategic partnership announcements in the alternative lending and small business lending segments included the following companies/transactions.

DATE	COMPANIES	STRUCTURE	DEAL DESCRIPTION
6/13/17	Lendio, Comcast Business	Partnership	Online small business lending marketplace Lendio is launching a pilot agreement with Comcast Business to provide its small business customers with quick and easy access to capital.
6/9/17	BBVA, EIB Group	Partnership	The European Investment Bank and the European Investment Fund have agreed to provide BBVA with a €43 million mezzanine guarantee facility to support investment projects for Spanish SMEs.
6/8/17	BCB Bancorp, IA Bancorp	Acquisition	BCB Bancorp has entered into a definitive merger agreement with IA Bancorp, Inc. in which the Company will acquire IAB and its wholly owned subsidiary, Indus-American Bank.
6/8/17	Lendy, OFF3R, Welltrado	Partnership	Lendy, the peer-to-peer lending platform, has teamed up with OFF3R and Welltrado to boost the soft launch of its property bond.
6/8/17	Steadfast Capital Markets, Alcentra	Partnership	Steadfast Capital Markets Group and Alcentra NY LLC launched alternative program Steadfast Alcentra Global Credit Fund, an unlisted closed-end fund that seeks to capitalize on the growing opportunity to provide direct lending to middle-market companies in the United States and Western Europe.
6/8/17	Credit Crowd, Othera	Partnership	Australia-based P2P lender, Credit Crowd, has joined Othera's Blockchain Lending Platform and Digital Asset Trading Exchange.
6/7/17	Sunflower Financial, Strategic Growth Bancorp	Merger	Sunflower Financial and Strategic Growth Bancorp announced that required regulatory approvals had been received for the merger of the two holding companies, with enhancements for banking customers in small-business loans and accounts and in mortgage products and services available.
6/7/17	Balboa Capital, KWIPPED	Partnership	Balboa Capital was selected by KWIPPED, a B2B equipment rental marketplace, to support its nationwide network of equipment rental suppliers with custom-tailored financing solutions for its customers.
6/7/17	Liberis, Xero	Partnership	UK-based merchant cash advancer Liberis has partnered with accounting software firm Xero. The deep integration will open up seamless access to Liberis' funding products for Xero users.
6/6/17	Crowdsurfer, Zopa	Partnership	Crowdsurfer, a comprehensive source of data on the global alternative finance market, announced that Zopa has become the latest peer-to-peer lender to submit its data to the company.
6/6/17	Moody's Analytics, Finagraph	Partnership	Risk management provider Moody's Analytics announced the launch of its MARQ business credit score in Flight, a web application for accounting professionals and business advisors offered by Finagraph.
6/5/17	Arohan, IntelleCash	Merger	Microfinance provider Arohan plans to merge the lending operations of promoter company IntelleCash with itself.
6/5/17	Stonebriar Commercial Finance, NonBankLender	Acquisition	Stonebriar Commercial Finance acquired McKinney, TX-based NonBankLender and InterimLender.com, founded in 2009 by Curtis Valenzuela.
6/1/17	People's Utah Bancorp, Town & Country Bank	Merger	People's Utah Bancorp and Town & Country Bank jointly announced the signing of a definitive agreement to merge.
5/31/17	Abacus, Capital One	Partnership	Abacus announced an integration with Capital One's new Customer Transactions API, which aims to provide a more "secure and reliable" data sharing connection between the two companies.
5/31/17	Seedrs, Natwest	Partnership	Equity crowdfunding platform Seedrs joins fellow alternative finance companies Funding Circle, Assetz Capital, iwoca, Together and Natwest's own Social and Community Capital in a Natwest program that aims to open doors for UK SMEs to sources of finance.

