

PEER-TO-PEER LENDING

A study and analysis of models for peer-to-peer lending and investment that will enable established entrepreneurs to connect with emerging entrepreneurs and increased lending, equity investment, and business mentoring while preserving adequate regulatory oversight and business consumer protection.

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DEVELOPMENT

DECEMBER 1, 2015



December 1, 2015

REP. BILL BOTZOW, Chair
House Committee on Commerce and
Economic Development

SEN. KEVIN MULLIN, Chair
Senate Committee on Economic Development,
Housing, and General Affairs

Re: Act No. 51 of 2015

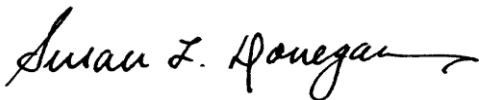
Dear Representative Botzow and Senator Mullin,

Please accept this report from the Department of Financial Regulation (DFR) and the Agency of Commerce and Community Development (ACCD) to fulfill the requirements as directed in Section E.5 of Act No. 51 of 2015.

DFR and ACCD were instructed to complete a study and make recommendations regarding models for peer-to-peer lending and investment that will enable established entrepreneurs to connect with emerging entrepreneurs and increased lending, equity investment, and business mentoring while preserving adequate regulatory oversight and business consumer protection.

We thank you and appreciate your committee members for your leadership on economic development issues our ability to provide regulatory insight as you consider legislative action to strengthen Vermont's economy.

Sincerely,



Susan L. Donegan, Commissioner
Department of Financial Regulation



Lucy Leriche, Deputy Secretary
Agency of Commerce and Community Development



Table of Contents

INTRODUCTION 2

SECTION 1 - Current Capital Climate..... 4

 Availability of Credit 4

 Recent Regulatory Changes 6

Banking 6

Securities 7

SECTION 2 - Regulation of P2P Lending..... 8

 P2P background..... 8

Originate-to-Distribute Model: LendingClub and Prosper 9

Balance Sheet Lenders..... 10

Bank-Affiliated Lenders and Bank Partnerships 12

Competitive Advantages of P2P Lending 12

Disadvantages of P2P Lending 13

 P2P Lending Regulation..... 15

Banking Regulation 16

Securities Regulation..... 21

SECTION 3 - Conclusions and Recommendations 22

INTRODUCTION

Section E.5 of Act 51 of 2015, an act relating to promoting economic development, charged the Department of Financial Regulation (“DFR”) and the Agency of Commerce and Community Development (“ACCD”) with submitting a report on “models for peer-to-peer lending and investment that will enable established entrepreneurs to connect with emerging entrepreneurs and increase lending, equity investment, and business mentoring while preserving adequate regulatory oversight and business consumer protection.”¹ In response to this directive, DFR and ACCD submit this report to the House Committee on Commerce and Economic Development and to the Senate Committee on Economic Development, Housing, and General Affairs.

Peer-to-peer lending is a rapidly evolving and expanding industry. In the United States, origination of peer-to-peer loans has grown an average of 84 percent per quarter since 2007.² Additionally, the financial products offered through peer-to-peer lending platforms expanded significantly from solely consumer loans to student loans, small business loans, asset backed loans and real estate loans.³ Further, most peer-to-peers loans are not funded by individual retail investors over the internet, but instead peer-to-peer lenders rely upon a combination of equity, privately placed pass-through notes, commercial lines of credit and / or whole loan sales to institutional investors.⁴ In recognition of this evolution, industry leaders, regulators and corporate finance professionals now refer to “peer-to-peer” lending as “marketplace” lending in order to more accurately capture the industry’s current components. For purposes of simplicity, this study will use the colloquial term “peer-to-peer” or “P2P”.

P2P lending is broadly defined as the practice of unrelated individuals borrowing and/or lending money directly between one another through an online lending platform without the involvement of a traditional financial intermediary (e.g., bank or credit union). P2P lending grew significantly during the height of the Great Recession as tighter lending standards and low

¹ Act 51 of 2015, § E.5.

² PricewaterhouseCoopers, *Peer Pressure: How Peer-to-Peer Lending Platforms are Transforming the Consumer Lending Industry*, PWC.COM (February 2015) available at <https://www.pwc.com/us/en/consumer-finance/publications/assets/peer-to-peer-lending.pdf>.

³ Peter Manbeck and Marc Franson, *The Regulation of Marketplace Lending: A Summary of the Principal Issues*, aba.com (last visited 11/25/2015) available at <https://www.aba.com/Tools/Offers/Documents/ChapmanRegulationofMarketplaceLendingWhitePaper040815.pdf>.

⁴ *Id.*

interest rates made traditional sources of credit for small businesses more difficult. The fall of the stock market similarly drove demand from investors seeking safe investments with modest rates of return.⁵ P2P lending expanded during the recessionary times as simply a way individuals could borrow funds, typically unsecured, from other individuals who were seeking a higher return on their investment without a bank intermediary.

As P2P lending matures in post-recessionary times, it has expanded and evolved into a burgeoning internet industry funded mainly by institutional investors. While P2P lending platforms typically offer unsecured borrowing options such as consumer and student loans, they are now expanding into the real estate and small-business lending markets.⁶ Research and industry outreach have shown that Vermont businesses have access to many capital sources, including P2P lending. P2P lending is one avenue for a business to seek capital, but it is not a well understood option. Even since the assignment of this study, P2P lending has evolved and changed. It is now more accurately described as “marketplace lending.”⁷ The unique and complex structure of today’s P2P lending means that these transactions may fall under the purview of both banking and securities regulators at both the federal and state levels.

In the years since the Great Recession, the Legislature has commissioned reports on licensed lending and crowdfunding, resulting in amended licensed lending laws and securities regulations to help small businesses grow and create jobs.⁸ Similarly, both federal and state regulators amended laws and regulations to help facilitate and enable corporate and small business financing.⁹ Given the recent studies and legal changes, this study primarily focuses on the rapidly expanding, internet-based P2P lending market and its potential benefits for Vermont entrepreneurs. Research and industry outreach indicates Vermont businesses have access to many capital sources; however, not all capital sources are known or well understood – this is especially true for P2P lending.

⁵ Joe Light, *Would You Lend Money to These People?*, WALL STREET JOURNAL (April 2012) available at <http://www.wsj.com/articles/SB10001424052702304587704577333801201736034>.

⁶ Cognizant Reports, *Marketplace Lending: A maturing Market means New Partner Models*, (July 2014) *Business Opportunities Available* at <http://www.cognizant.com/InsightsWhitepapers/Marketplace-Lending-A-Maturing-Market-Means-New-Partner-Models-Business-Opportunities-codex989.pdf>.

⁷ *Id.*

⁸ DFR, Report on Act 199, (January 15, 2015) available at <http://www.dfr.vermont.gov/dfr-report-act-199>.

⁹ S-2015-1; 8 V.S.A. §2200 et seq.

