O'MELVENY & MYERS

# State Regulation of Financial Technology

## Emerging Payment Systems and Marketplace Lending

October 19, 2016

O'Melveny

# Agenda

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# State Regulation of Emerging Payment Systems

# Overview of Payment Systems Regulation – Federal

## Money Services Businesses (MSBs)

Generally MSBs under FinCEN regulations:

- Dealers in foreign exchange
- Check cashers
- Issuers of travelers checks or money orders
- Providers (issuers) of prepaid access (stored value)
- Sellers of prepaid access (stored value)
- Money transmitters
- The U.S. Postal Service

"Money Transmitter," for purposes of FinCEN regulation: a person engaged in the "acceptance of currency, funds, or other value that substitutes for currency from one person *and* the transmission of currency, funds, or other value that substitutes for currency to another location or person by any means" (emphasis in statute)

Exceptions for (among others):

- Provider of network access services
- Payment processors operating through clearance and settlement systems by agreement with creditor or seller
- Operators of clearance and settlement systems and other intermediaries between regulated entities
- Acting solely as an agent of an MSB

MSBs required to register with FinCEN (filing FinCEN Form 107 & BSA E-Filing System) and:

- Provide legal name of MSB and identity of owner, identification of money services/product information offered, and location of branches, identification of transaction accounts
- Prepare and maintain list of agents, including agent names, contact information, types of services, identification of months in prior year in which MSB's gross transaction amount was >US$100,000, identity of depositary institution at which agent maintains transaction account, first year in which it became agent of MSB, and number of branches

# Overview of Payment Systems Regulation – Federal (*continued*)

## Anti-Money Laundering (AML) and KYC Rules:

- Once registered with FinCEN, companies are subject to the Bank Secrecy Act (BSA), which requires filing of Suspicious Activity Reports for activities that might signify money laundering, tax evasion, or other financial crimes
- BSA requires detection and prevention of money laundering—companies must develop a BSA AML compliance program
- Four pillars of BSA/AML Compliance:
  - Designation of Compliance Officer
  - Development of internal policies, procedures, and controls tailored to business model
  - Ongoing, relevant employee training
  - Independent review for compliance
- KYC rules require development of Customer Identification Programs appropriate for size/type of business, outlining process for obtaining, retaining, and reporting customer information

## Office of Foreign Assets Control (OFAC)

- Payment facilitators required to develop and enforce procedures to ensure services are not used by persons on the OFAC list or to support sanctioned activities

## Tax Reporting

- Payments facilitators must issue a Form 1099-K to every merchant processing >US$20,000 and 200 payments in a calendar year and file corresponding form with IRS

## CFPB Role in Consumer Products/Services

- Supervisory/enforcement authority over "covered persons" and "service providers," including anyone who "participates in designing, operating, and maintaining the consumer financial product or service" (except "electronic conduit services")
- Final rule on prepaid access effective October 1, 2017

# Overview of Payment Systems Regulation – State

## Money Transmission Businesses (MTBs)

With passage of South Carolina's Anti-Money Laundering Act and New Mexico's Uniform Money Services Act in 2016, 49 states have enacted laws regulating MTBs

Only Montana has no MTB law, though MTBs may be subject to its state escrow business license statute

"Money Transmission": "selling or issuing payment instruments, stored value, or receiving money or monetary value for transmission. The term does not include the provision solely of delivery, online, or telecommunications services, or network access" (Uniform Money Services Act)

Alaska, Arkansas, Iowa, New Mexico, Puerto Rico, South Carolina, Texas, US Virgin Islands, Vermont, and Washington have all adopted MTB laws based on the UMSA

Some states' alternative definitions can impact emerging payment system models

"Money transmission"—the act of "receiving money or its equivalent value to transmit, deliver, or instruct to be delivered the money or its equivalent value to another location… [it] includes selling, issuing, or acting as an intermediary for open loop stored value and payment instruments, but not closed loop stored value." (Washington Uniform Money Services Act)