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DATE	COMPANIES	STRUCTURE	DEAL DESCRIPTION
5/30/17	Banco BNI Europa, Raize	Partnership	Banco BNI Europa, a Lisbon based digital only banking group, has announced a strategic agreement with Raize, a Portugal based peer to peer lender.
5/25/17	Horizon Bancorp, Lafayette Community Bancorp	Acquisition	Horizon Bancorp in Michigan City, Ind., has agreed to buy Lafayette Community Bancorp in Indiana. The \$3.2 billion-asset Horizon said it will pay \$32 million in cash and stock for the \$172.1 million-asset Lafayette. The deal is expected to close in the third quarter.
5/25/17	Sage Pay, Liberis	Partnership	Sage Pay, a payment processing firm for small businesses, has stepped into alternative lending, announcing the launch of Sage Pay Business Finance. The result of a new collaboration with alternative lender Liberis, SMEs can receive a cash advance equivalent to up to one month's worth of card takings with a fixed fee.
5/24/17	Goldmoney, LBT Holdings	Partnership	Goldmoney, a precious metal financial service and technology company, announced an investment in and partnership with investment company LBT Holdings, the parent company of Lend & Borrow Trust Company, a U.K.-based online platform offering auction-rate P2P lending and borrowing collateralized by precious metals.
5/24/17	MW Eaglewood, Pollen Street Capital	Merger	The respective managers of the UK-based £822M P2P Global Investments and the £200M HoneyComb investment trusts will merge, creating one of the largest specialist asset management firms focused on non-bank lending.
5/24/17	SmartFinancial, Capstone Bancshares	Acquisition	SmartFinancial has agreed to buy Capstone Bancshares. The \$1 billion-asset SmartFinancial said in a press release that it will pay \$84.8 million in cash and stock for the \$510 million-asset Capstone, valuing Capstone at 159% of its tangible book value.
5/23/17	C&H Financial Services, Comvest Partners	Partnership	C&H Financial Services, Inc. announced its partnership with Comvest Partners through its lending strategy, Comvest Capital to support C&H's future growth and acquisitions.
5/23/17	Great Southern Bank, nCino	Partnership	Cloud banking service provider nCino announced that \$4.4 billion-asset Great Southern Bank has selected the company's Bank Operating System to increase speed and enhance the simplicity of its commercial loan process.
5/23/17	Union Bankshares Corporation, Xenith Bankshares	Acquisition	Union Bankshares Corporation and Xenith Bankshares announced a definitive merger agreement for Union to acquire Xenith in an all-stock transaction.
5/23/17	Qualtrust Credit Union, Texas Trust Credit Union	Merger	Members of Qualtrust Credit Union have agreed to merge with Texas Trust Credit Union. Qualtrust members voted on May 18 in favor of the merger, allowing the two credit unions to join forces.
5/23/17	BizEquity, Equifax	Partnership	BizEquity announced a strategic relationship with Equifax to offer a new business valuation tool to help financial professionals prospect more effectively and small business owners better understand their business worth.
5/22/17	OnDeck, Franchise Council of Australia	Partnership	OnDeck announced a partnership with the Franchise Council of Australia, the peak body for the franchise sector in Australia.
5/19/17	Laurentian Bank, Northpoint Commercial Finance	Acquisition	Laurentian Bank of Canada has reached a definitive agreement under which a subsidiary of the Bank has agreed to acquire Northpoint Commercial Finance.
5/18/17	FormFree, Black Knight Financial Services	Partnership	FormFree announced the direct integration of its AccountChek automated asset verification service with the LoanSphere Empower loan origination system offered by Black Knight Financial Services, provider of integrated technology, data, and analytics to the mortgage and real estate industries.
5/17/17	Crossroads Capital Finance, MediXall	Partnership	MediXall Group will offer financing products to serve health care providers and their patients through a partnership with financial consulting firm TBG Holdings and its affiliate Crossroads Capital Finance Group.
5/16/17	Medioplanet, Reliant Funding	Partnership	Medioplanet announced the launch of this year's edition of "The Future of Finance." Reliant Funding, a partner within the campaign's small business funding section, provides key expertise when it comes to new trends in small business lending.
5/16/17	Aptean, Marlin Business Services Corp.	Partnership	Commercial equipment financier Marlin Business Services and enterprise software solutions provider Aptean have entered an agreement for Marlin to support Aptean's North American operations with financing options for its customers.

