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**OPTIMAL REGULATION OF P2P LENDING
FOR SMALL AND MEDIUM-SIZED ENTERPRISES**

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Abstract

Globally, the regulation of P2P lending has evolved significantly in recent years, with mostly beneficial effects on the diversification of funding for individuals and corporations. Regulatory responses have varied greatly between countries, and the characteristics of the markets that have emerged vary as a result. The purpose of this paper is to describe and evaluate the range of P2P lending systems on offer to small and medium-sized enterprises (SMEs) in several countries, considering different regulatory regimes. In some countries, there are problematic incentives for platforms that rate credit and originate loans without holding the risk of these loans. In addition, when investor returns are guaranteed by platforms, investors have no incentive to distinguish among risk categories. In several countries, notably the People's Republic of China, P2P platforms have engaged in fraudulent behavior and Ponzi-like schemes. On the other hand, stringent regulation in the United States has excessively impeded new entrants from providing competition to established platforms. Regulators should be mindful of these risks and others, while also seeking to capitalize on the benefits that the sector offers for providing new funding opportunities to SMEs. In our view, the United Kingdom can be suggested as an effective model to follow because of its tailor-made and flexible regulation.

Keywords: fintech, P2P lending, regulation

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1. GLOBAL TREND OF P2P LENDING

In recent years, internet-enabled peer-to-peer (P2P) lending has emerged as an alternative to bank lending. P2P lending platforms provide an online marketplace that matches investors willing to lend with borrowers seeking loans, removing the need for banks to act as intermediaries. Borrowers may be individuals or businesses, depending on the platform. Likewise, lenders may be individuals or collectives.¹ In light of the much-discussed failures of banks to provide adequate loans to small- and medium-sized enterprises (SMEs), this development might be seen to offer a significant opportunity. The purpose of this paper is to describe and evaluate the range of P2P lending systems on offer to SMEs in several countries, considering different regulatory regimes. It builds on the insightful work of Samitsu, who contrasts the legal arrangements across Japan, the United Kingdom (UK), and the United States (US) (Samitsu 2017). In this paper we take the analysis further by identifying and assessing the main types of risk involved across four countries, analyzing the different regulatory responses, and weighing both of these against a set of universal principles of good regulatory practice.

Traditional banks are often reluctant to lend to smaller companies because higher default rates, lack of data, and small scale make lending to them less profitable. As a result, many SMEs are unable to obtain funding. With SMEs estimated to represent 55% of GDP in Organisation for Economic Co-operation and Development economies and 60% of employment worldwide (Edinburgh Group n.d.), the economic benefits of improving their access to finance could be substantial. The benefits to SMEs may be more than just access to this mode of alternative funding—competition from P2P platforms may also prompt banks to recapture market share by extending more loans to SMEs and improving the service offered to them. As we will show, there have been many different attempts to construct appropriate regulation around this new phenomenon, and these sometimes have unintended consequences. Finding appropriate modes of regulation for this emerging industry remains experimental and contested.

P2P lending platforms attempt to solve the problems of lending to SMEs by utilizing automated processes to reduce costs and credit risk models that use nontraditional data. P2P lending and other forms of fintech financing have grown rapidly over the last few years but have developed at very different rates in different countries. For fintech lending, of which P2P lending is the largest component, the People's Republic of China (PRC) and the US are the world's biggest markets, with \$100 billion of new fintech credit issued in the PRC in 2015 and \$34 billion in the US.² These instances dwarf other markets, which at present are still mostly at a nascent stage: fintech credit volume was \$1.1 billion in Asia and the Pacific excluding the PRC and less than \$1 billion in the Eurozone (Bank for International Settlements 2017). Loans to individuals comprise a large part of P2P lending in the PRC and the US. P2P lending to business is still relatively small but it has grown rapidly. The outstanding amounts of P2P lending to business is shown in Table 1.

¹ The term "peer to peer" is arguably best suited to small-scale loans from individual lenders to individual borrowers who may wish to seek funds for consumer purchases. It has also been used to refer to arrangements involving SMEs. We use the term to include this latter practice.

² These figures include loans to individuals and to businesses.

Table 1: P2P Lending to Business

Volume of New Credit of P2P Lending to Business in 2016	
	(\$ billion)
People's Republic of China	61.5
US	1.5
UK	1.8
Europe excluding the UK	0.4
Japan	1.2

Source: WDJ. wdzj.com; Cambridge Centre for Alternative Finance (2017a, b, c); Japan data is outstanding loan in 2017 from Social Lending Industry Report 2017.