This report consists of three sections. Section one explores the availability of credit for Vermont’s small businesses and recent reforms designed to facilitate capital formation in Vermont. Section two examines the history of P2P lending and overviews the regulatory framework governing P2P lending. Section three provides recommendations designed to better facilitate capital formation for Vermont’s small businesses, including how P2P lending fits into the greater ecosystem.

SECTION 1 - Current Capital Climate

Availability of Credit

The 2014 Joint Small Business Credit Survey by the Federal Reserve Banks of New York, Atlanta, Cleveland and Philadelphia identified availability of credit as one of the top challenges that businesses experienced in the first half of 2014.¹⁰ The survey reports that a business’s demand for, and ability to access capital is an important measurement of post-recessionary recovery. The following chart summarizes the availability of credit challenges for businesses based on the growth phase of a business.¹¹

Startups <5 years in business	Growers Profitable and increased revenues	Mature >5 years in business, 10+ employees, holds debt
<ul style="list-style-type: none"> • Lack of credit availability • Difficulty attracting customers • Uneven cash flow 	<ul style="list-style-type: none"> • Uneven cash flow • Lack of credit availability • Difficulty hiring and/or retaining employees 	<ul style="list-style-type: none"> • Uneven cash flow • Increased costs of running business • Lack of credit availability

Smaller businesses applying for credit were most likely to experience a challenging credit market with the majority unable to secure any credit. The survey results also showed a strong demand for loans of \$100,000 or less for business expansion. Financial institutions, in particular large

¹⁰ Federal Reserve Banks of New York, Atlanta, Cleveland and Philadelphia, *Joint Small business Credit Survey Report*, newyorkfed.org (2014) available at <https://www.newyorkfed.org/medialibrary/media/smallbusiness/SBCS-2014-Report.pdf>.

¹¹ *Id.*

banks, were reported as the dominant credit source, but the use of online lenders was also common among businesses surveyed. These results support the assertion that small, startup, and/or expanding businesses are the most in need of access to capital to foster growth and sustainability. Although the survey did not include Vermont specific data, the numbers reflect the growing utilization of online platforms as viable credit sources for businesses across the United States.¹² As peer-to-peer and other online lending options grow in popularity, it is likely a matter of time before P2P lending becomes a large part of the credit/capital mix available to Vermont small businesses similar to what has occurred nationally.

Currently, credit and capital availability in Vermont takes the following forms:

Angel investors:

- North Country Angels
- Granite State Angels
- Vermont Center for Emerging Technologies

Micro-Lenders:

- Community Capital of Vermont
- Town or RDC Revolving Loan Funds
- Vermont Community Loan Fund
- Opportunities Credit Union
- Vermont Economic Development Authority Small Business Loan Program

Flexible Capital Fund: for Farms, Food, Forestry related businesses.

Traditional:

- Vermont Based Community Banks & Credit Unions
- Large Bank & Credit Union Options
- Unsecured Credit Options Such as Credit Cards & Lines of Credit

Equity Crowdfunding:

¹² *Id.*

- *Designbook*: provides an internet platform for equity investments (private placements) from investors in and outside of Vermont.

Recent Regulatory Changes

The State of Vermont and DFR have taken various steps to encourage and enable capital formation and small business investment, including changes to the licensed lender laws making it easier for commercial lenders to obtain a license or avoid license requirements and amendments to the securities regulation governing Vermont Small Business Offerings.¹³

Banking

Commercial lender licensing requirements have been a focus in recent years. Legislative changes have reduced regulatory burdens associated with commercial loans. In 2008, the Legislature added an “angel investor” exemption to enhance opportunities for startup companies to access capital from private, affluent individuals.¹⁴

In 2010, as a result of a commissioned study, the Legislature made significant changes to the license lender act, simplifying the process to obtain a license to make commercial loans.¹⁵ The 2010 amendment streamlined the application for, and approval of, commercial lending licenses by eliminating requirements to provide the Commissioner with personal financial information, annual financial statements, and a bond.¹⁶ It also reduced the licensing fee for a commercial lender license. The goal of these changes was to make it easier for commercial lenders to enter the Vermont commercial lending market while still allowing DFR to identify “bad actors” (such as lenders with criminal histories or regulatory infractions from other jurisdictions).¹⁷

During the 2015 legislative session, the Legislature passed Act 51, which increased the licensing threshold exemption.¹⁸ Prior to 2015, a person lending an aggregate of less than

¹³ S-2015-1; 8 V.S.A. § 2200 *et seq.*

¹⁴ Act 159 of 2008; *see also* 8 V.S.A. § 2201(d)(12).

¹⁵ Act 54 of 2009 § 30; Act 134 *see also* 8 V.S.A. § 2202a.

¹⁶ Act 134 §§ 24a-h; *see also* 8 V.S.A. §§ 2202a and 2203(f).

¹⁷ *See* Act 134 of 2010.

¹⁸ Act 51 of 2015; *see also* 8 V.S.A. § 2201(d)(10).

\$75,000 in any one year at a rate of no more than 12 percent did not need a commercial lender license.¹⁹ The 2015 legislation increased the threshold to \$250,000.²⁰

Securities

VSBO is a regulation designed to help Vermont companies raise capital by selling securities in local “crowdfunding” type transactions – i.e. selling smaller amounts to a larger number of investors. These transactions were originally exempt from registration when adopted in 2000.²¹ Prior to 2014, VSBO restricted Vermont businesses to only raising capital from Vermont investors, imposed a \$500,000 cap on the amount of capital a company could raise, and limited the number of investors to 50.²² Vermont businesses only used the exemption fourteen times in as many years.

These limits did not meet the needs of an evolving market. Therefore, in June 2014, DFR updated VSBO by raising the maximum offering amount to \$1 million (\$2 million if the issuer can provide audited financial statements to investors).²³ DFR also replaced a cap on the number of investors with a cap on the amount any “main street” investor can pledge.²⁴ This change still limits the risk exposure of an investment for Vermonters while opening up the pool of potential investors. In the year following the 2014 update, five companies used VSBO to raise capital.²⁵ DFR also recognized that raising capital across Vermont’s borders was important to taking advantage of crowdfunding’s full potential.²⁶ In July of 2015, the rule was again amended, creating two options for Vermont businesses.²⁷ In addition to the intra-state (Vermont to Vermont only) exemption, Vermont businesses now have the opportunity to register their security and thereby sell securities outside Vermont.²⁸ The new rule also provides provisions governing third-party crowdfunding platforms, which are the entities that effect this type of transaction.²⁹ The VSBO rule also establishes a new tranche of investors called “the certified

¹⁹ *Id.*

²⁰ *Id.*

²¹ Order 06-43-S, exhibit 8.11.

²² Order 06-43-S, exhibit 8.11; *See also* 17 C.F.R. § 230.147.

²³ *Id.*

²⁴ *Id.*

²⁵ DFR File Nos. 3/24/14-15; 12/05/14-20; 3/19/15-31; 3/26/2015-01; 6/12/15-05.

²⁶ DFR, *Report to Legislature on Act 199*, DFR.VERMONT.GOV (January 2015) available at <http://www.dfr.vermont.gov/dfr-report-act-199>.

²⁷ Regulation S-2015-1(b).