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New Investments (May 16 through June 13)

During the period May 16 through June 13, 2017, new investment activity in issuers operating in the alternative lending and small business lending segments included the following companies/transactions.

DATE	COMPANY	BUSINESS DESCRIPTION	AMOUNT	STRUCTURE	USE OF PROCEEDS	INVESTORS
6/12/17	LoanMeet	LoanMeet provides short-term working capital loans to retailers for inventory financing.	Undisclosed	Venture, Seed	To expand the company's customer base.	Cao Yibin, Huang Wei, Madhusudan E
6/9/17	IndusInd Bank	IndusInd Bank Limited provides various banking products and services to individuals, NRIs, business owners, corporates, and government and financial institutions primarily in India.	\$225,000,000	Debt	To support the expansion of the Bank's micro, small, and medium enterprise lending programs across India.	OPIC
6/7/17	FinCompare	FinCompare GmbH operates a financing platform for small and medium-sized enterprises where they can overview the financing options available for their company.	\$2,820,000	Venture, Seed	For additional market development, the expansion of technology, for marketing and personnel, and for small medium enterprises financing comparison site.	Speedinvest GmbH, UNIQA Insurance Group AG
6/7/17	BAM	BAM provides technology, payments processing, and working capital loans to the U.S. trucking industry.	\$10,000,000	Undisclosed	To aggressively expand sales, innovation, and product development.	Millstone Capital Partners
6/2/17	Hana Financial	Hana Financial, Inc. is a non-bank financial institution that offers lending services in the United States and internationally.	Undisclosed	Undisclosed	Undisclosed	YESCO Co. Ltd
6/2/17	Zopa	Zopa Limited provides peer-to-peer lending services in the United Kingdom.	\$41,270,000	Private Placement	For continued growth and product development, and supporting the launch of its bank and build-out of its bank infrastructure in preparation for the submission of its banking license application later this year.	Northzone Ventures, Wadhawan Global Capital Pvt Ltd
6/1/17	Applied Data Finance	Applied Data Finance, LLC, doing business as Personify Financial, provides loans to less-than-prime borrowers in the United States.	\$6,500,000	Debt	To further strengthen its ability to serve the under-banked and to continue scale its successful Personify Financial online lending platform.	Undisclosed
6/1/17	Honeycomb	Honeycomb Investment Trust Plc, a lending fund, engages in the acquisition of interests in loans made to consumers, small businesses, and other counterparties.	\$134,000,000	Private Placement	To capitalize on new business opportunities.	Undisclosed
5/31/17	Tuandaiwang	Tuandaiwang operates a P2P lending platform, which enables users to lend their saving at a higher investment return rate than traditional saving rates.	\$262,000,000	Pre-IPO	Platform development and investment in other tech assets.	China Minsheng Investment Group, Beijing Yisheng Innovation Technology, Beihai Hongtai Investment
5/31/17	RateSetter	RateSetter offers an online application for peer to peer lending.	\$20,000,000	Undisclosed	To provide "more affordable finance options" for the purchase of energy efficient products by both businesses and individuals.	Clean Energy Finance Corporation
5/30/17	Lendit	Lendit develops and operates an online platform that offers peer-to-peer consumer lending services.	\$8,900,000	Venture, Series B	To focus on research and development and nurture IT and finance specialists.	Altos Ventures, YellowDog, Collaborative Fund

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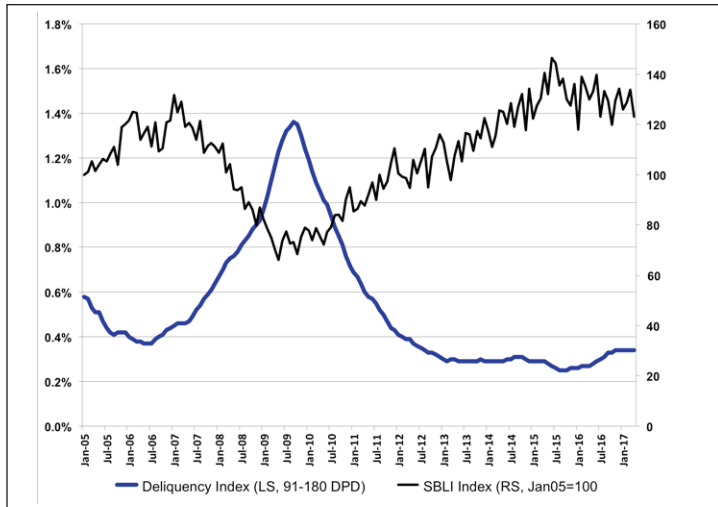
Loan Tape