P2P lending carries inherent risks. Investors are at risk of losing the funds invested. SMEs relying on P2P services for funding face the possibility of capital drying up or becoming more expensive in the event of a shrinking in the investor pool. In addition, some stability concerns arise from the P2P business model. First, P2P platforms receive revenue in proportion to the loan volume originated. They therefore face financial incentives to maximize loan origination even at the expense of credit standards. They also rate borrowers' credit themselves, despite not being exposed to the direct financial consequences of defaults. The source of funding for these platforms is also a weakness, remaining reliant on investors retaining confidence in the platform to maintain levels of lending. Investors cannot rely on deposit insurance as they can in many countries with their bank deposits, so P2P platforms that allow early withdrawal of funds are vulnerable to mass withdrawals if investors lose confidence. It is still unclear that investors will be protected in the event of the failure of a platform, and a poorly managed, high-profile failure would not only cause losses to investors but also erode the trust needed for investors to keep on lending. Lending is also likely to be pro-cyclical, with unprofitable businesses being sustained by cheap loans in some periods while being priced out with very high interest rates when credit becomes expensive.

Figure 1: Principles against Which to Evaluate P2P Lending Regimes

- (1) P2P lending should provide a safe and effective investment channel for a broad segment of society.
- (2) P2P lending should allow borrowers access to affordable and reliable capital on fair terms.
- (3) Lending should differentiate among borrowers based on risk of default.
- (4) Platforms should provide investors with an accurate understanding of credit risks, and investors should hold at least some of the risk to prevent moral hazard.
- (5) Unviable lending platforms should be able to exit the market without causing losses to investors or funding shortfalls for borrowers.
- (6) Lending should be robust enough during downturns in the economic cycle to prevent sudden stops in lending, excessive default rates, and problematic failures of lending platforms.
- (7) A competitive market between P2P platforms should be maintained to promote consumer choice; prevent rent seeking, monopolistic, or oligopolistic practices; and avoid the systemic risk of overreliance on one or a small number of platforms.
- (8) The sector should be socially useful and serve the real economy.

The challenge for regulators is to protect against systemic risks and maintain a fair, safe, and competitive market. At the same time, there is a need to encourage the growth of lending to realize its potential to transform small business funding and enhance economic growth. When considering the optimal nature and scale of regulation of this market it is useful to state a set of guiding principles. Taking lessons from the past successes and failures of financial markets, we suggest a universal measuring stick against which to evaluate any system that can be constructed. The resulting template is shown in Figure 1.

To help meet these ideal conditions, the design of appropriate regulatory instruments becomes critical. To this end, it is useful to consider the range of regulatory regimes currently in play. For this purpose, we review and compare regulatory regimes in the US, the UK, the PRC, and Japan. Table 2 shows a schematic outline of the main comparator variables across these territories.

Table 2: Comparative Practices and Regulatory Regimes of P2P

Comparative Criteria	US	UK	People's Republic of China	Japan
General characteristics of the sector	Mainly geared to small individual loans Concentrated market, two main platforms	A number of mature players dominate the market A variety of platforms servicing different sections of the market	Very rapid growth in P2P A broad segment of society has access to a high-yield investment option Fragmented market, many platforms	Mainly geared to small business needs. Developed on the needs of new investment tools.
Nature of regulation	Extensive and stringent	Adaptive	Loose until recently, now tightening	Moderate
Regulatory bodies	Securities and Exchange Commission governs investing. Consumer Financial Protection Bureau and Federal Trade Commission oversee borrowing.	Financial Conduct Authority	China Banking Regulatory Commission	Financial Services Agency
Modes of regulation	Requirement to hold investors' money in bank accounts	Consultative approach	Trend toward involving local authorities and enabling self-regulation Requirement to hold investors' money in bank accounts	Three categories of regulation: equity, lending, and funds For equity, the rule of securities offerings is applied, and the financiers need to acquire a brokerage license
Advantages of current regulation	Strong protection of lenders and borrowers Transparent data disclosure	Responsive to emerging risks and accommodating to market participants	New forms of regulation have encouraged growth in the sector	Flexible, tailored regulation to meet different needs
Issues arising from current regulation	Stringent registration process, separate registrations needed by state	Ambiguous guidance for provision funds	Problematic, fraudulent behavior, calls for more regulation.	Tension between regulatory requirements of transparency versus anonymity

Using these criteria, we can now describe and assess P2P lending practices and their regulation across four advanced countries that represent the largest P2P markets in the world.

