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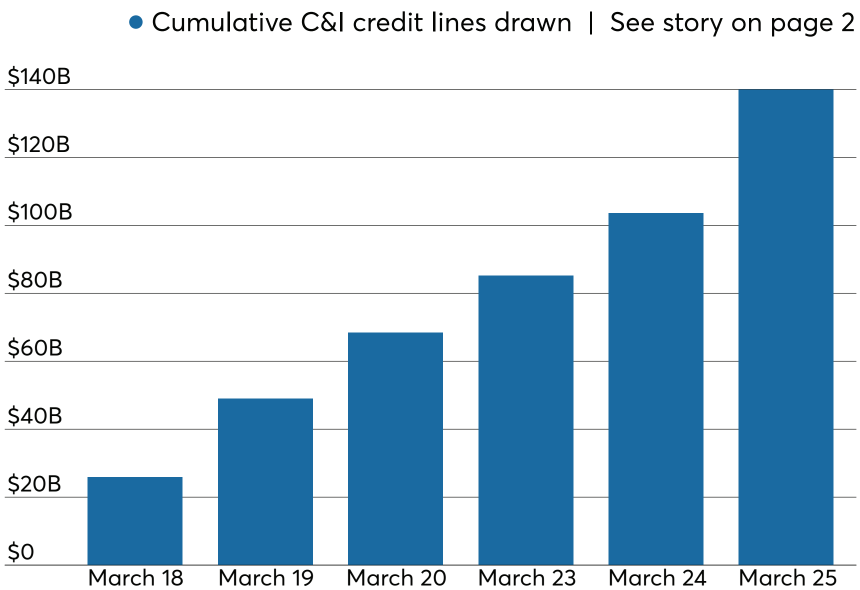
Strapped for cash

Corporations have rushed to tap credit lines to help withstand the economic fallout of the coronavirus crisis



Sources: Janney Research, S&P Global, Bloomberg, company filings

dailybriefing

1 Banks tolerate credit-line draws in coronavirus crisis — for now

Draw-downs on C&I credit more than quadrupled in a seven-day period ended March 25. Lenders may try to rein them in if the crisis drags out, but legal precedent isn't on their side. (See chart above.) **Page 2**

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Many borrowers will suffer unless the program, the central bank's latest response to the coronavirus pandemic, includes consumer loans issued by fintechs, Todd H. Baker writes. **Page 7**

COMMERCIAL LENDING

Banks tolerate credit-line draws in coronavirus crisis — for now

By Jon Prior
March 26, 2020

If the economic shutdown meant to curb the spread of COVID-19 persists longer than expected, it's feared that banks would use certain clauses in their contracts with business borrowers to prevent massive drawdowns on credit lines.

These so-called material adverse effect clauses, which are common in merger agreements as well, give the bank the ability to refuse a request to draw down a loan commitment if there is a significant deterioration in the borrower's business. According to analysts, banks have enough liquidity for now to meet the growing demand for cash from hard-hit businesses, but banks could begin to invoke these clauses if the situation worsens.

"We are not aware of any bank calling" a material adverse effect clause to date, said Richard Spehr, who leads the global litigation and dispute resolution practice at the law firm Mayer Brown. "However, as severe economic dislocation continues, banks will certainly focus on whether an MAE is available to them."

There were $139.9 billion in commercial and industrial loan draws as of March 25, up from $29.2 billion on March 18, according to estimates compiled by Janney Montgomery Scott. Observers expect to get a clearer picture of the level of activity when banks report earnings in April.

Bankers contacted for this story did not comment.

Christopher Maher, chairman and CEO of OceanFirst Financial in Toms River, N.J., said during a recent conference call that commercial clients had recently drawn down $11 million from existing lines of credit. He said 104 business clients of the $10.2 billion-asset company had temporarily shut down to preserve cash.

Nationally there remain roughly $1.2 trillion in revolver credit lines that could be drawn by corporate clients, and about $800 billion of that is available to companies with debt ratings one notch above junk, according to Barclays Capital researchers.