²⁸ *Id.*, at (b)(2).

²⁹ *Id.*, at (d).

investor.”³⁰ This allows businesses to tap some wealthier individuals who may not rise to the level of being an “accredited” investor (an individual of substantial income or wealth).³¹ In order to provide greater investor protection, DFR added a minimum offering raise (i.e. a minimum amount a company must raise in order to use any of the money raised), a third-party portal registration, and greater filing requirements.³²

These changes are all designed to help small businesses access capital and help more Vermonters access the capital markets.³³

SECTION 2 - Regulation of P2P Lending

P2P background

The Conference of State Bank Supervisors (“CSBS”) and the National Association of Consumer Credit Administrators (NACCA”) have identified the following four business models for P2P lending:³⁴

- *Originate-to-distribute*: P2P lending platforms match loans to investors who provide the funding for the loans. The loans are originated, held, and serviced by the P2P lender on behalf of the investors. Often there is a bank acting as an intermediary to fund the loans and then quickly sell the loans back to the online platform in an effort to avoid state licensure and usury laws. These sites generally focus on a single market segment, such as consumer loans, small business loans, or student loans.³⁵
- *Balance Sheet Lenders*: Lenders originate loans and retain the loans on their balance sheets rather than selling them to another financial institution or to individual investors.³⁶

³⁰ *Id.*, at (a)(3).

³¹ *Id.*, at (c)(1)(B).

³² *Id.*, at (c)(2) and (d)(1).

³³ DFR, *Report to Legislature on Act 199*, DFR.VERMONT.GOV (January 2015) available at <http://www.dfr.vermont.gov/dfr-report-act-199>.

³⁴ U.S. Treasury Department, *Request for Information: Public Input on Expanding Access to Credit through Online Marketplace Lending*, TREASURY.GOV (July 2015) available at <https://www.treasury.gov/connect/blog/Documents/RFI%20Online%20Marketplace%20Lending.pdf>.

³⁵ *Id.*

³⁶ *Id.*

- *Bank-Affiliated Lenders*: Third-party service providers represent banks seeking new means of originating smaller loans. Some banks are looking to bank-affiliated P2P lenders to originate credit in a more cost effective and streamlined manner.³⁷
- *Bank Partnerships*: A P2P lender forms a relationship with a commercial bank. The bank originates the loan through the P2P online platform on behalf of the P2P lender and the loan is then sold back to the P2P lender to either keep or sell to investors.³⁸

Originate-to-Distribute Model: LendingClub and Prosper

The originate-to-distribute model is the oldest and most common form of P2P lending and is dominated by a small group of P2P lending platforms.³⁹ LendingClub and Prosper are the two largest P2P lending platforms by loan origination.⁴⁰

A borrower interested in raising capital through this model submits financial information to the prospective P2P lending platform.⁴¹ The P2P lending platform then determines whether the borrower meets its minimum eligibility criteria.⁴² Based on that criteria, each borrower is assigned a credit rating, which determines the interest rate the borrower will pay.⁴³ The loan, interest rate, and certain financial information are posted to the P2P lending platform for perspective investors to peruse. If a loan receives sufficient commitments from investors, the borrower executes a single, fixed term promissory note and receives their loan.

The P2P lending platform in turn sells debt security notes to each investor that signs up to fund that loan. The total sale of all the debt security notes creates the loan fund to lend to the borrower. The investors receive a return on their investment in the form of regular interest and principal payments.⁴⁴ The investor does not have any ownership rights in the business or in the profits of the business.

³⁷ *Id.*

³⁸ *Id.*

³⁹ Noah Buhayar, *Peer-to-Peer Lending: Making Banking More Democratic, or Riskier?* bloombergreview.com (July 2015) available at <http://www.bloombergrview.com/quicktake/peer-peer-lending>.

⁴⁰ Noah Buhayar, *Peer-to-Peer Lending: Making Banking More Democratic, or Riskier?* bloombergreview.com (July 2015) available at <http://www.bloombergrview.com/quicktake/peer-peer-lending>. (the two platforms together totaled almost six billion dollars in 2014 alone); see also <https://www.lendingclub.com/>; <https://www.prosper.com/>

⁴¹ See Lending Club S-1, available at, <http://www.sec.gov/Archives/edgar/data/1409970/000119312514323136/d766811ds1.htm> and Prosper S-1, available at http://www.sec.gov/Archives/edgar/data/1416265/000110465907078072/a07-27421_1s1.htm.

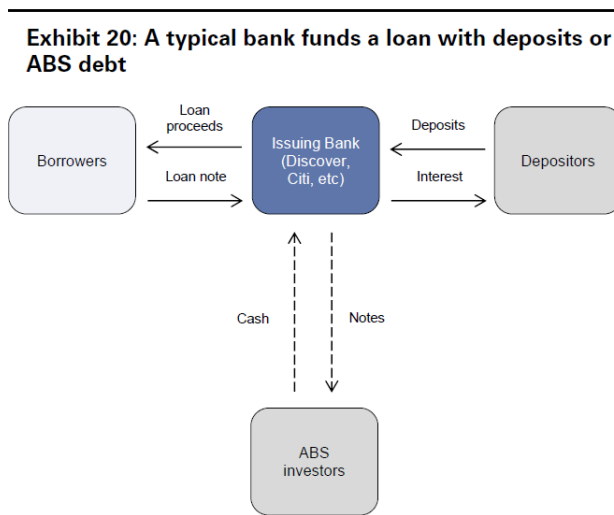
⁴² *Id.*

⁴³ *Id.*

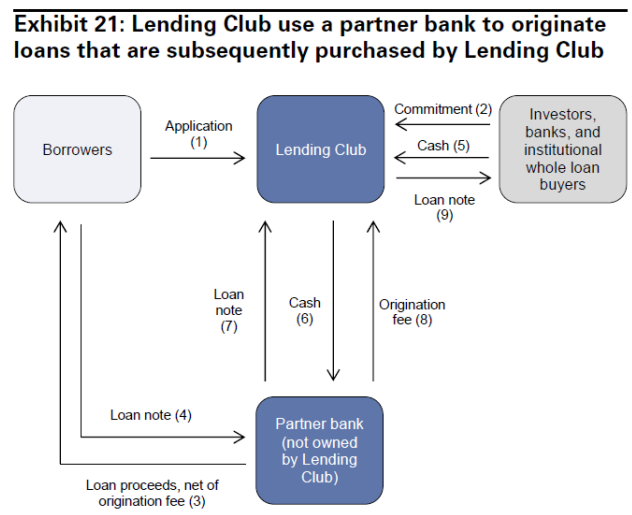
⁴⁴ *Id.*

The borrower makes monthly payments of principal and interest to the P2P lending platform, which deducts a servicing fee and remits the remainder to the investors.⁴⁵ The investors assume all of the credit risk on the applicable loan and retain no individual right to recourse if the borrower defaults.⁴⁶ The P2P lending platform may refer delinquent loans to a collection agency.⁴⁷

The chart below depicts a typical peer-to-peer lending transaction with LendingClub as compared to a traditional bank lending transaction.⁴⁸