MTBs and State Consumer Protection Laws

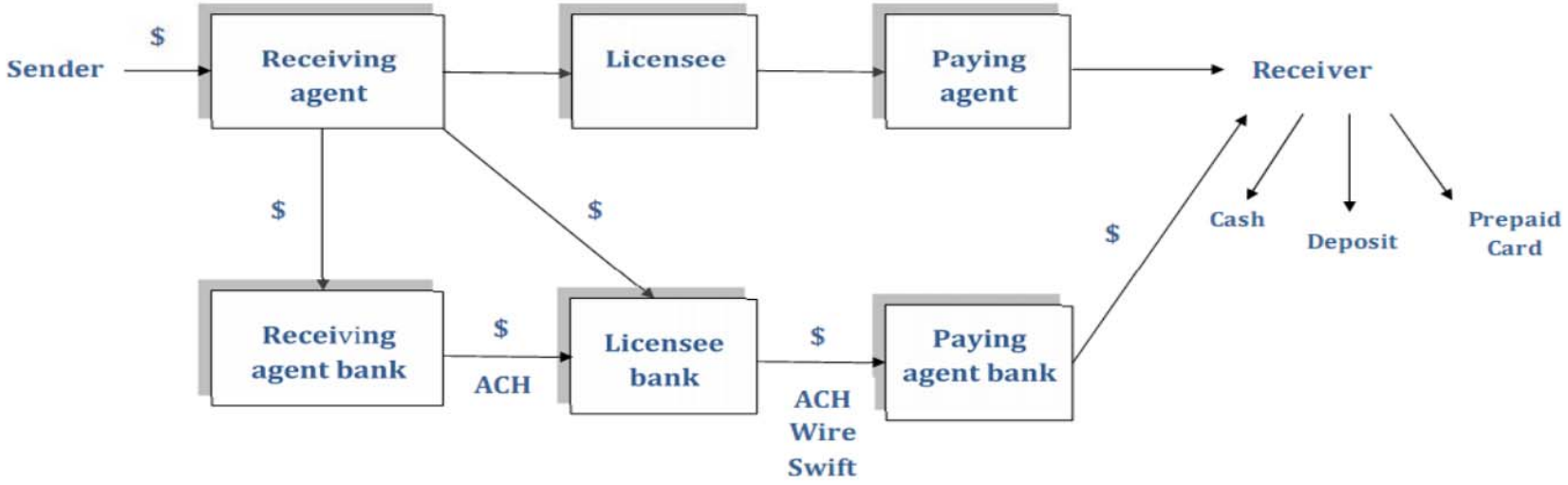
- UMSA intended to coexist with existing state consumer protection laws
- While not intended to displace state consumer protection laws, MTB laws function to protect consumers from the risk of loss of their funds—Texas Department of Banking: "to protect the interests of Texas consumers who use [MTBs] by ensuring the overall financial condition of the [MTB] is sound"
- MTB licensing also protects the integrity of the US payment system

# Money Transmission—Features of MTBs

**Common Characteristics of MTBs:**

- Funds maintained in account owned by MTB—funds are on MTBs' balance sheet
- Contractual privity with consumers (either directly or through sales agent)

Maintaining funds in a custodial account at a third party bank "for the benefit of" the consumer traditionally led to the conclusion that the company had no ownership or control over the funds and, therefore, was not receiving money or value for transmission—no license required




Source: CA DFI, Money Transmitter Division, Presentation given at 2011 CSBS Legal Seminar

# Money Transmission—Goals and Features of State Regulation

**Animating goals and typical features of state money transmitter licensing process:**

**1. Ensure that MTBs and their staff have knowledge and expertise to operate a payments business**

- Understanding of state laws and federal AML law and compliance obligations

**2. Prevent ownership of MTBs by criminals, persons with fraudulent intent, terrorists and racketeers**

- Requirements for background checks and fingerprinting
- Provision of personal financial details, resumes, prior addresses and other background data, verified by licensing state
- AML requirements at the state level

**3. Safety and Soundness**

- Ensure MTBs are adequately capitalized and financed
- Provision of audited financials and minimum net worth