"It's too early to tell what kind of opportunistic behavior might unfold as this crisis rolls along," said Andrew Glenn, a lawyer at Kasowitz Benson Torres. "We have some private-equity clients who started publishing recommendations to portfolio companies to draw down out of concern that liquidity might not be there."

Glenn's firm successfully compelled banks to reverse their decisions to use the clauses during the recession that followed the 2008 financial crisis. Lenders then were looking to get out of financing merger and acquisition deals that suddenly soured. Previous court rulings on the issue have shown that banks wanting to use these clauses have a high bar to reach in order to do so.

One of the most commonly cited cases came in 2001, when a Delaware trial court ruled that Tyson Foods had to carry out its acquisition of IBP even after trying to use a material adverse effect clause to get out of the deal when IBP's earnings suddenly started to wane.

The judge in the case, Leo Strine, who sat on the Delaware Supreme Court from 2014 to 2019, ruled at the time that a company trying to use the clause to back out of a deal had to show adverse effects over time. The precedent could now give lenders pause if the economic shutdown from the new coronavirus pandemic is a short-lived one.

"A short-term hiccup in earnings should not suffice," Strine said in his ruling. "Rather the Material Adverse Effect should be material when viewed from the longer-term perspective of the acquiror."

Sartaj Gill, a finance partner at the law firm Davis Polk, said case law suggests that a lender alleging an material adverse effect has occurred will have a "high burden."

"It is generally accepted that for there to be an [material adverse effect] the impact must, among other things, have had or be expected to have a material adverse effect for a durationally significant period," Gill said. "Since we are still in the early days of the pandemic and the long-term impact on most businesses is not yet clear, this may be challenging or at least uncertain."

If a bank desperate to get out of honoring a credit facility draw pulls the lever too quickly, a swarm of litigation is almost certain, attorneys said.

"No well-advised lender will call an MAE lightly," Gill said.

Barclays Capital researchers said in a March 19 note to clients that "the banking system has the liquidity to meet potential revolver draws," especially as the Federal Reserve uses an unprecedented number of maneuvers to backstop the financial market.

The Senate passed legislation Wednesday night that would send $2 trillion to struggling consumers and businesses to help in the near term. But the economic damage from the new coronavirus spread is already hitting some industries like hotels particularly hard, sending

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jobless claims to a record high on Thursday.

If the toll from the virus worsens and shutdowns linger longer than expected, the question over whether banks will test the limits of the material adverse clauses would become more pressing.

"At first it looked like this would be a very short-term thing and that maybe the entire world wouldn't shut down," Glenn said. "It really has closed down so many businesses that this looks like it would be a more extended affair."

Paul Davis contributed to this article.

COMMUNITY BANKING

Coronavirus hardships behind California bank chief's decision to retire

By Ken McCarthy
March 26, 2020

A community bank in Salinas, Calif., is looking for a new leader.

Tom Meyer will retire as president and CEO of 1st Capital Bank on March 31. He has led the $645 million-asset bank since 2015.

Meyer said in the release that local and statewide shelter-in-place orders accelerated his timetable for stepping down by "a few months." He said retiring will allow him to join his family in Southern California.

Salinas is about 100 miles south of San Francisco.

The bank said that Michael Winiarski, its chief financial officer, will serve as acting CEO until a permanent successor is hired.

"I have enjoyed the opportunity to lead this strong, healthy bank these past five years, and have particularly enjoyed my relationships with our tremendous employees, customers and community," Meyer said in the release.

CORONAVIRUS

Emergency coronavirus program gives fintechs a shot at SBA lending

By John Reosti
March 26, 2020

For fintechs, the sweeping federal response to the coronavirus crisis could be a way to gain access to more lending opportunities.

Congress is poised to pass a stimulus package that will designate $349 billion in loans to small businesses. The effort, set to run through June 30, would be handled through the Small Business Administration's 7(a) program.

While roughly 1,700 lenders — virtually all banks or credit unions — already participate in 7(a), SBA Administrator Jovita Carranza and Treasury Secretary Steven Mnuchin have the authority to open the program to other lenders with "the necessary qualifications to process, close, disburse and service loans."