Source: Company Data, Goldman Sachs Global Investment Research



Source: Company Data, Goldman Sachs Global Investment Research

Balance Sheet Lenders

Balance sheet lenders find borrowers and originate loans via online P2P platforms; however, unlike the originate-to-distribute model, these loans are funded by the lenders themselves and not

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ Ryan M. Nash and Eric Beardsley, *The Future of Finance: The Rise of the New Shadow Bank*, Goldman Sachs Equity Research (March 2015) available at http://www.betandbetter.com/photos_forum/1425585417.pdf?PHPSESSID=7406416a94128a8eca87ec315399c75c.

from outside investors.⁴⁹ Instead, lenders use their cash on hand, secure a warehouse line of credit or some other debt capital that is maintained on their balance sheet.⁵⁰

Many Balance Sheet Lenders, which include Kabbage, PayPal's Working Capital Program, American Express's Merchant Financing Program, and Square, take the form of a merchant cash advance, which provides borrowers a cash advance generally paid back by the lender taking a fixed debit from each future sale until the advance is paid back.⁵¹ The amount of the cash advance is generally based on the borrower's payment or sales history or other business operations, including its social media presence and activity.⁵² These companies generally advance cash to a business in exchange for direct repayment from the business's future credit card sales.⁵³ Most merchant advance companies form partnerships directly with the third party payment processors so repayment is guaranteed as long as the business continues to make sales.⁵⁴ As with other types of alternative lending, the merchant cash advance industry is rapidly evolving and may overlaps with other types of platforms lenders.⁵⁵ It has been said that the most important defining characteristic of merchant cash advance is the daily capture of funds (via the withholding of a percentage of card sales or a fixed bank account debit). This is in contrast to many other types of P2P lenders who underwrite loans with monthly payments.⁵⁶

Merchant advance companies argue they are not providing "loans" but instead are buying and selling a business's future income.⁵⁷ Accordingly, the cash advances are not bound by usury laws that prohibit lenders from charging predatorily high interest rates.⁵⁸ Unlike a loan that

⁴⁹ Lend Academy, *Response to the U.S. Treasury Department Request for Information on Expanding Access to Credit through Online Market Place Lending*, LENDACADEMY.COM (September 2015) available at <http://www.lendacademy.com/wp-content/uploads/2015/10/Treasury-RFI-Response-from-Lend-Academy-and-LendIt.pdf>.

⁵⁰ *Id.*

⁵¹ David Rubin, *Getting a Merchant Cash Advance is Easy but Repayment Can Be Onerous*, ENTREPRENEUR.COM (April 2015) available at <http://www.entrepreneur.com/article/245396>.

⁵² Ryan M. Nash and Eric Beardsley, *The Future of Finance: The Rise of the New Shadow Bank*, Goldman Sachs Equity Research (March 2015) available at http://www.betandbetter.com/photos_forum/1425585417.pdf?PHPSESSID=7406416a94128a8eca87ec315399c75c.

⁵³ Angus Loten, *The Lure of Cash Advances*, WSJ.COM (August 2011) available at <http://www.wsj.com/articles/SB10001424053111903596904576514500766040470>.

⁵⁴ *Id.*

⁵⁵ Sean Murray, *You Can't Ask How Big it is Without Defining What it is*, DAILYFUNDER.COM, (January 2014) available at <http://dailyfunder.com/magazine/january-2014-issue-1/18/>.

⁵⁶ *Id.*

⁵⁷ John Tozzi, *How Merchant Cash Advances Work*, businessweek.com (January 2009) available at http://www.businessweek.com/smallbiz/content/jan2009/sb2009018_234392.htm.

⁵⁸ *Id.*

requires regular fixed payments, merchant advance companies are repaid through a set percentage of the business's daily credit card sales, with repayment usually occurring within twelve months.⁵⁹

Bank-Affiliated Lenders and Bank Partnerships

Pursuant to these models a bank or credit union will affiliate or partner with a P2P lending platform. Under a Bank-Affiliated Lender model, a bank or credit union will affiliate with a P2P lending platform to originate loans on its behalf that the bank or credit union will fund. The Bank Partnership model is the inverse, where the bank or credit union originates the loan on behalf of the P2P lender. The bank or credit union will receive an origination fee and the P2P lender will subsequently sell the loan to investors.

Competitive Advantages of P2P Lending

P2P lenders have several competitive advantages over banks and credit unions in the small business lending market, such as:

- Time: P2P lenders often get cash into the borrower's hand within a day or two of applying for a loan.⁶⁰
- Simpler Process: P2P lenders often require less documentation than a traditional bank or credit union making the loan process considerably easier for the borrower.⁶¹
- Fewer Fees and Lower Rates: P2P lenders have less overhead than traditional banks (e.g. employees, brick & mortar buildings) and turn these savings into fewer fees and lower rates for borrowers, while offering investors higher rates of return than a bank deposit account.⁶²

⁵⁹ *Id.*

⁶⁰ PricewaterhouseCoopers, *Peer Pressure: How Peer-to-Peer Lending Platforms are Transforming the Consumer Lending Industry*, PWC.COM (February 2015) available at <https://www.pwc.com/us/en/consumer-finance/publications/assets/peer-to-peer-lending.pdf>; Ryan M. Nash and Eric Beardsley, *The Future of Finance: The Rise of the New Shadow Bank*, Goldman Sachs Equity Research (March 2015) available at http://www.betandbetter.com/photos_forum/1425585417.pdf?PHPSESSID=7406416a94128a8eca87ec315399c75c.

⁶¹ PricewaterhouseCoopers, *Peer Pressure: How Peer-to-Peer Lending Platforms are Transforming the Consumer Lending Industry*, PWC.COM (February 2015) available at <https://www.pwc.com/us/en/consumer-finance/publications/assets/peer-to-peer-lending.pdf>; Ryan M. Nash and Eric Beardsley, *The Future of Finance: The Rise of the New Shadow Bank*, Goldman Sachs Equity Research (March 2015) available at http://www.betandbetter.com/photos_forum/1425585417.pdf?PHPSESSID=7406416a94128a8eca87ec315399c75c.

⁶² The Economist, *Peer-to-Peer Lending: Banking without Banks*, ECONOMIST.COM (March 2014) available at <http://www.economist.com/news/finance-and-economics/21597932-offering-both-borrowers-and-lenders-better-deal-websites-put-two>.