**4. Consumer Protection**

- Requirement for:
  - Surety bonds
  - "Permissible investments" in an amount equal to outstanding funds held
  - Disclosure at point of sale and on receipts
  - Funding of state insurance fund
- Subject to examination by state agencies

# Money Transmission—MTB License Application (NY & CA)

| NY Department of Financial Services (DFS) | CA Department of Business Oversight |
|---|---|
| Applicants must provide:<br>• Identity of entity seeking license, including detailed business description and history<br>• Identity of each director, principal officer and 10% shareholder, including prior history for 15 years<br>• Fingerprints and investigative background report of every applicable partner, officer, stockholder and owner<br>• Detailed information on operations, including org chart, flow of funds information & flow chart, agent selection and oversight policies and procedures<br>• Copies of contracts entered into regarding MTB<br>• History of legal proceedings<br>• Audited financial statements | Applicants must provide:<br>• Certified authorizing resolutions of board and other corporate records<br>• Identity of entity seeking license, including detailed business description, audited and pro forma financial statements<br>• Identity of each director, principal officer and 10% shareholder, including fingerprints and background checks, resumes and personal financial statements signed within 90 days of filing<br>• Detailed information on operations, including org chart, flow of funds information & flow chart, marketing plan and targeted geographic area, proposed number of branches and agents<br>• Sample forms for payment instruction and transaction receipts<br>• History of legal proceedings for past 10 years<br>• Audited financial statements |
| Payment of fees (US$3,000) | Payment of fees (US$5,000) |
| Submission of various affidavits | Policies and procedures relating to:<br>• Operating through agents and branches and oversight of branch office activities and selection of agents<br>• Recordkeeping<br>• Processing of consumer complaints and requests<br>• BSA/AML Compliance and OFAC (detailed) |
| Risk assessment and BSA/AML compliance program | |
| Compliance officer with minimum 3 years' experience and current training | |
| Surety Bond | Surety Bond |

# Money Transmission—State Regulatory Examination

## State Regulatory Examination Requirements (DFS)

❑ **Mandatory examinations regularly scheduled**

❑ **Process:**

- 2-3 months advance notice
- Comprehensive exam questionnaire completed prior to arrival of examiner
- Submission of requested documents prior to on-site visit
- Additional requests for detailed information or explanations as part of on-site visit

❑ **Rating System: FILMS**

- Financial Condition
- Internal Controls and Auditing
- Legal and Regulatory Compliance (BSA/AML, consumer protection, privacy and GLBA)
- Management and Board Review
- Systems and Technology

❑ **Rating "1" (Highest) to "5" (Unsatisfactory)**

- "5" requires action plan to correct deficiencies and violations of law
- Serious deficiencies and/or violations result in regulatory actions

# Money Transmission—Compliance and Enforcement

- States generally regulate money transmission through an agency or department located in the consumer affairs or in the financial institutions bureau of the state's executive branch
- Unlicensed money transmission can lead to civil and/or criminal sanctions.
  - Civil penalties ranging from $10,000 to $1mm (trend toward increasing civil penalties)
  - Often no link to losses or criminal activity required
  - No need to prove intentional conduct
  - Federal crime to operate as an unlicensed money transmitter (18 U.S.C. § 1960)
- Individuals that help to operate an unlicensed money transmitting business may be fined and/or imprisoned
- Each state has its own unique requirements that can be very expensive in terms of fees, legal costs, and time
- Continuing compliance-related responsibilities and costs, including annual state fees and assessments as well as ongoing reporting, examination (with concomitant annual assessments), qualified investment, and other compliance requirements from multiple regulators

"**As Investigations Proliferate, Big Banks Feel Under the Gun**"

"Links to Cash-Transfer Firms Raise Troubling Questions About Money Laundering"

- *Wall Street Journal*, February 13, 2015

"**Regulatory Uncertainty Casts Doubts on Legal Status of Mobile Payment Services"**

- *Bloomberg*, September 22, 2011

"**Unlicensed Money Transmitter Pleads Guilty to Money Laundering Conspiracy**"