2. P2P LENDING IN THE UNITED STATES

The regulation of P2P lending in the US is fragmented. The Securities and Exchange Commission (SEC) is responsible for the investing side of these platforms, while the Consumer Financial Protection Bureau and the Federal Trade Commission regulate the borrowing side. The SEC forbids P2P platforms from crediting the borrower's loan directly to the lender. As a result, American P2P lending platforms do not function as true matching platforms. Instead, the lending platform requests a bank to originate a loan from the platform to the borrower. The platform then issues a debt security to the lender, who becomes a creditor of the platform. There are significant regulatory hurdles for new entrants. As well as needing to obtain licenses from state governments, a process described by industry insiders as "costly and laborious" (Government Accountability Office 2011), platforms are only allowed to accept accredited investors until they register with the SEC. This requires a substantial amount of work by the platform, which faces strict reporting requirements once registered. One survey of US lending platforms found that 37% of investors believed regulation to be excessive, while only 6% wanted more regulation (CCAF 2017). Despite the volume of regulation there are doubts about its efficacy. For investors, being creditors of the lending platform rather than the borrower exposes them to the risk that the platform will be unable to pay them if it encounters financial difficulties. However, this arrangement has its advantages. Because the lending platform has legal status as the lender, it is responsible for adhering to laws stipulating clear and fair disclosure of the terms of the loan to borrowers, explanations to those who are declined credit, and preventing unfair debt collection practices. This is preferable because the platform is better placed than individuals to ensure compliance with these regulations, and enforcement of this legislation is made easier (Lo 2016).

The conservative approach to regulation in the US has given rise to a well-functioning sector abiding with most of the principles above. It is chiefly on the issue of maintaining a competitive market where the US approach seems to have had limitations. The two largest platforms, Prosper and Lending Club, dominate the market, and the entry of new firms is impeded by the burdensome registration process at both federal and state levels. Incumbents and newcomers alike are also discouraged from trying innovative business models by the regulatory compliance work involved. It is worth noting that in the US only a small percentage of P2P lending goes to businesses; the largest part goes to individual consumers seeking small loans. Meaningful competition that can offer more compelling solutions for business financing could help to remedy this. US regulation of P2P lending has arisen from an adaptation of existing financial regulation to fit this new industry. Introduction of new regulation designed from the start for this new business model could provide an environment more supportive of growth, competition, and innovation. In summary, it is possible that the relative lack of SME funding stemming from P2P in the US is a consequence of the mode of regulation in that country to date.

3. P2P LENDING IN THE UNITED KINGDOM

In the UK, P2P platforms are assessed individually by the Financial Conduct Authority (FCA) and must obtain authorization to operate. The FCA emphasizes engagement with P2P companies. It provides feedback to companies on the regulatory implications of their plans and runs a regulatory sandbox to allow selected firms to test new models on the market. This dialogue-based approach extends to the FCA's development of new regulation. Feedback is sought from the industry regarding the successes and limitations of the current framework and the risks facing the industry. The FCA underwent a process of consultation regarding the implementation of its 2014 rules on P2P lending and

published its response in a report in December 2016 (Financial Conduct Authority 2016). The report revealed the FCA's concern that relatively lighter regulation for P2P lenders and the increasing complexity of P2P lenders and the increasing complexity of P2P platforms' business models could result in regulatory arbitrage.³ The activities attracting the attention of the FCA include the pooling of credit risk, which enables P2P platforms to act as asset managers; and maturity mismatch products, which allow investors to withdraw money before the end of their loan period and bring P2P platform activities closer to that of banks.