DATE	COMPANY	BUSINESS DESCRIPTION	AMOUNT	STRUCTURE	USE OF PROCEEDS	INVESTORS
5/30/17	RateSetter	RateSetter offers an online application for peer to peer lending.	\$16,738,800	Undisclosed	To fund its expansion as it prepares to offer an innovative finance ISA.	Neil Woodford, Artemis
5/26/17	IOU Financial Inc.	IOU Financial Inc., through its subsidiary, IOU Central Inc., operates an Internet-based commercial lending platform in the United States.	\$3,500,000	Private Placement	To finance small business loans in the Company's target markets of the United States and Canada and for general corporate purposes.	Undisclosed
5/25/17	Blispay	Blispay inc. develops a mobile application for paying bills online.	\$12,000,000	Venture, Series A	To accelerate the marketing and sales outreach for its financing platform, and to hire in sales and add more merchants to its financing platform.	FirstMark Capital, L.L.C., Accomplix, LLC, New Enterprise Associates, Camden Partners Holdings, LLC, F-Prime Capital Partners
5/25/17	Springleaf Finance Corporation	Springleaf Finance Corporation, a consumer finance company, provides personal loans and insurance products.	\$500,000,000	Debt	General Corporate Purposes / Working Capital, Redemption/Repayment of Debt Securities, Other.	OneMain Holdings, Inc
5/25/17	OnDeck	On Deck Capital, Inc. operates an online platform for small business lending in the United States, Canada, and Australia.	\$100,000,000	Debt	To create additional funding capacity to pave the way for future loan growth	SunTrust Bank
5/25/17	AYE Finance	Aye Finance Pvt. Ltd., a non-banking financial company, offers loans to micro enterprises with investments in plants and machinery.	\$8,000,000	Debt	To improve its technology stack for better data insights and the rest of it towards giving loans to new and existing customers.	Blue Orchard
5/19/17	PaySense	PaySense Services India Private Limited provides EMI plans for online and offline purchases.	\$5,300,000	Venture, Series A	To invest in its technology and also to expand team and to take product to more cities than the nine where we currently operate in.	Jungle Ventures, Naspers Ventures, Nexus Venture Partners
5/19/17	BlackRiver Business Capital	BlackRiver Business Capital is a direct lender in the commercial equipment finance industry.	\$20,000,000	Debt	To invest in growth and effectively implement the long-term business plan	SunTrust Bank
5/18/17	Qupital	Qupital operates an online invoice trading platform that allows companies to raise finance against their receivables by connecting them with investors interested in a new asset class.	\$2,000,000	Venture, Seed	Qupital will use the proceeds to enhance its technology platform and also to facilitate expansion in the region.	G10 Anson Roadobi Partners, Hong Kong Entrepreneurs Fund, Mindworks Ventures, DRL Capital, The Aria Group
5/17/17	Prosper	Prosper Marketplace, Inc., together with its subsidiaries, develops a peer-to-peer online credit marketplace in the United States.	\$450,500,000	Debt	Undisclosed	Credit Suisse, Soros Fund Management
5/16/17	IOU Financial Inc.	IOU Financial Inc., through its subsidiary, IOU Central Inc., operates an Internet-based commercial lending platform in the United States.	\$1,500,000	Private Placement	To finance small business loans in the Company's target markets of the United States and Canada and for general corporate purposes.	FinTech Ventures Fund, LLLP