- *San Diego County News*, June 21, 2015

# Money Transmission—Trends in State Regulation

**Expansion of scope of licensing laws and increase in compliance standards**

- MTB license required for a person to "*advertise, solicit, or hold himself out as* providing money transmission (South Carolina) or "instruct" payment (Washington)
- Co-branding as basis for licensing (*e.g.*, prepaid card carrying marketer's name on front and bank's name on back – Pennsylvania)
- Licensing required when a "company *facilitates payments* for goods or services (not including money transmission itself") (Washington)—increasingly broad interpretation of "control" over funds
- New York DFS Anti-Terrorism Monitoring and Filtering Program Rule—requires "Nonbank Regulated Institutions" (including money transmitters licensed in NY) to adopt risk-based anti-terrorism and anti-money laundering program and monitor/filter transactions for potential BSA/AML violations and prevent transactions with sanctioned entities

**Increasing regulatory focus on innovation and payment facilitators**

- Illinois cease-and-desist orders on Square, Touchpay, etc.
- Florida penalties assessed against Square, Bill.com
- New Hampshire and Pennsylvania fines against TouchPay, etc.

**Increasing difficulty in accomplishing partnerships with banks/licensed money transmitter**

**"Agent of payee" exemption, but few states have adopted to date**

# Authorized Delegate—Alternative To Licensing

## Licensed Money Transmitters can appoint Authorized Delegates

- Authorized Delegate not required to obtain own license

**Authorized Delegate status defined by statute**

- Typically requires relationship such that Authorized Delegate provides money services "on behalf of" licensee or as a means for licensee to conduct operations through Authorized Delegate
- Traditionally acts solely as a sales agent of MTB – classic example is gas station clerk providing Western Union services

**Expansion of use of Authorized Delegate**

- MTBs using an increasing range of third parties to conduct money transmission services
- Mobile payments, prepaid cards

**Increasing regulatory focus on role of Authorized Delegates**

- Innovative services by third parties may require separate license
  - May interpret authorized delegate role as limited solely to "services already provided by licensee" (see Texas Department of Banking Supervisory Memorandum 1038, October 13, 2014)
  - Concern for "rent-a-license" – Washington requires authorized delegates to be "physically located in the state of Washington" unless approved by the Director of the Department of Financial Institutions

# State Regulation of Marketplace Lenders

# Overview of State Regulation of Marketplace Lending

**Many (but not all) states apply usury caps on loans made to their residents**

- Usury limitations also vary depending on whether the loan is for consumer or commercial purposes
- Violations of usury laws can result in civil and sometimes criminal liability against the lender and can result in the voiding of loan

**States have a wide array of licensing regimes that could apply to non-bank parties engaged in activities related to the provision of credit**

- Lender licensing, Consumer Credit licensing, Credit Services Business licensing, Debt Adjusting licensing
- Engaging in covered activities without first obtaining the required license is a violation and results in civil and, in some states, criminal liability, as well as equitable remedies (disgorgement)

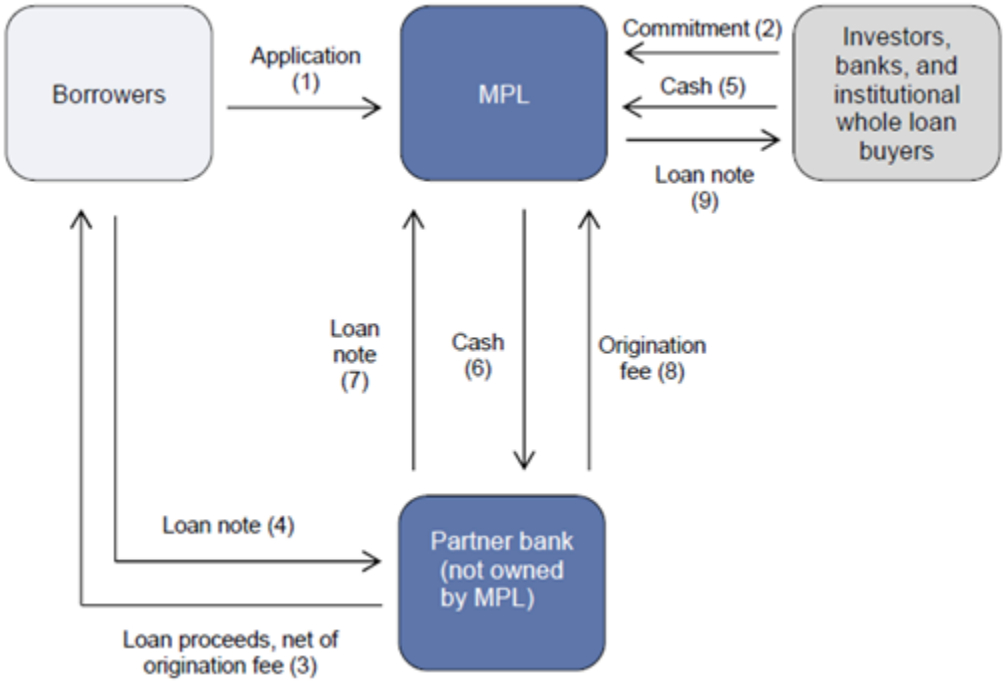
**Activities covered by state licensing regimes include:**