That's where fintechs see an opening.

Fintech participation "makes sense" given the potential for massive loan demand and a tight time frame, said Sam Taussig, head of global policy at Kabbage.

"We're ready to go," Taussig said. "If there was ever a time for emergency guidance, this is it."

Ryan Metcalf, head of regulatory affairs and social impact at Funding Circle, is making a similar argument. Banks and credit unions alone won't be able to push money to impacted small businesses fast enough, he said.

"Capacity is a serious issue and speed is a serious issue," Metcalf said. "For the sense of urgency that has to happen, we need the capacity of [fintech] lenders to get these funds out the door."

With a warehouse facility from the Federal Reserve, Funding Circle could lend up to $80 million a month, Metcalf said.

No fintech lenders are authorized to participate in the SBA's regular 7(a) program.

Funding Circle began the application process to become a 7(a) lender in April 2019, only to see its bid stall while the SBA reviewed the company's selection of California's Department of Business Oversight as its primary regulator. The issue remains unresolved nearly a year later, Metcalf said.

An SBA spokesman was unable to immediately comment.

The SBA recently proposed a rule to restrict nonfederally regulated 7(a) lenders, which would include fintechs, from lending outside the state in which its primary regulator was based. That rule would serve as a disincentive for companies like Funding Circle and Kabbage with national platforms.

It makes sense for the SBA to look beyond its typical lenders to get funds to those in need, industry observers said.

The agency will struggle if it restricts participation in the emergency program, said Rebel Cole, a finance professor at Florida Atlantic University in Boca Raton.

"Asking the traditional brick-and-mortar bank branches to underwrite this sort of loan volume is simply not feasible in any sort of a reasonable time frame," Cole said.

Though he declined to weigh in on fintech participation, Cole said those companies have the online lending platforms that could provide more underwriting capacity. For the same reason, he said, the SBA might need to lean heavily on credit card issuers such as Capital One and Discover to meet its aggressive volume target.

"If the SBA could bless some sort of 7(a) business credit card credit line then these banks could do the underwriting electronically using their existing platforms, which they should be able to scale up to the size needed for this rollout," Cole said.

Banking groups have accepted the fact that the bill could allow fintechs to join in the emergency SBA program, though they also assert that the banking system is well equipped to shoulder the workload.

"If that's the way it passes into law, certainly that's something SBA will have to consider," said James Ballentine, executive vice president of congressional relations and public affairs at the American Bankers Association.

"There are 5,400 banks in this country," Ballentine added. "They can serve as a great delivery channel for these loans. We certainly believe they would be best to service them."

COMMUNITY BANKING

Fed gives small banks 30-day reprieve to file holding company reports

By Ken McCarthy
March 26, 2020

The Federal Reserve is giving smaller banks more time to file quarterly performance reports.

The Fed said in a press release Thursday that holding companies with less than $5 billion in assets will have an extra 30 days to submit their Y-9C and Y-11 reports.

The extension reflects a recognition that smaller banks might need more time to file because of adjusted staffing priorities due to the coronavirus outbreak. The Fed encouraged banks to reach out in advance if they need the extenstion.

A day earlier, federal bank regulators announced that banks with less than $1 billion in assets would have a 30-day extension for filing quarterly call reports.

While nearly 5,000 banks had less than $5 billion in assets on Dec. 31, a number belong to multibank holding companies with total assets in excess of the Fed's cut-off.

ENFORCEMENT

CFPB postpones quarterly HMDA reporting

By Kate Berry
March 26, 2020

The Consumer Financial Protection Bureau is adjusting supervisory and enforcement activities to weigh the circumstances of firms responding to the COVID-19 pandemic, and is postponing reporting requirements including those used to spot discrimination in mortgage lending.

The CFPB said in a press release Thursday that it does not intend to initiate enforcement actions for failure to report certain types of data. That includes reporting related to the Home Mortgage Disclosure Act as well as other credit card and prepaid card data.

The bureau also issued a policy statement on its supervisory and enforcement response to the pandemic, saying it encourages prudent efforts taken by financial institutions to meet the needs of borrowers and customers.