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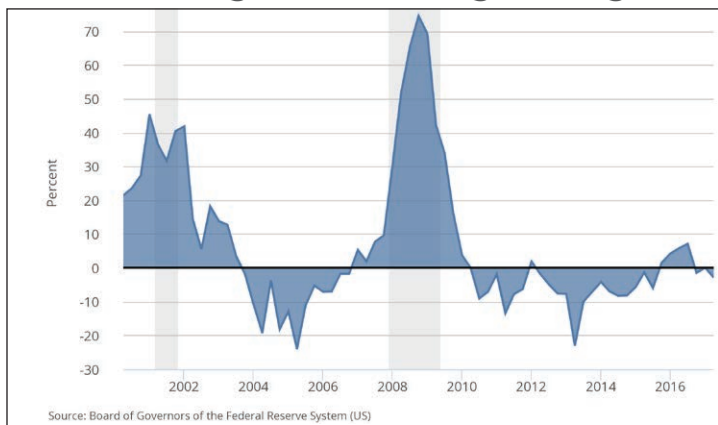
Loan Tape

Thomson Reuters/Paynet Small Business Indices (As of April 2017)



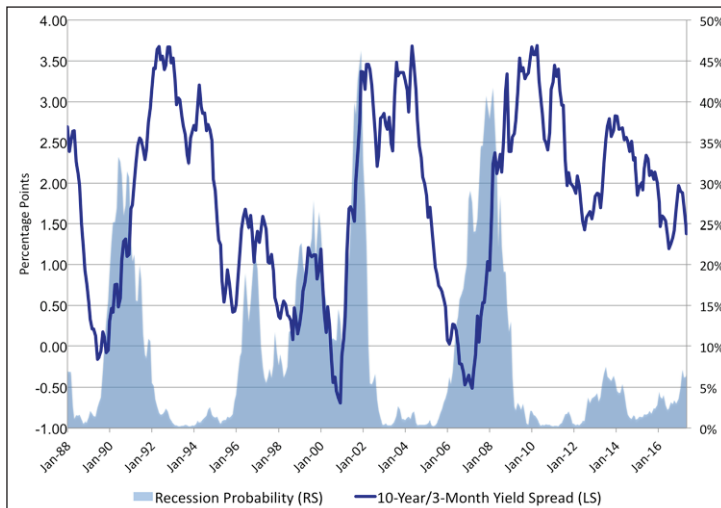
The Thomson Reuters/PayNet Small Business Indices track credit activity within the U.S. small business sector. The nearby chart graphs two of these measures, the Thomson Reuters/PayNet Small Business Lending Index (SBLI), which tracks the net volume of new commercial loans and leases to small businesses, and the Thomson Reuters/PayNet Small Business Delinquency Index (SBDI), which measures the percentage of small businesses that are 91 to 180 days past due (DPD) on payment as an indicator of financial stress and default risk. Taken together, the indices provide meaningful insights into business cycle trends, economic growth, capital investment and employment within the small business niche of the U.S. economy.

Net Percentage of Banks Tightening Standards for C&I Loans to Small Businesses



Taken from the U.S. Federal Reserve's quarterly Senior Loan Officer Opinion Survey on Bank Lending Practices, the nearby chart shows the net percentage of banks polled that have indicated they are tightening credit standards for small businesses. Declines in the measure suggest fewer banks are raising standards, and thus suggest easing credit conditions; rises mean businesses may encounter greater difficulty obtaining financing. Gray areas indicate periods of recession.

U.S. 10-Yr./3-Mo. Spread Versus Recession Probability



Declines in the yield spread between 10-year U.S. Treasury bonds and 3-month U.S. Treasury bills tend to lead increases in the chances of a recession. The nearby chart shows the yield spread (blue line) graphed against the U.S. Federal Reserve's Recession Probability Indicator (background) back to January 1988. Sharp drops in the spread generally foreshadow rises in the probability indicator, increasing the likelihood of recessionary conditions existing 12 months later. Currently, the gradual saw-tooth movement down in spreads since the end of the financial crisis has broadly coincided with global zero-interest rate policies and quantitative easing, and has not yet generated a meaningful increase in recession probability, which although off its 2016 lows, remains very low.