- Willingness to Take on Risk: Another key advantage is their willingness to take on small business lending risk.⁶³ There is limited profitability and heightened risk in the small business lending market for traditional banks, making banks more cautious lenders than P2P lenders.⁶⁴ As a result, small businesses have very low loan approval rates from banks.⁶⁵ Banks decline over 50 percent small businesses loan applications.⁶⁶ P2P lenders approve small business loans at a significantly higher approval rate of approximately 62 percent.⁶⁷ P2P lenders are expanding the market from which small business can borrow.⁶⁸

Disadvantages of P2P Lending

At present, P2P lending platforms may be of limited benefit to some Vermont entrepreneurs; however, rapid industrial evolution may change this over time. The key hurdle at present for an early stage business may be its ability to fit the strict credit, income, and debt-ratio criteria of the most popular P2P lending platform.⁶⁹ Primarily, at this time, such platforms are funding personal debt consolidation.⁷⁰ The risk of lending to an early stage business, compared to personal debt refinancing may require a high interest rate to induce investors to fund the loan.⁷¹ For example, in the first quarter of 2014, the average annual percentage rate on loans originated by small business lender OnDeck was 51.2 percent.⁷² Small business lending platforms, however, exhibit a greater willingness to lend to small businesses than banks, holding the promise of capital, which may outweigh the cost of high interest.⁷³ For some entrepreneurs,

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ Ryan M. Nash and Eric Beardsley, *The Future of Finance: The Rise of the New Shadow Bank*, Goldman Sachs Equity Research (March 2015) available at http://www.betandbetter.com/photos_forum/1425585417.pdf?PHPSESSID=7406416a94128a8eca87ec315399c75c.

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ *Id.*

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ Ryan M. Nash and Eric Beardsley, *The Future of Finance: The Rise of the New Shadow Bank*, Goldman Sachs Equity Research (March 2015) available at http://www.betandbetter.com/photos_forum/1425585417.pdf?PHPSESSID=7406416a94128a8eca87ec315399c75c; Traci L. Mach, Courtney M. Carter, and Cailin R. Slattery, *Peer-to-Peer Lending to Small Businesses*, Finance and Economics Discussion Series: Division of Research & Statistics and Monetary Affairs, FEDERALRESERVE.GOV (2014) available at <http://www.federalreserve.gov/pubs/feds/2014/201410/201410pap.pdf>.

⁷² Ryan M. Nash and Eric Beardsley, *The Future of Finance: The Rise of the New Shadow Bank*, Goldman Sachs Equity Research (March 2015) available at http://www.betandbetter.com/photos_forum/1425585417.pdf?PHPSESSID=7406416a94128a8eca87ec315399c75c.

⁷³ *Id.*

the promise of capital may well outweigh the cost of high interest rates. For less sophisticated entrepreneurs or those otherwise shut out of the credit markets, borrowing at high interest rates may place a great strain on their businesses.⁷⁴

Other hurdles also exist. A Vermont entrepreneur seeking to borrow a commercial loan from a lending platform may not have the requisite sales history, making certain P2P lenders unavailable for early, seed stage businesses.⁷⁵ In contrast to P2P personal loans, P2P business loans may also require a personal guaranty from the entrepreneur, which may be a deterrent for an entrepreneur.⁷⁶ With a personal guarantee, the P2P lending platform could seek repayment through the entrepreneur's personal assets if the business defaulted on the loan.⁷⁷

The biggest challenges posed by the explosion of P2P lending may not face borrowers or entrepreneurs, but rather the P2P lenders themselves. One such challenge is the current low interest rate environment.⁷⁸ Since the start of the Great Recession, the Federal Reserve Board has reduced the “discount rate,” the overnight interest rate the Federal Reserve charges banks who borrow money to maintain their statutory reserve requirement.⁷⁹ The discount rate is the foundation for all other interest rates a bank may charge.⁸⁰ The U.S. unemployment rate, wage growth, and inflation are key metrics the Federal Reserve Board indicated it will use to determine when to raise interest rates.⁸¹ The most recent Bureau of Labor Statistics jobs report measured the U.S. unemployment rate at 5.0 percent, the lowest rate since 2008, and a reported 9 cent per hour increase in wages, which may mean that the federal funds rate will soon increase.⁸²

⁷⁴ *Id.*

⁷⁵ OnDeck, *Are You a Small Business in Need of Fast Funding?*, ONDECK.COM (last visited November 30, 2015) (OnDeck has a lengthy list of industries it will not lend to and requires 1 plus years in business and annual revenue of greater than \$100,000 in the past twelve months.).

⁷⁶ Lend Academy, *Response to the U.S. Treasury Department Request for Information on Expanding Access to Credit through Online Market Place Lending*, LENDACADEMY.COM (September 2015) available at <http://www.lendacademy.com/wp-content/uploads/2015/10/Treasury-RFI-Response-from-Lend-Academy-and-LendIt.pdf>.

⁷⁷ *Id.*

⁷⁸ See Board of Governors of the Federal Reserve System, *Historical Data*, FEDERALRESERVE.GOV (last visited 11/25/15) available at <http://www.federalreserve.gov/releases/h15/data.htm>.

⁷⁹ *Id.*

⁸⁰ Board of Governors of the Federal Reserve System, *The Discount Rate*, FEDERALRESERVE.GOV (last visited 11/25/15) available at <http://www.federalreserve.gov/monetarypolicy/discountrate.htm>.

⁸¹ See, Federal Open Market Committee, *2015 FOMC Meeting Calendars, Statements, and Minutes*, FEDERALRESERVE.GOV (last visited 11/25/15) available at <http://www.federalreserve.gov/newsevents/press/monetary/20151028a.htm>.

⁸² Bureau of Labor Statistics, *Employment Situation*, BLS.GOV (November 2015) available at <http://www.bls.gov/news.release/empstat.toc.htm>.

Once this occurs, market forces will likely influence P2P lending platforms to increase the interest rates they charge, thus resulting in a more restrictive borrowing environment for small business borrowers.⁸³

Another challenge is the degree of regulatory oversight of P2P lenders compared to that of the deposit-taking banks with which P2P lenders are competing.⁸⁴ Therefore, some of the biggest risks faced by P2P lenders include the risk of a rising interest rate environment and increased regulatory scrutiny, as discussed below.⁸⁵

In the rapid rise of P2P, these new lenders endeavor to structure themselves to avoid state banking and securities law, leaving regulators scrambling to understand how these entities fit into existing regulatory regimes.⁸⁶ This lighter regulation may be a key factor in the success of P2P lenders entering the commercial lending market. In particular, in some instances the interest rates or implied fee rates are at levels greater than 30 percent; which may not be allowed under traditional banking regulatory system.⁸⁷ Unlike personal loans, many of these P2P small business lenders hold loans on their own balance sheets.⁸⁸

P2P Lending Regulation

Entities transacting P2P lending in Vermont must be cognizant of two financial regulatory requirements. First, the entity making or soliciting loans, whether the funding portal itself or a third-party lending institution, must comply with State of Vermont lender licensing requirements administered by the DFR Banking Division.⁸⁹ Likewise, the payment dependent notes sold to individual investors must comply with Vermont registration requirements administered by the DFR Securities Division.⁹⁰

⁸³ Board of Governors of the Federal Reserve System, *The Discount Rate*, FEDERALRESERVE.GOV (last visited 11/25/15) available at <http://www.federalreserve.gov/monetarypolicy/discountrate.htm>; See also Board of Governors of the Federal Reserve System, *Historical Data*, FEDERALRESERVE.GOV (last visited 11/25/15) available at <http://www.federalreserve.gov/releases/h15/data.htm>.