"When conducting examinations and other supervisory activities and in determining whether to take enforcement action, the Bureau will consider the circumstances that entities may face as a result of the COVID-19 pandemic and will be sensitive to good-faith efforts demonstrably designed to assist consumers," it said.

The regulator will also work with affected financial institutions in scheduling exams and other supervisory activities "to minimize disruption and burden."

On mortgage data collection, the bureau said it does not intend to cite mortgage lenders for failing to report quarterly HMDA data that is due by May 30. Firms still need to continue collecting and recording HMDA data for annual submissions. The bureau will provide information at a later date on how and when to begin quarterly HMDA submissions.

In addition, the CFPB said that it is temporarily suspending certain reporting requirements for credit card and prepaid accounts under the Truth in Lending Act, Regulation Z and Regulation E. The agency said it does not expect companies to report quarterly submissions of consumer credit card agreements, annual submissions of agreements between card issuers and institutions of higher education, certain credit card price and availability information, and submission of prepaid account agreements.

The bureau also is postponing two surveys. One is a small-business lending survey required under Section 1071 of the Dodd-Frank Act that would subject small-business lenders to data-reporting obligations similar to HMDA.

The other is a survey of firms that provide green-energy loans that finance home upgrades such as solar panels or cooling and heating systems for Property Assessed Clean Energy financing, known as PACE loans.

"As consumers seek temporary relief from lenders, the pandemic is impacting the operations of financial companies that are eager to help their customers during this unprecedented time," CFPB Director Kathy Kraninger said in the press release. "Our actions today are temporary and targeted to support consumers by allowing financial companies to focus their resources on assisting consumers."

The CFPB released guidance last week along with federal prudential regulators encouraging financial institutions to work constructively with borrowers and other customers affected by COVID-19 to meet their financial needs.

"We will continue to issue additional guidance and policies to facilitate the ongoing collaborative relationship between companies and their customers during this time," Kraninger said.

CECL

CECL impact delayed two years

By Paul Davis and John Reosti
March 27, 2020

Banks that implemented a new accounting standard for expected credit losses just got a big break from federal regulators.

The Federal Reserve, Office of the Comptroller of the Currency and the Federal Deposit Insurance Corp. are allowing lenders that this year were required to convert to the Current Expected Credit Losses standard, or CECL, to delay any corresponding capital hits until 2022.

After that, lenders would have three years to phase in any capital hits that would have taken place during the two-year delay. Lenders would need to calculate that on a quarterly basis, using a 25% scaling factor.

"Various analyses suggest that credit losses under CECL can be expected to be higher than under the incurred loss methodology," the agencies said in the interim final rule, which went into effect immediately.

Banks are not required to implement the new two-year delay. They can stay the course using February 2019 guidance that lets them phase in CECL's day-one impact on regulatory capital over three years.

The regulators said in a Friday press release that the changes are designed to "support lending to households and businesses." They will accept comments on the interim final rule over the next 45 days.

WORKFORCE MANAGEMENT

JPMorgan plans firmwide hiring freeze amid virus uncertainty

By Bloomberg News
March 24, 2020

JPMorgan Chase froze hiring across most of the firm as millions of people stay at home to help stem the spread of the coronavirus, according to people familiar with the matter.

The bank asked managers in businesses including the corporate and investment bank, the consumer unit, and the asset- and wealth-management group to review job postings and pull listings for roles that don't need to be filled immediately, said the people, who asked not to be identified discussing the private plans.

The global hiring restrictions are a reaction to uncertainty about the direction of the global economy and logistical challenges related to arranging in-person interviews with job candidates, the people said.

JPMorgan, the biggest U.S. bank, also delayed bringing new recruits into the bank until April 20, but will pay new hires from their original start dates, another person said.

A company spokesperson declined to comment.

The pause comes as the rapid spread of the coronavirus that's killed more than 15,000 people globally has prompted governments to restrict large gatherings and lock down borders, fueling predictions of a global recession and upending daily routines for millions of people.

Some JPMorgan operations such as home lending, where business has ramped up due to low interest rates, are excluded from the freeze, the people said.