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Loan Tape

Recent Litigation Related to Small Business & Alternative Lending (through June 14, 2017)

The table below details active litigation involving merchant cash advance companies, factoring firms, and other alternative or small business lenders. Case summaries are drawn from public court filings and are not necessarily complete. Disputed amounts do not include requests for attorney's fees. For complete and accurate information, refer to the specific case number, where applicable.

PLAINTIFF	DEFENDANT	TYPE OF LITIGATION	DATE FILED	ATTORNEY FOR PLAINTIFF	SUMMARY	DISPUTED AMOUNT (\$)	CASE #	VENUE
Rapid Capital Finance LLC	S&L Contracting CNY, LLC; Donald Gilbert	MCA - Receivables	06/09/17	Jaffe & Asher	Plaintiff alleges breach of contract, breach of personal guarantee, and unjust enrichment regarding a June 2016 Agreement under which Plaintiff purchased \$63,000 worth of future receivables for an undisclosed amount.	\$41,408.69	EFCA2017-001102	Oneida County, NY
Ibis Capital Group, LLC d/b/a Nugrowth Capital	Quantex Laboratories, Inc.; James Menoutis	MCA - Receivables	06/08/17	Stein & Stein	Plaintiff alleges default of a June 2016 Merchant Agreement in which \$209,405 in future sales were purchased for \$150,651 and Defendant agreed to allow for periodic automatic withdrawals from a designated bank account until such time as the amount of the purchased future receivables was paid.	\$90,740.55	32554	Rockland County, NY
IMS Fund LLC	Family Health Urgent Care Incorporated; Ramil Mansourov	MCA - Receivables	06/07/17	Michael Byk	Plaintiff alleges default and breach of contract regarding a February 2017 Merchant Accounts Receivables Purchase Contract in which \$42,000 of future accounts receivable was purchased for \$30,000.	\$38,910.00	653092	New York County, NY
National Funding Inc.	Eubanks Electric, LLC, Dustin Eubanks	Small Business Loan	06/06/17	Neal Salisian	Plaintiff alleges default, breach of contract and breach of guaranty regarding an \$50,000 loan agreement dated April 2017.	\$52,382.81	1:17-cv-10986	LA County, CA
McKenzie Capital LLC	Marvin Ramirez d/b/a M.J.T. Trucking	MCA - Receivables	06/06/17	Miriam L. Mendieta	Plaintiff alleges default, breach of contract and unjust enrichment regarding a May 2017 Merchant Agreement under which \$18,850 in future accounts receivable was purchased for \$13,000. Plaintiff also seeks enforcement of a personal guarantee.	\$43,719.00	013578-CA-01	Miami-Dade County, FL
Last Chance Funding Inc.	Pie Face Trucking LLC; Gwendolyn Brown Cunningham	MCA - Receivables	06/06/17	n/a	Entry of Judgment against Defendant(s) stemming from the alleged default of March 2017 Merchant Agreement and Security Agreement under which Plaintiff agreed to buy \$14,700 of Defendant's future receivable for \$10,000.	\$7,975.00	511121	Kings County, NY