- Marketing of loans
- Loan origination
- Loan servicing
- Taking assignment of loans
- Collecting interest on loans

# Marketplace Lending—The Bank Partnership Model

**Marketplace Lenders (MPLs) and the bank partnership model**

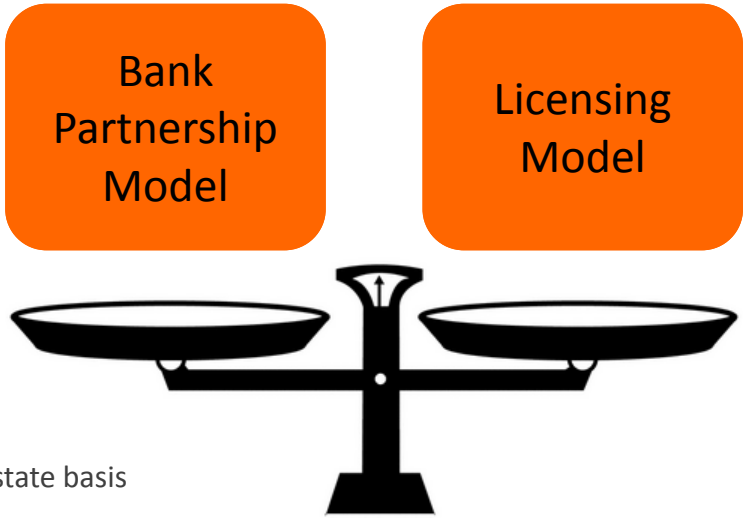
- MPLs that have not sought state-by-state licensing for their activities have typically partnered with banks
- Banks undertake origination of loan while MPL platforms perform a wide variety of other functions, including credit analysis, underwriting, arranging investor financing, syndication of loans, purchasing loans from originating bank, servicing loans and collecting interest on loans



# Marketplace Lending—The Bank Partnership Model

**The bank partnership model originates from long-standing principles of federal preemption applicable to banks**

- "Interest rate exportation regime" – Federal law prescribes that the interest rate on loans originated by banks is governed by the law of the state of bank's home state, regardless of the location of the borrower
- If bank is the loan originator under the bank partnership model, federal preemption obviates the application of state law, including:
  - the need for the third party partner to obtain licenses on a state-by-state basis
  - usury law restrictions applicable to loans made pursuant to the model (only the law of the bank's home state will apply)




Issues have arisen with respect to two principal assumptions that the bank partnership model is premised upon:

- That the bank partner is the locus of the lending activity – challenged by changes in the True Lender Doctrine
- That the MPL takes assignment of the loans on the same terms that applied to the originator of the loan – challenged by Madden and recent state regulatory actions

Both assumptions have been challenged by legal actions asserting state laws, in particular usury caps, over loans originated pursuant to the bank partnership model or variations thereof

# Marketplace Lending—True Lender Doctrine

Third parties, such as MPLs, that partner with banks by performing services related to the provision of credit will not be deemed to originate the loan so long as the bank is the "true lender" of the loan