JPMorgan said last week it would temporarily shut about 1,000 of its branches across the country, about 20% of them , and it has shortened operating hours at those that remain open.

MARKETPLACE LENDING

Online lenders seek to balance the needs of borrowers, investors

By Miriam Cross
March 26, 2020

As businesses shutter and workers are forced out of jobs they can't perform remotely, consumers hard hit by the rippling economic effects of coronavirus may seek out personal loans to keep them afloat — or ask for relief from their payments on existing loans.

Online lenders are answering the call with temporary measures. But at the same time, they are facing their first significant downturn given that the entire industry reached maturity after the 2008-2009 financial crisis. This is making them cautious about any long-term lowering of credit standards, and some are thinking of tightening.

These fintechs have not yet been hit with a wave of new applicants since the coronavirus outbreak. While SoFi reports it has had a 20% week-over-week increase in personal loan applications in March, Prosper, a peer-to-peer marketplace, notes that the increases it has seen are in line with seasonal patterns and can also be attributed to reduced choices in the market. Avant, a service for middle-income borrowers, says it has not seen a marked increase but expects that could change.

Customer-relief measures

Online lenders are loosening rules for existing borrowers in search of temporary relief. A number of fintechs are adopting measures that are similar to what major banks are offering to their borrowers, including deferred payments, fee waivers and forbearance.

Payment deferrals of one to two months are common. For example, Upstart allows affected customers to defer up to two months of payments, with no interest or penalties accrued. SoFi will allow eligible customers to defer one month's payment and consider those experiencing hardship for an additional 30 days, all fees waived.

SoFi also offers an unemployment protection program in which members who lose a job through no fault of their own can apply for forbearance in three-month increments and up to 12 months in aggregate. Unpaid interest will continue to accrue and be capitalized onto the principal balance (although members can elect to make interest-only payments).

Others are introducing programs that can adjust to fluctuations in customer demand. In February, LendingClub moved to a new loan servicing platform that Financial Health Officer Anuj Nayar (his job is to help members achieve financial well-being) said gives the company more flexibility in how it rolls out new services for borrowers facing turbulence. For instance, associates may adjust payment dates to keep members out of delinquency.

"And I think this is the definition of unexpected turbulence," Nayar said.

James Paris, CEO of Avant, counts well over a thousand customers who have been hurt by the crisis and says his company is fine-tuning a forbearance program. It allows borrowers to delay one payment to the end of the loan schedule and waives some fees.

Still, "it's hard to know if the initial programs are the right length of time, and if they give people the breathing room they need to get back on their feet, which is our goal," Paris said. "There is always the potential these programs could be extended."

These relief options echo those typically granted to personal loan customers of Avant, LendingClub, Prosper and SoFi in the wake of natural disasters declared by the Federal Emergency Management Agency. But in those cases, companies can zero in on geographic areas where customers are in need.

"The difference here is that it's not restricted to a particular location," Paris said. "And we expect the forbearance period will be longer than what we've done in the past for floods and hurricanes."

Wary of a recession

But to protect themselves and their investors, some alternative lenders are tightening their underwriting requirements, leaving fewer options and more restrictions for applicants in search of a personal loan.

This is not the case with SoFi, which has not reported any significant changes in lending criteria since it already focuses on prime or super-prime borrowers. But LendingClub, which normally sees 50,000 loan applications a day, is taking several steps to balance out the needs of its borrowers with its investors. That includes reducing approval rates for certain higher-risk borrowers, increasing income and employment verification requirements, and pulling back on marketing through certain channels, such as Credit Karma.

"We are not seeing loan deterioration, but depending on how long this lasts, we're anticipating that might happen," Nayar said.

David Kimball, Prosper's CEO, said it was concerned about a recession back in 2018, and took several measures over the past few years — including tightening credit, focusing on high-quality borrowers and diversifying funding sources — to ensure its portfolio could withstand the impact. The company has continued to make adjustments to credit and verification.

LendingClub also said it has been planning for a market downturn for a long time. Its last recession-planning session came in the nick of time.