⁸⁴ Ryan M. Nash and Eric Beardsley, *The Future of Finance: The Rise of the New Shadow Bank*, Goldman Sachs Equity Research (March 2015) available at http://www.betandbetter.com/photos_forum/1425585417.pdf?PHPSESSID=7406416a94128a8eca87ec315399c75c.

⁸⁵ *Id.*

⁸⁶ *Id.*

⁸⁷ *Id.*

⁸⁸ *Id.*

⁸⁹ 8 V.S.A. § 2200 *et seq.*

⁹⁰ 9 V.S.A. § 5301 *et seq.*

Banking Regulation

Entities that originate or solicit loans in Vermont must comply with certain laws. Chief among those laws are license lender laws, usury laws, and privacy laws.

License Lender Laws

In Vermont, most peer-to-peer lenders need a lender license from DFR's Banking Division as a licensed lender. Notwithstanding where the loan is legally made, any person who makes or solicits a loan by mail, telephone, or electronic means to a Vermont resident is subject to the Licensed Lenders Act.⁹¹ Many P2P platforms rely heavily on direct mailing, to solicit potential borrowers to use their platforms.⁹² LendingClub and Prosper have submitted a filing for a Vermont Lender License, which are in process at DFR.⁹³

An internet-based consumer lending program often utilizes a funding bank.⁹⁴ A funding bank is subject to both federal and state regulation but may, in certain instances, be able to rely on federal law to preempt state laws that might otherwise apply.⁹⁵ The use of funding banks in P2P programs, therefore, creates a degree of uncertainty and regulatory risk, which requires regulators to pay particular attention to the structure of any P2P program. A P2P platform must obtain a lending license to make or solicit loans to Vermonters regardless of whether or not the P2P platform uses a funding bank.⁹⁶

The chart below depicts instances when a lender license is, and is not, required:

⁹¹ 8 V.S.A. § 2200 *et seq.* (“No person can engage in the business of soliciting or making loans by mail, telephone, or electronic means to residents of this state unless duly licensed. Such licensee is subject to the applicable provisions of Title 8, V.S.A., and chapters 4, 59, and 61 of Title 9, V.S.A., but is not be required to have or maintain a place of business in Vermont.”); 8 V.S.A. § 2233(b)8 V.S.A. § 2233(b) (“A loan solicited or made by mail, telephone, or electronic means to a Vermont resident shall be subject to the provisions of this chapter notwithstanding where the loan was legally made. No person shall engage in the business of soliciting or making loans by mail, telephone, or electronic means to residents of this state unless duly licensed.”).

⁹² Peter Manbeck and Marc Franson, *The Regulation of Marketplace Lending: A Summary of the Principal Issues*, ABA.COM (April 2015) available at <https://www.aba.com/Tools/Offers/Documents/ChapmanRegulationofMarketplaceLendingWhitePaper040815.pdf>.

⁹³ DFR Banking Division, *Activity Journals*, [dfr.vermont.gov](http://www.dfr.vermont.gov) (last visited 11/25/15) available at <http://www.dfr.vermont.gov/banking/publications-data/activity-journals>.

⁹⁴ Peter Manbeck and Marc Franson, *The Regulation of Marketplace Lending: A Summary of the Principal Issues*, ABA.COM (April 2015) available at <https://www.aba.com/Tools/Offers/Documents/ChapmanRegulationofMarketplaceLendingWhitePaper040815.pdf>.

⁹⁵ *Id.*

⁹⁶ 8 V.S.A. § 2233.

Scenario	License Needed?	Reference
A commercial loan made by specifically exempted persons or entities (e.g., a state agency, federal agency, depository or financial institution, pawnbroker, insurance company, housing finance agency, etc.).	No – exempt.	8 V.S.A. § 2201(d)(1), (2), (3), (4), (5), (6), (7), (8), (9), (11), (13), (14), (15).
A person who lends, other than residential mortgage loans, an aggregate of less than \$250,000 in any one year at an interest rate of 12 percent or less.	No - exempt.	8 V.S.A. § 2201(d)(10).
Any commercial loan of \$1,000,000 or more.	No – exempt.	8 V.S.A. § 2201(h).
A person who makes an unsecured commercial loan that is expressly subordinate to all senior indebtedness of the borrower. (Angel Investor)	No – exempt. There is no limit on the number or amount of this type of loan that a lender may make.	8 V.S.A. § 2201(d)(12).
A person who makes no more than 3 mortgage loans in a consecutive 3-year period.	No – exempt.	8 V.S.A. § 2201(d)(16) and (e)(6).
A person who makes rare or isolated loans and is not “engaged in the business” of making loans.	No.	8 V.S.A. § 2202a(1). Courts have held that a single, isolated loan entered into by an entity that is not in the business of making loans would not trigger licensing requirements.
Lenders making solely commercial loans that do not fall within an exemption.	Yes – these lenders can seek the simplified “commercial lender only” license through DFR. There is no bond or financial responsibility requirement, and license holders may make as many commercial loans in Vermont as they like.	8 V.S.A. § 2202a.

Usury Laws

Most states, including Vermont, limit the maximum interest rate lenders may charge on personal consumer loans.⁹⁷ For example, while there is no maximum usury rate for commercial loans in Vermont, Vermont law permits a maximum interest rate of 18 percent for single payment loans, car loans, and certain installment loans, or 21 percent for retail charge agreements.⁹⁸ When a greater rate of interest is paid in Vermont, the person paying it may recover the amount so paid above the legal interest, with interest thereon from the time of payment and all expenses of collection, including reasonable attorney's fees.⁹⁹

Depending on borrower characteristics, however, platforms frequently want to set interest rates that exceed the maximum rate that Vermont and other state usury laws allow.¹⁰⁰ One of the goals of internet-based lending is to provide broader access to credit to certain borrowers who are unable to obtain bank loans.¹⁰¹ In order to make lending to these individuals marketable to lenders and investors, the operator may need to set interest rates high enough to offset any expected losses. Additionally, state usury limits pose a challenge for interstate P2P platforms because, different maximum rates apply based on the borrower's state of residence. These laws, however, are essential consumer protections against predatory practices.¹⁰²

New P2P platforms often try to avoid state usury laws by partnering with a national bank. The National Bank Act ("NBA") limits causes of action for usury claims against national banks, thereby preempting state-law usury claims against them.¹⁰³ Specifically, the NBA provides that a national bank is only subject to the laws of its home state. This allows a bank to carry the typically less restrictive usury laws of its home state to other states where it does business.¹⁰⁴

⁹⁷ See 9 V.S.A. subchapter 4; See also Peter Manbeck and Marc Franson, *The Regulation of Marketplace Lending: A Summary of the Principal Issues*, ABA.COM (April 2015) available at <https://www.aba.com/Tools/Offers/Documents/ChapmanRegulationofMarketplaceLendingWhitePaper040815.pdf>.

⁹⁸ 9 V.S.A. § 41a.

⁹⁹ 9 V.S.A. § 50.