Although P2P platforms may benefit from some degree of regulatory arbitrage, it is not evident that this light-touch approach would harm investors or borrowers. As noted by respondents to the FCA's call for feedback, P2P platforms are not leveraged or systemically important to the economy. Hence, light regulation of this sector may be justified. The FCA has responded that it will continue to monitor the situation and will act to prevent arbitrage if consumer welfare looks to be threatened. The FCA has also remarked on its dissatisfaction with the communication of risks to investors and may act further to set stricter requirements on this front. Wind-down plans may also be a future focus for regulation, as the FCA believes that current plans could be insufficient if a platform were to fail. Perhaps a more significant issue is the fact that provision funds, where platforms cover the losses of investors, have become widespread in the UK P2P lending industry. One leading platform, RateSetter, claims that "The Provision Fund has a 100% track record: to date, every investor has received the returns they expected" (Ratesetter 2017). This has so far protected investors, but guarantees of this kind provide investors with no incentive to reduce their risk and could offer them a sense of security that may turn out to be false if default rates reach a level beyond the amount that can be covered by the provision fund. On the other hand, these funds give the P2P lenders some "skin in the game," giving platforms an incentive to maintain underwriting standards that is not provided by the basic P2P business model of charging a commission on loan origination. This benefit should be weighed against the risks when designing regulation to tackle this practice.

The regulatory framework in the UK accords with most of the principles set out above in Figure 1. The regulatory regime appears to be proportionate and appropriate to the circumstances. It can be suggested as an effective model to follow. While the rate of industry growth means that risks and problems often emerge faster than new regulation can be introduced, the FCA's actions to date suggest that it has a sound understanding of the issues and has been responsive to the evolving dynamics in the industry. Investor protection in particular has received strong support, but regulation has been light enough to allow the market to develop largely unimpeded. The arguably lax approach to provision funds,⁴ however, is potentially problematic and deserves more serious investigation to determine the most suitable regulatory response. The P2P lending industry in the UK has been relatively successful in serving SMEs, with a high proportion of P2P loans going to businesses and several platforms specializing exclusively in business lending.

³ This term refers to the potential for P2P firms to be doing the same activities as traditional financial institutions but having an advantage due to a smaller regulatory burden.

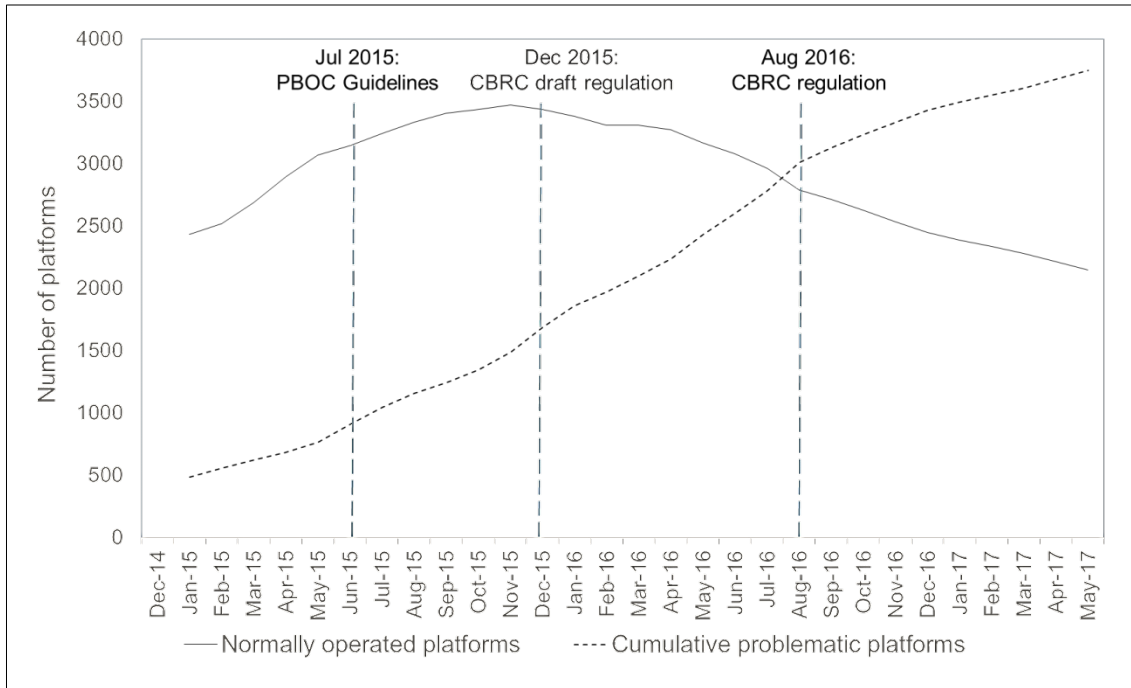
⁴ Provision funds are insurance funds operated by the platform to indemnify investors so that they can expect a return on their investment even if borrowers default.