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PLAINTIFF	DEFENDANT	TYPE OF LITIGATION	DATE FILED	ATTORNEY FOR PLAINTIFF	SUMMARY	DISPUTED AMOUNT (\$)	CASE #	VENUE
Complete Business Solutions Group, Inc.	Telecable, Inc. d/b/a Telecable Construction; Robert Hugh Hinson	Factoring	06/06/17	Norman M. Valz	Plaintiff seeks entry of a judgment by confession related to the alleged default of a February 2017 factoring agreement; Plaintiff also seeks redress via personal guarantee.	\$16,042.66	CI-17-05438	Lancaster County, PA
Yellowstone Capital LLC	Jetro Delivery Service of NY LLC; Francisco Flores	MCA - Receivables	06/02/17	Vadim Serebro	Enforcement of a Confession of Judgment and personal guarantee from Defendant(s) arising from the alleged default of an March 2017 secured Merchant Agreement in which Plaintiff purchased \$99,830 in future accounts receivable for \$67,000.	\$61,547.00	510927	Kings County, NY
EBF Partners, LLC	New Carlisle Family Dental, David M. Raiffe DDS	MCA - Receivables	06/01/17	Vadim Serebro	Enforcement of a Confession of Judgment from Defendant(s) arising from alleged default of an March 2017 Payment Rights Purchase And Sale Agreement in which Plaintiff purchased \$101,100 in future accounts receivable for \$70,000.	\$65,282.80	605069	Nassau County, NY
Strategic Funding Source, Inc.	David And Helen Getman Memorial Home, George Scala	MCA - Receivables	06/01/17	Jennifer Ballard	Plaintiff alleges default, breach of contract, and breach of personal guarantee a regarding July and November 2016 Merchant Cash Advance agreements in which \$100,725 of future receivables were purchased for \$75,000.	\$93,466.44	652974	New York County, NY
Merchant Funding Services, LLC	Bullet, LLC d/b/a/ Bromley's Market; Robert Bromley	MCA - Receivables	05/19/17	Tara N. Pomparelli	Entry of Judgment against Defendant(s) stemming from the alleged default of a January 2017 Secured Merchant Agreement under which Plaintiff agreed to buy \$49,355 of Defendant's future receivable for \$33,000.	\$16,401.00	807519	Erie County, NY
DRB Capital LLC	Jacob Joseph & Associates LLC; Joel Gossett	Business Practices	05/15/17	Gregory Weiss	Plaintiff alleges tortious interference with a business relationship, tortious interference with contract, and unfair trade practices arising out of Defendant's acquisition of structured settlement payment rights. It seeks injunctive relief, damages and costs.	n/a	17-009260	Broward County, FL

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Factoring

Continued from front page

[a company] collect in the event of a default,” she says. “What those provisions would be depends on the specifics of each case.”

In fact, the contract itself typically defines what constitutes a default as well as how that breach can be cured. Additionally, the contract can, and should, provide for the collection of attorneys’ fees and other costs associated with defaults.

The Financing Statement

The other documents Galindo refers to include what is known as the UCC-1 Financing Statement. The Uniform Commercial Code, or “UCC,” treats a factor as a secured party, and its interest as a security interest, which the factor must perfect by filing the UCC-1 Financing Statement. Generally this is necessary because an account receivable does not exist in tangible form, so it’s not automatically perfected upon

attachment (that is, when the sale takes place).

The Financing Statement helps guard the factor against future claims by other creditors on the same inventory. And once a security interest is perfected, the factor should be able to enforce the liens created by its contract with the seller. Properly filing a Financing Statement, then, is another way in which a factor must act on the front-end of a transaction to protect itself.

Failing to have the proper documents in place can be detrimental. For instance, if the Financing Statement is filed in the wrong state it could result in the loss of protection that a factor would enjoy if it was otherwise filed correctly. This could be the case if the filing is made in the state where the headquarters of the business was located, rather than in the state where the business was incorporated, as an example.

The lesson from this should be obvious: while certain protections exist and steps can be taken on the front-end to mitigate the chances of – and damages from – default down the line, as with any transaction a factor must dot the i’s and cross the t’s. Once this is done, a factor is in a stronger position to recover from any default that might later occur. If not, the factor may lose the ability to recover at all.

In the Event of Default


When default does occur, the contract typically sets out what

options are available for recovery, and filing a lawsuit isn’t necessarily the first or best way to begin. In fact, the contract might require binding arbitration or mediation before a lawsuit can be filed. And, often times, there are provisions stating that the defaulting party has a certain number of days within which to cure their default or to send a notice of breach declaring an “official” default.

Until such provisions are complied with (regardless of who defaulted), filing a lawsuit would be premature and would even open up the filing party to being obligated to pay the other party’s attorneys’ fees and costs incurred in defending the premature filing. Again, all of this speaks to the contract, the strengths and weaknesses of which will heavily impact recovery.