However, where the third party is found to be the "true lender" federal preemption does not apply, and state law requires:

The third party to obtaining state licensing applicable to lending activities in each state of operations

+

Loans to be subject to the state law usury caps applicable in the state where the borrower is located

# Marketplace Lending—True Lender Doctrine & Recent Challenges

In recent years the traditional analysis has been called into question by a series of state and federal cases—two distinct tests have emerged in case law to determine "true lender" status

### "Bright Line" Test

- Looks primarily to loan document and the relationship of the parties at the time of loan origination to determine whether originating bank was the lender
- *Sawyer v. Bill Me Later, Inc*. (D.Utah 2014), *Hudson v. Ace Cash Express* (S.D. Ind. 2002), *Krispin* (8th Cir. 2000)
- The Bright line test historically led to the conclusion that the bank partnering with a third party was the true lender, not the third party, maintaining federal preemption of state law

### "Predominant Economic Interest" Test

- Takes a broad view of the loan origination process and does not limit its analysis of the relationship of the parties to the time of loan origination, with the goal of determining which party holds the economic risk of loss (e.g., risk of loan defaults)
- Line of cases emerging out of state courts: *CashCall, Inc. v. Morrisey* (W.D. Va. 2014), *People ex re. Spitzer v. City. Bank of Rehoboth Beach, Del*. (N.Y. App. Div. 2007)
- Recently applied in *Consumer Financial Protection Bureau v. CashCall, Inc*. (C.D. Cal. 2016)
- The Predominant Economic Interest test has led to the conclusion that the third party partnering with the bank was the true lender, not the bank, subjecting the third party to state law requirements

# Marketplace Lending—True Lender Doctrine Case

***CFPB v. CashCall, Inc.***

CFPB brought action against CashCall alleging it engaged in unfair, deceptive, and abusive acts and practices (UDAAP) in violation of Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010

CashCall assisted consumers in 16 different stated to obtain loans from a tribal entity in an arrangement effectively identical to the bank partnership model

- **Court held that CashCall was the true lender based on the predominant economic interest test**
- Cited *CashCall v. Morrisey* as the key factor in whether the tribal entity "placed its own money at risk… or whether the entire monetary burden and risk of the loan program was borne by CashCall"

- Court focused on the following reasons:
  - CashCall's money was at risk, not the tribe's
  - CashCall's deposited a reserve account with the tribe, calculated to represent two days of funding
  - CashCall's purchased all loans funded by the tribe
  - CashCall's paid the tribe more for each loan than the amount actually financed
  - CashCall's purchased the loans three days after funding
  - CashCall's had the entire monetary burden and risk of each loan

# Marketplace Lending—True Lender Doctrine Case

## *CFPB v. CashCall, Inc.* (continued)

- **Court held that, since CashCall was the true lender, the laws of borrowers' home states should apply**
- Since the loans exceeded the usury caps in the 16 states, the loans were void and uncollectable and CashCall had committed a UDAAP
  - Loans at issue had APRs ranging from 134.34% to 318.52%
  - State usury limits cited by the court ranged from 8% to 36%

### *CFPB v. CashCall* and MPLs

- While CashCall is not an MPL, the rise of the predominant economic interest test places in jeopardy the interest rate exportation regime that MPLs have relied on in for their business models, potentially subjecting them to state-by-state usury laws
- Further, the characterization of third party lenders partnering with banks as the "true lenders" potentially subjects MPLs to state-by-state licensing as well for all of their activities

# Marketplace Lending—Credit Service Business Licensing Case

## *CashCall v. Commissioner of Fin. Reg* (Ct. App. Md. 2016)

Cease and Desist action for violation of Maryland Credit Services Business Act (CSBA)

CSBA requires a license of any person who, "in return for the payment of money or other valuable consideration," provides the service of "obtaining an extension of credit for a consumer."