4. P2P LENDING IN THE PEOPLE'S REPUBLIC OF CHINA

In the PRC, the P2P lending industry has grown faster than in any other country. The sector remained largely unregulated for most of its history, and this enabled a proliferation of platforms with a diversity of business models and varying viability. It is widely thought that the PRC government purposefully refrained from involvement in this sector to allow it to grow quickly and thus provide ready access to credit to underserved parts of the economy. SMEs often find it difficult to secure loans from the state-owned banks that dominate in the PRC, so the need for P2P lending is greater than in most other countries. However, concerns over mismanagement and bad practices in the sector have grown steadily. Platform-side risks are seen as presenting the biggest set of problems (Yin 2017). A 2016 report described more than one-third of the PRC's P2P lending platforms as "problematic" (Leng 2016), which in a large proportion of cases referred to fraudulent behavior (Yiqing 2016). Since 2015 regulation has become increasingly strict, beginning with the People's Bank of China (PBOC) issuing the "Guidelines for Promoting the Healthy Development of Internet Finance." These guidelines did not introduce any official legislation but laid the framework for future regulation and provided guidance for the sector's activities. Responsibility for oversight was handed to the China Banking Regulatory Commission (CBRC), which has now merged with the PRC's insurance regulator to become the China Banking and Insurance Regulatory Commission. The document communicated an intent to stop the widespread practice of guaranteeing returns to lenders. This was followed later that year by the CBRC's draft regulations, granting regulatory responsibilities to local authorities and encouraging "self-regulation" by industry associations (Xie Ping and Haier n.d.). In August 2016 the CBRC released the first set of comprehensive rules called Interim Measures on Administration of Business Activities of Online Lending Information Intermediaries. It codified the prohibition of guaranteed returns, set borrowing caps of Rmb1 million for individuals and Rmb5 million for companies, banned P2P lenders from issuing securities to lenders, and mandated that lenders' funds should be held in custodian bank accounts (Wildau 2016; Yiqing 2016). In December 2017 a specific timeline was set in the Implementation Plan for the Cleanup of Online Microloan Lenders. Provincial government agencies were told to complete the evaluation and registration of qualified P2P platforms in April 2018 and no later than June 2018, and to formulate regulatory policies based on regional conditions.

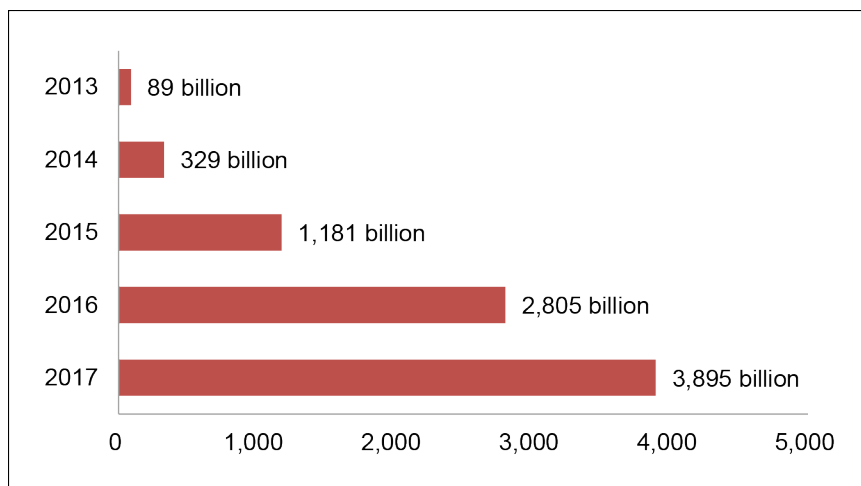
Guarantees to lenders have allowed the PRC's P2P lenders to attract large numbers of investors by offering fixed returns. But these guarantees have drawn special attention from regulators because they introduce serious stability risks. The payouts to investors under this scheme are often not paid for by the underlying loans but rather through the funds provided by new investors. This Ponzi-like structure risks collapse if the number of new investors falls, and it incentivizes mass lending irrespective of the credit risk. The strict new rules pose an existential threat to the many platforms that have been operating under this model (the number of platforms has decreased by one-third since its peak in 2015) (Economist 2017), but the rules have been welcomed by many in the industry, who see a reduction in the number of platforms as a positive step toward a more profitable sector. The PRC's lending platforms, in contrast to those in the US, tend to say that existing regulation is insufficient. In a survey of the PRC's P2P business lending platforms in March 2016, 68% called for increased regulation (Cambridge Centre for Alternative Finance 2016). As in the UK, tax incentives for lenders are often available, depending on local regulation.