"Luckily, we did an executive-level exercise in October about what would be the effects on the business due to a pandemic," Nayar said. "We took a lot of lessons into our crisis playbook."

"You never think when you're doing these things that they will come in useful," he added. "And when they do, it's so much better to have everyone in agreement so all you're doing is executing than trying to work out on the fly."

MORTGAGES

Coronavirus paves a path for Stripe's latest fintech investment

By John Adams
March 26, 2020

Payments technology is a relative bright spot as coronavirus' economic fears hit venture capital, since an emergency can be a catalyst for early-stage innovation designed to ease digital commerce.

Stripe on Thursday made a $20 million Series A investment in Fast, an investment more noteworthy for its timing than its size or the company's recognition. The San Francisco-based Fast is one year old.

Fast's attempt to build a universal multi-merchant buy button describes a slow trend in shopping and payments that's become an urgent need.

Fast says it's a B2B2C company. Sellers add a Fast checkout button to their e-commerce page. Clicking Fast prompts the user to enter their name, phone number, card information and email. Fast stores these credentials for that device for future "Fast" checkouts at other merchants.

The platform needs lots of merchants to make that work, which is something Stripe can provide. Stripe has built an international network of merchants that use its technology to support card-not-present payments, enough for Stripe's valuation to expand past $35 billion. Stripe's growth has given it a wide reach and influence over merchant technology, and has made Stripe a competitor to the large payment processors that have also built their networks by teaming with bank technology providers over the past year.

Fast could become the front end for Stripe, creating a multiplier effect that would make Fast a universal buy button, at least for Stripe-influenced merchants.

"Stripe's job is to make it easier to accept payments. Our job is to make it easier to make payments and for consumers to interact with all companies online," said Domm Holland, co-founder of Fast.

Most internet transactions are "one to one," Holland argues. "Stripe touches almost every consumer who shops online," Holland said. Holland did not detail an automatic link between Fast and Stripe, yet there would be considerable synergy. Stripe reports it has millions of companies in 120 countries in its network.

The card networks are also trying to streamline online checkout by offering their universal buy button for digital payments. Stripe's investment in Fast gives Stripe the ability to provide an alternative, and a way to compete with PayPal for a growing share of online merchant payments.

The competition to build universal buy buttons comes against a backdrop of a sudden closure of brick and mortar stores, a spike in online buying and an expected market decline for public and private investment in financial technology.

"Fast is taking a novel approach to improving the login and checkout process for online businesses. We support their vision to remove friction from internet commerce wherever possible," said Jordan Angelos, head of corporate development at Stripe, in an email.

Like the general stock market, fintech funding faces a sudden downturn, with most sectors expected to suffer for at least the next few months. Most financial services professionals expect a negative impact to their business due to the virus, according to research from Arizent, PaymentsSource's parent company.

Of the six categories of fintech Rosenblatt Securities covers, payments technology companies are the best positioned fintechs to navigate the crisis given the need for digital transaction technology and the corporate structure of most payment technology companies.

"The economic lockdown will hurt overall payment volume, but P2P and digital are the saving grace," said Dushyant Shawrawat, director of fintech investment banking at Rosenblatt Securities, during a conference call. The firm forecasts weakness and potential consolidations for fintech challenger banks, alternative lenders, digital lenders and capital markets, but says payment technology firms have lower cost pressures and flexibilities due to their business models. "The long term value proposition for payments technology continues to be robust."

Beyond e-commerce, the crisis has exposed other payment technology gaps. Many businesses, for example, centralize their corporate payments, leaving them scrambling to respond when staff were forced to work from home.

There's also an opportunity in health care and insurance payments. Health care payments often remain paper-based, creating further complexity as the overall health crisis advances.

"We're hearing about people who have been printing checks, who have had work from home orders," said Brent Young, CEO of Dream Payments, a Toronto B2B fintech. Dream's backers include Real Ventures, a Toronto-based VC firm.

"After the health crisis, we think there will be an acceleration since many insurance carriers for example, should have digitized their claims payments," Young said.