CashCall assisted consumers in Maryland in obtaining loans from a third party bank partner

- Maryland's highest court upheld lower court decision that CashCall was operating an unlicensed credit services business
- **Court found that, since the loan pricing rolled an "origination fee" into the repayment of principal, and CashCall (not the loan originator) was the party receiving repayments, CashCall operated a credit services business**
- Court also indicated that CashCall was the *de facto* (true) lender as a result of the arrangement

### Case Raises Issues for MPLs

- Receipt of origination fee renders an MPL a CSB under MD law
- Appears to prohibit MPLs from arranging loans in MD bearing interest that exceeds the state's usury caps

### What about Federal Preemption?

- MD's exception for "federal preemption of State law" appeared not to factor into the analysis of MD's Commissioner of Financial Regulation or appeals court
- Similarly, Connecticut recently passed a law restricting third-party arranging of bank loans with interest rates above 36% APR.

# Marketplace Lending—Subsequent Assignee of Loans Case

## *Madden v. Midland Funding* (2nd Cir. 2015)

- Midland, a non-depository financial company purchaser of charged off credit card debt originated by a national bank, attempted to enforce the contractually permitted interest rate on the account during collection
- Court of Appeals reversed the district court's ruling that federal preemption defeated Madden's claim, holding that since Midland was not a national bank, and not acting on behalf of a national bank, it was not entitled to preemption
- However, the Solicitor General recommended against the Supreme Court reviewing the matter until there was an "actual split of authority" among the Circuit Courts
- Despite hearing strong opposition to the Court of Appeals holding by the U.S. Solicitor General, the Supreme Court denied Midland's request for review

## *Madden* and MPLs

- While Midland is not an MPL, the inability of a subsequent transferee of a loan originated by a bank partner to enforce the terms of the loan could significantly disrupt the bank partnership model for MPLs (indeed, taken to its logical conclusion, the holding in Madden would apply to all loan secondary market activity)
- The alternative of obtaining lending licenses on a state-by-state basis would expressly opt an MPL into a state's usury regime, rendering many loans commercially infeasible, in addition to subjecting them to a highly diverse range of licensing regimes across the different states in which they operate.

# Marketplace Lending—Subsequent Assignees of Loans

Under the bank partnership model third parties, such as MPLs, take assignment of loans originated by banks on the assumption that the loan's terms will "follow" the loan as ownership changes hands

## The Valid When Made Doctrine:

A long-standing principle of state usury law which holds that a loan could not be later considered usurious if it was not considered usurious at the time it was made, irrespective of whether it has later been assigned to a third party

- *Gaither v. Farmers and Mechs. Bank of Georgetown* (S.C. 1828), *Nichols v. Fearson* (S.C. 1833)

In a broader sense, all secondary market trading shares this doctrine in common, as assignees of financial interests rely on the terms of the contract they take subject to being enforceable against the counterparty irrespective of the fact of the assignment

Where Valid When Made is recognized and a loan has been originated by a bank, federal preemption of state law will "follow" the loan as ownership changes: affirmation of Valid When Made would effectively circumvent *Madden* obstacles

# Marketplace Lending—Subsequent Assignee of Loans Case

**Recent regulatory actions have indicated some interest by state authorities to enforce state usury laws against MPL assignees of bank originated loans**

In June, 2016, West Virginia's AG announced it had reach a settlement with the MPL Avant, Inc.

- Avant allegedly misled consumers by leading them to believe it was licensed in WV and was licensed to charge higher rates than permitted by WV law

In August, 2016, the Kroll Bond Rating Agency reported that Colorado sent letters to two MPLs, Avant and Marlette

- Avant and Marlette are both licensed lenders in Colorado
- Nevertheless, CO took the position that loans originated by a bank and then transferred to a non-bank assignee were subject to the state's usury cap
- Note that some accounts indicate that CO appears to also be arguing that any such non-bank assignee is also the true lender

**If West Virginia and Colorado's actions are followed by other state agencies, this would be a further blow to the bank partnership model having a disruptive effect similar to the *Madden* case**

# Solutions to Regulatory Uncertainty

- The combination of state regulatory action and case law has thrown into doubt many of the assumptions underpinning emerging FinTech business models, especially with respect to marketplace lending

- The pace of change is also uncertain—some early indicators point to a trend of increasing adverse action constraining innovation and diffusion, but regulatory activity is still in its early stages thus increasing the importance of outreach and engagement.