¹⁰⁰ Peter Manbeck and Marc Franson, *The Regulation of Marketplace Lending: A Summary of the Principal Issues*, ABA.COM (April 2015) available at <https://www.aba.com/Tools/Offers/Documents/ChapmanRegulationofMarketplaceLendingWhitePaper040815.pdf>.

¹⁰¹ *Id.*

¹⁰² *Id.*

¹⁰³ 12 U.S.C. § 85.

¹⁰⁴ *Id.*

Recent case law dealt with the interplay between the National Banking Act and state usury laws.¹⁰⁵ The Second Circuit Court of Appeals held that the federal preemption for national banks did not apply to a non-bank lender that purchased loans from a national bank.¹⁰⁶ In this case, the non-bank lender solicited, underwrote, and approved the loans and then contracted with a national bank to originate the loans. After the loans were funded, the national bank sold the loan to the non-bank lender for the principal amount of the loan, plus an origination fee.¹⁰⁷ The arrangement was designed to provide the non-bank lender with the federal preemption protections granted to national banks.¹⁰⁸ The Second Circuit held that non-bank assignees that do not perform essential banking functions are not entitled to National Banking Act preemption and therefore are subject to the usury laws of any state they operate in, in addition to those of the bank's home state.¹⁰⁹

P2P lenders may also try to rely on the Depository Institutions Deregulation and Monetary Control Act of 1980 ("DIDA"), which permits state-chartered banks to charge interest rates that do not exceed higher of: (i) the maximum rate allowed by the state in which the loan is made; or (ii) the maximum rate allowed by the bank's home state.¹¹⁰ For example, both LendingClub and Prosper use WebBank as a funding bank.¹¹¹ WebBank is an FDIC-insured, Utah-chartered industrial bank.¹¹² Utah law does not limit the interest rate that lenders may charge on loans that are subject to a written agreement.¹¹³ Therefore, WebBank can fund loans for both LendingClub and Prosper at interest rates that exceed Vermont state usury laws.¹¹⁴

Non-bank P2P lenders utilize the services of a funding bank in order to circumvent state usury laws. The use of a funding bank, however, raises several issues including questions about

¹⁰⁵ *Madden v. MidlandFunding, LLC*, 786 F.3d 246 (2d Cir. 2015).

¹⁰⁶ *Id.*, at 249-53.

¹⁰⁷ *Id.*, at 248.

¹⁰⁸ *Id.*, at 249.

¹⁰⁹ *Id.*, at 249-53.

¹¹⁰ Peter Manbeck and Marc Franson, *The Regulation of Marketplace Lending: A Summary of the Principal Issues*, ABA.COM (April 2015) available at <https://www.aba.com/Tools/Offers/Documents/ChapmanRegulationofMarketplaceLendingWhitePaper040815.pdf>.

¹¹¹ *Id.*

¹¹² Webbank.com.

¹¹³ Peter Manbeck and Marc Franson, *The Regulation of Marketplace Lending: A Summary of the Principal Issues*, ABA.COM (April 2015) available at <https://www.aba.com/Tools/Offers/Documents/ChapmanRegulationofMarketplaceLendingWhitePaper040815.pdf>.

¹¹⁴ *Id.*

who is the “true lender” in a P2P program.¹¹⁵ When employed by payday lenders or solicitors, funding bank arrangements can be characterized (and criticized) as “rent-a-bank” schemes.¹¹⁶ In recent litigation, the West Virginia Supreme Court found that a pay-day lender was the de facto lender, had the predominant economic interest in the loans and, as a result, should have followed applicable restrictions of West Virginia law, including its usury rate.¹¹⁷ The court enjoined the pay day solicitor from making new loans in the state, voided the existing loans (thereby cancelling the debt of the borrowers), and awarded \$1.5 million in civil penalties, \$10 million in punitive damages, and attorneys’ fees and costs.¹¹⁸

As a result of the Supreme Court of West Virginia’s decision, there is regulatory uncertainty around the use of a funding bank for P2P lending programs.¹¹⁹ Factors relevant in analyzing the relationship between a P2P lender and a funding bank may include: (i) whether the funding bank shares or relinquishes control; (2) the risk to the P2P platform; (3) the operational structure; (4) who pays the cost of a P2P program; (5) whether the funding bank has loss exposure; (6) protections provided to a funding bank; (7) a funding bank’s right to deny credit or refuse to sell loans to the P2P platform; (8) the length of time that a funding bank holds the loans prior to selling them to a P2P platform; and (9) the compliance requirements imposed by the funding bank on the P2P platform.¹²⁰

Debt Collection Practices

Any third-party debt collector employed by a lender must comply with both the Vermont consumer protection laws, and the Federal Debt Protection Practices Act when attempting to collect overdue payments from delinquent borrowers.¹²¹ These laws prohibit abusive and harassing debt collection practices, limit certain communications with third parties, and impose

¹¹⁵ Peter Manbeck and Marc Franson, *The Regulation of Marketplace Lending: A Summary of the Principal Issues*, ABA.COM (April 2015) available at <https://www.aba.com/Tools/Offer/Document/ChapmanRegulationofMarketplaceLendingWhitePaper040815.pdf>.

¹¹⁶ *Id.*

¹¹⁷ *Cashcall, Inc. v. Morrissey*, 2014 WL 2404300 (May 30, 2014).

¹¹⁸ *Id.*

Peter Manbeck and Marc Franson, *The Regulation of Marketplace Lending: A Summary of the Principal Issues*, ABA.COM (April 2015) available at <https://www.aba.com/Tools/Offer/Document/ChapmanRegulationofMarketplaceLendingWhitePaper040815.pdf>.

¹²⁰ *Id.*

¹²¹ 9 V.S.A. § 2453; Vt. Admin. Code 3-2-103: CP 104; 15 U.S.C. § 1692 *et seq.*

notice and debt validation requirements.¹²² The P2P lender will also be directly subject to state and federal debt collection laws if it acts as a collection agent for an issuer or purchasers of the loans.¹²³

Privacy Laws

P2P platforms collect sensitive personal information from prospective borrowers. Therefore, platforms must comply with Vermont’s Privacy laws and regulations.¹²⁴

Securities Regulation

Under the Vermont Uniform Securities Act, securities must be registered with DFR (or exempt from registration) in order to be sold in the state.¹²⁵ Similarly, securities sold across state lines must be registered with the Securities and Exchange Commission (or be exempt from registration) prior to any sale.¹²⁶ Therefore, a platform that sells debt notes in several states must register their securities both at the federal and state levels. In Vermont, these entities can simultaneously register their offerings through “Registration by Coordination.”¹²⁷ In doing so, the P2P platform must submit a prospectus (a document that discloses all information a reasonable investor would consider important when deciding whether to fund a particular loan), a copy of their articles of incorporation, all documents filed with the SEC, and a consent to service of process.¹²⁸ After reviewing these materials, DFR may issue a comment letter to the platform requiring certain additional disclosures or imposing a limit on how much an individual investor may pledge. Once the DFR is satisfied with the prospectus, it will deem the offering “effective,” allowing the sale of those securities in the State of Vermont.