BANKTHINK

Fed's new TALF has a major gap

By Todd H. Baker

March 26, 2020

The Federal Reserve's recent decision to revive the Term Asset-Backed Securities Loan Facility was a good and necessary one.

It will bring needed funding stability to many lenders and allow them to continue to support their borrowers as the COVID-19 crisis develops and resolves. But there's a problem with the Fed's 2020 version of TALF: it's out of date.

The facility was based on a market for consumer financial services that existed in 2008 and is blind to what happened afterwards. The most glaring example of this is the rise of unsecured consumer loans.

These loans, particularly those made by nonbank consumer lenders (or fintechs), have become essential to the household finances of millions of consumers that use them. The current TALF eligibility list includes asset-backed securities (ABS) like those backed by auto loans, student loans, credit cards and even insurance premium finance loans (a tiny business in relative terms). But it does not include the nearly $10 billion in consumer loan ABS issued in 2019.

Unless the TALF is changed to include the investment-grade, ABS based on these loans, lenders will shut down originations just when they are most needed. And the Fed will fail in its goal of ensuring that credit flows to millions of vulnerable consumers.

Consumer installment lending volume has more than doubled in the last decade. Unsecured personal loans were projected to reach an all-time high of $156 billion by the end of 2019, according to the St. Louis Fed. A separate study by Experian found that 11% of consumers had such personal loans in mid-2019. Emerging fintech lenders like LendingClub, Prosper and Marlette originated about 50% of the unsecured personal loans in 2019, up from nothing 22% in 2015.

According to the St. Louis Fed, about 78% of consumers used these installment loans to consolidate or pay off existing debt, with the rest used for other purposes, including everything from weddings to home repairs.

Consumer loans also play a big — and unacknowledged — part in small business finance.

Personal loans are disproportionately relied on by disaster-affected small firms, startups and the smallest, most vulnerable businesses, according to a 2017 New York Fed report. About a third of all small business firms less than five years old, with medium or high credit risk (which describes nearly all firms now), rely on the owner's personal loans to fund their business.

TALF supports credit granting by acquiring ABS. Last year alone, more than $9.5 billion of consumer loan ABS were issued on behalf of lenders like SoFi, LendingClub, Marlette and Prosper. All of these fintechs fund their lending with ABS.

Most of these ABS are sold into the institutional market, often as "private" issuances. But that market is frozen solid.

Reported spreads on A-rated, asset-backed securities issued by nonbank consumer lenders are now so wide that none of these lenders can generate a positive gain on sale, let alone cover other operating costs.

The hedge funds and financial institutions that typically acquire these companies' securitizations are starting to close off market access. Unless lenders have balance sheet capacity to hold the loans they make, they will either shut down new originations and rollovers or go out of business. This would leave borrowers to fend for themselves in a world with very limited credit.

Unfortunately, few fintechs have the needed capital capacity. That's certain to cause thousands of their customers to suffer when credit is withdrawn. And that's exactly the situation TALF is intended to prevent.

Consumer installment lending has been around in one form or another since the days of household finance. Like most consumer lending products, it's far from perfect.

While most consumer lenders charge reasonable risk-based interest rates, there is a subset of providers who charge way too much to lend to people who shouldn't borrow at all. They should not be protected by government programs.

Luckily, since those lenders can't securitize their high-cost, high-risk loans, the worst lenders won't be eligible for TALF. While some lenders have commendably focused on consumer financial health and counseling, others seem indifferent.

And the critical flaw in many lenders' business models — an overdependence on the ABS market for funding — is now obvious to all. Fortunately, there are already signs that some lenders may be transitioning to bank deposits for funding, such as LendingClub's recently announced deal to acquire Radius Bank.

So, given all these issues, why should anyone care whether these lenders get TALF funding now?

The answer is simple: their customers care. Millions of individuals rely on this type of credit from these nonbank companies to manage their financial lives. It is their needs that we need to pay attention to.

Without access to fairly priced loans, especially in the current crisis, many consumers will end up without credit options or use far less friendly, and far more expensive types of credit, at exactly the wrong time. Companies that lend to these consumers need the affordable funding that can only come from TALF.

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