- What actions can individual firms take in such an uncertain environment?

# Limited-Purpose FinTech Charter—The Federal Solution?

In 2016, the Comptroller of the Currency revealed that the OCC was contemplating a "limited purpose" or full-service charter designed for FinTech companies—but offered few details

Federal preemption would alleviate many of the burdens of state-by-state licensing and create room for business models focused on sub-prime, creditless, and other unbanked populations

Several state financial supervisors have opposed the idea, arguing that a federal charter could provide regulatory favor to an unproven industry and weaken states' ability to enforce consumer protection and licensing

The *Madden* subsequent assignee issues would still exist

Questions remain as to the parameters of what a federal charter would look like:

A single FinTech charter or separate charters for different activities?

Apply to loans or payments as well?

What costs would accompany the charter? Activity restrictions? Examination and supervision authority? Compliance obligations (esp. CRA)? FDIC insurance?

# Which Solution to Regulatory Uncertainty?

**FinTech Charter**

Any OCC charter will carry costs as well as benefits, and would likely be opposed by state regulators

Not a solution for secondary markets facing *Madden* uncertainty

**Two-Tiered System or Passport System**

System would allow FinTech firms to establish credibility within a state and eventually passport to other states or move up to apply for a federal license

Would reduce cost to federal agencies and be viewed favorably by state supervisors

**Regulatory "Sandboxes"**

Australia, Singapore, and the UK have each proposed allowing start-ups to launch in their respective markets with restricted authorization before being granted a full license

# Questions?

Please contact: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to ask post-event questions, receive a copy of the presentation materials, or sign up for our proprietary alerts on developments in financial services regulations

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Bimal Patel is a partner and the Head of the Financial Advisory and Regulation Practice and specializes in matters related to financial services, public policy, and political strategy. Bimal represents major financial institutions and their counterparties including sovereign wealth funds, hedge funds, and private equity funds in high-stakes complex transactions, litigation, and matters before the Federal banking agencies and the Department of the Treasury. He served as Senior Advisor to Director Jeremiah O. Norton, a member of the Board of Directors of the Federal Deposit Insurance Corporation, prior to re-joining O'Melveny.

Bimal's time with the FDIC allows him to provide financial sector clients with unique and valuable insight into the evolving cross-border regulatory issues that impact their business operations and investment decisions. He provides sound, strategic guidance to clients in highly scrutinized and politically sensitive matters. In addition to his practice, he currently serves as an Adjunct Associate Professor at Stanford University where he teaches an annual course on banking regulation. Bimal is also the co-author of forthcoming articles in leading journals discussing bank resolution planning and policy as well as fair lending.

### Illustrative Professional Experience (at the FDIC)

- Worked closely with senior staff to formulate key rulemakings including the implementation of the Basel III Capital Accords, the Volcker Rule, deposit insurance assessments, and rules related to the Orderly Liquidation Authority
- Advised on key supervisory matters, including review of multiple rounds of financial company "living wills" submitted under Section 165(d) of the Dodd-Frank Act
- Reviewed and advised on all matters to come before the FDIC Board's Case Review Committee, which handles the FDIC's enforcement matters. Representative matters included actions against institutions and individuals including matters under: BSA/AML regulations, Section 5 of the FTC Act, fair lending laws, and section 8 of the FDI Act

### Illustrative Professional Experience (at O'Melveny)

- Representing clients in Federal investigations arising under the Bank Secrecy Act and Anti-Money Laundering rules and providing ongoing counseling to bank and non-bank clients regarding these rules
- Representing payments industry clients on issues related to the Federal Reserve Board's interchange regulations, issues arising under the Bank Secrecy Act and Anti-Money Laundering rules, and issues arising under the Federal Reserve Board's Regulation E
- Representing financial services industry clients in disparate-impact class action litigation alleging violations of the Equal Credit Opportunity Act and the Fair Housing Act, in class action litigation involving constitutional challenges to government programs targeting the financial services industry, and in counseling on consumer financial laws