¹²² Peter Manbeck and Marc Franson, *The Regulation of Marketplace Lending: A Summary of the Principal Issues*, ABA.COM (April 2015) available at <https://www.aba.com/Tools/Offers/Documents/ChapmanRegulationofMarketplaceLendingWhitePaper040815.pdf>.

¹²³ *Id.*

¹²⁴ Peter Manbeck and Marc Franson, *The Regulation of Marketplace Lending: A Summary of the Principal Issues*, ABA.COM (April 2015) available at <https://www.aba.com/Tools/Offers/Documents/ChapmanRegulationofMarketplaceLendingWhitePaper040815.pdf>; see also 9 V.S.A. § 2430 *et seq.*; 8 V.S.A. § 10101 *et seq.*; DFR Rule B-2001-01.

¹²⁵ 9 V.S.A. § 5301.

¹²⁶ 15 U.S.C. § 77a *et Seq.*

¹²⁷ 9 V.S.A. § 5303.

¹²⁸ *Id.*, at (b).

SECTION 3 - Conclusions and Recommendations

In connection with this report, DFR and ACCD conducted a roundtable discussion and business outreach with lenders, investors, and members of the Vermont entrepreneurial community. The roundtable concluded that Vermont entrepreneurs have myriad capital sources, but most entrepreneurs are unaware or unfamiliar with these sources. Further, the roundtable concluded that most Vermont entrepreneurs are seeking financing in the \$100,000 to \$1 million range, which generally far exceeds P2P platforms will lend to businesses. Accordingly, focusing on educating entrepreneurs on the sources of capital already available to them will yield greater results than connecting small businesses with P2P platforms.¹²⁹

Small businesses often rely on the knowledge and experience of Vermont's network of technical assistance providers. This is the most logical starting point for capital access education. Technical assistance providers often provide advice on how and where to access capital. A list of the current technical assistance providers in the state include:

- *Launch VT*: LaunchVT is a business pitch competition awarding cash and in-kind resources to entrepreneurs who deliver plans for a new business enterprise. LaunchVT is interested in entrepreneurs that can demonstrate a likelihood of building a successful business, the potential to grow a sizable & meaningful company over time, and the potential to generate significant employment in Vermont
- *Northeast Organic Farming Association -VT (NOFA)* - NOFA is Vermont's Technical Assistance program that helps farmers grow better crops, keep healthier animals, and improve their business practices. Resources are provided to beginning farmers, vegetable and fruit growers and dairy and livestock producers, including one-on-one mentorship and business planning. The mentorship program includes the Farming Beyond

¹²⁹ Round table and business outreach included: Lucy Leriche, Deputy Secretary (ACCD); Joan Goldstein, Commissioner of the VT Department of Economic Development (ACCD); Cynthia Stuart, Deputy Commissioner of Banking (DFR); Aaron Ferenc, Director of Examinations and Enforcement for the VT Banking Division (DFR); Dan Raddock, Assistant General Counsel for DFR; Christopher Smith, Director of Capital Markets for VT Securities Division (DFR); Christopher D'Ela, President of the Vermont Bankers Association; Marie Dussault, Commercial Loan Officer of the Vermont Economic Development Authority; Martin Hahn, Executive Director of Community Capital of Vermont; Chuck Karparis, Vice President of New Lending for Vermont State Employees Credit Union; Janice St. Onge, President, VSJF Flexible Capital Fund; Ken Merritt, Partner of Merritt & Merritt & Moulton; Cairn Cross, Managing Director for Fresh Tracks Capital.

Borders program, which supports educational connections between Vermont farmers and those in other states and countries.

- *Peer-to-Peer Collaborative* – The Peer-to Peer-Collaborative CEO advisory program provides instant access to experienced Peer Advisors, CEOs, COOs, and CFOs. Peer Advisors offer an outside perspective on the complex business and leadership challenges business owners face as they grow their business and they do it in a way that ensures trust and confidentiality. Healthy business owners come away from the program with a strategy for building a stronger operational structure, improving profitability and supporting livable wages for employees.
- *Regional Development Corporations* – There are twelve Regional Development Corporations around the state to provide technical assistance. They assist with access to state programs and resources, and are a local source of information on any technical assistance issue.
- *U.S. Small Business Administration (SBA)* – SBA provides small businesses with an array of financing for small businesses from the smallest needs in microlending to substantial debt and equity investment capital (venture capital), loan guarantees, contracts, counseling sessions and other forms of assistance to small businesses.
- *StartupVT* – StartupVT connects entrepreneurs with each other and with resources needed to grow and succeed.
- *Vermont Arts Council* – The Vermont Arts Council has been the state's primary provider of funding, advocacy, and information for the arts in Vermont. Through its programs and services, the Council strives to increase public awareness of the positive role artists and arts organizations play in communities and seeks to maximize opportunities for Vermonters to experience the arts in everyday life.
- *Vermont Farm & Forest Viability Program* – The Vermont Farm & Forest Viability Program offers one-on-one, in-depth business planning, technical assistance, and management coaching to Vermont farm, food, and forestry enterprises in order to improve the economic viability of Vermont's working landscape.
- *Vermont Manufacturing Extension Center (VMEC)* – VMEC provides on-site confidential consulting, coaching, hands-on implementation assistance, and executive and workforce training to accelerate profitable growth through innovation, increased productivity, reduced costs and improved competitiveness.

- *Vermont Small Business Development Center (SBDC)* – SBDC helps with business planning, training resources, and technical expertise in a variety of areas. SBDC counselors are co-located at the Regional Development Corporations around the state.
- *Vermont Sustainable Jobs Fund (SJF)* – SJF provides early stage grant funding, technical assistance, and loans to entrepreneurs, business farmers, networks, and others interested in developing jobs and markets in the green economy.

Any given technical assistance provider may have a strong understanding and great knowledge of how to access certain sources of capital, but may not understand the full continuum of capital sources, so they may not be properly matching a particular business with the appropriate source of capital. Similarly, the sources of capital themselves, such as banks, community loan funds, and micro-financiers, etc. may not be familiar with other sources of capital. This lack of cross-capital knowledge among technical assistance providers and capital providers results in dead ends for small businesses, when other options may be available and more appropriate.

Ultimately, it is the conclusion and recommendation of DFR/ACCD to provide greater education to technical assistance providers and capital providers on the spectrum of capital sources available to Vermont entrepreneurs. We envision a program, such as a conference or summit - along with relevant one on one meetings- to help technical assistance providers and capital providers learn more about how to prepare businesses for all kinds of existing capital formation, including P2P lending. These forums will build upon the work being done by Regional Development Corporations to connect businesses with capital. The will provide an opportunity for established entrepreneurs and/ or successful investors to network with those emerging businesses looking for capital to learn if there is mutual interest in the new investment opportunities these emerging businesses provide and if not they will provide the relevant feedback and advice to get the new businesses to a fund-able situation. The program would utilize the experience of both technical assistance providers, capital providers, and burgeoning and fully developed businesses to ensure that the entire entrepreneurial ecosystem can work together to connect and improve the flow of capital in Vermont.