Settlement

Even if you are able to file right away, the best way to recover is usually via settlement. Why? Because it avoids litigation fees and court costs. While the contract should provide for recovery of attorneys’ fees and other costs associated with default, the better practice is to avoid those costs in the first place.

One word of warning: bankruptcy. At any time, the seller might file for bankruptcy. This is another reason that settlement is encouraged: if an affordable arrangement can be structured, the seller is more likely to stay in business and continue to pay you. If you chose to litigate (and, admittedly, sometimes it’s your only option if settlement fails), the costs to the seller to defend the suit might drive it into bankruptcy. 

In the next issue of *The Alternative Lending Report*: **To Litigate or Not to Litigate? That Is the Costly Question.**

Josh Simpson is an attorney with experience in the factoring industry, serving as counsel for nearly a decade to factoring companies in Miami, Fla., where he litigated consumer finance and SME cases.

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THE ALTERNATIVE LENDING REPORT

504 Loans

Continued from front page

approved 4,385 loans totaling more than \$3.57 billion, amounting to year-over-year growth of 16.8%.

This means more businesses are applying for 504 loans, and the SBA is approving them. To ensure this growth, and the success of the borrowing businesses, CDCs must operate efficiently. But what does that entail, exactly?

How the 504 Program Works

The 504 loan program is designed to provide gap fixed asset financing for small businesses. Borrowers are required to provide 10% of their own assets to purchase equipment or real estate. The first lien holder is a bank with 50% interest in the loan. The CDC fills the gap with a full guarantee from the SBA for the second lien.

"This allows the small business to

have more leverage with the same collateral," Reilly said.

The process, from application to approval, takes four to six weeks, depending on the complexities of the borrower's situation. The CDC receives the loan application, analyzes the small business's financial condition, the applicant meets with the CDC board, and sends the paperwork to the SBA central processing office in Sacramento, California.

"Once it hits that level," Reilly said, "there's a three to five day turnaround."

The SBA has strict rules regarding what a loan can be provided for, and for the size of the businesses receiving the loans. They also approve CDC applications and oversee their training while providing technical assistance when necessary. But it's up to the CDCs them-

selves to manage their processes and keep the ball rolling on the loans. In that regard, Reilly does have a few suggestions to help CDCs become better portfolio managers.

Thinking Like a Bank, Acting Like a Community Resource

While CDCs are non-profit organizations, they're in the business of making loans. That requires a mindset similar to any other lender, such as a bank. Reilly said one of the biggest challenges many CDCs face is business concentration.

"If you're in a coastal area, for instance, and you loan to a lot of hotels, you still should have a diversified portfolio," she said.

Bill Manger, Associate Administrator for the Office of Capital Access at the SBA, said diversification means a stron-

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504 Loans

ger local economy and a healthier loan portfolio for the CDC. Both Manger and Reilly recommend that CDCs learn the local community well enough that they can become a community resource for small businesses and help economic development corporations establish a more diversified business environment. New businesses entering the local economy could potentially become CDC customers later when they qualify for a 504 loan.


The SBA provides a ton of resources to small businesses. This includes free business plan development, among other things. An effective CDC can steer small business loan applicants to SBA programs so they can run their businesses better. Many CDCs even lead small business owners to the right bank to apply for the initial loan.

How CDCs Impact Communities

CDC Small Business Finance has been in business since 1978 and has made more than 11,000 loans to small businesses providing almost \$14 billion in total capital while creating 182,000 jobs. In the last year, they've managed \$1 billion in public and private investment in California, Arizona, and Nevada. Chief Credit Officer and Director of Business Development Michael Owen said 504 loans are as much about the economic impact of a loan as deriving a profit from it.

"You have to understand the dynamics of a project and look at it from a credit perspective," he said. An effective CDC must employ staff that's knowledgeable about sound credit practices

as well as economic development principles.

When assessing credit risk, he looks at a business's historical growth pattern and tries to align capital needs with future growth prospects. He wants to know if a business can meet its equipment and facility needs without outside capital. Rural CDCs can have as big an impact on their communities with 10 loan projects as a big urban CDC can with hundreds, he said. In the end, it's all about community impact. 

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