Figure 2: Platform Numbers and Regulatory Landmarks in the People’s Republic of China



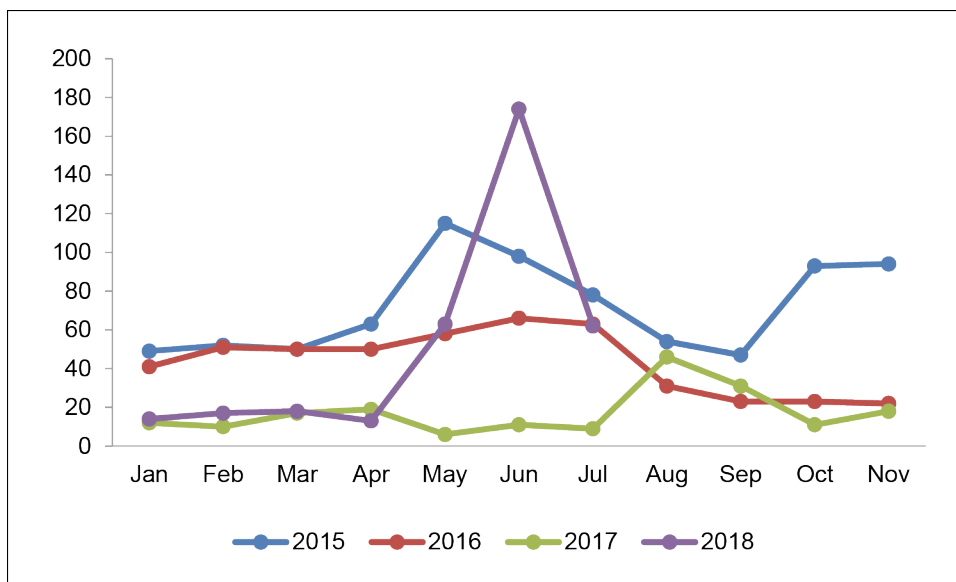
Source: wdzj.com.

Figure 3: Volume of P2P Lending in the People’s Republic of China (2013–2017, new lending amounts, RMB)



Source: P2P001.

Figure 4: Number of Defaulted Platforms by Month



Source: Home of Online Lending. <https://shuju.wdzj.com/industry-list.html>

The actions taken by the PRC regulators have had a positive effect on the industry. Stricter regulation has successfully forced the closure of risky and fraudulent platforms. Figure 2 shows the consolidation the industry has undergone since the guidelines were announced by the PBOC. Although the cumulative number of problematic platforms continues to rise, this figure includes firms that have exited the market. The industry will continue to become safer as badly run firms exit the market. Systemic risks are greater in the PRC because the broad base of investors means that losses have a larger impact on society. The requirement to hold investors’ money in bank accounts fundamentally changes P2P platforms’ role from that of a financial intermediary to an information intermediary, as is the case in the US. This is a positive step in providing investors with more financial security and preventing further cases of misappropriation of funds, which have caused significant losses to the PRC’s P2P investors. The ban on guaranteed returns was a necessary step to curtail a problematic practice. Despite a troubled recent history of widespread malpractice, P2P lending in the PRC has gone further than in any other country in fulfilling the promise of providing a broad segment of society with access to a high-yield investment option and filling the gap in SME funding. Its future success will hinge on maintaining this wide appeal to both investors and borrowers while continuing to mitigate systemic risks.

5. P2P LENDING IN JAPAN

In Japan, the Financial Service Agency (FSA) is the single authority charged with the regulation of P2P lending. The Financial Instruments and Exchange Law was amended in May 2015 to regulate crowdfunding. Although the total amount of finance remains about 2% of that in PRC, the market is expanding rapidly: the increase in lending in fiscal 2017 was 131,600 million yen, 2.5 times of that in 2016. Most of the finance is used for loans to SMEs in various industries including manufacturing and services, though the real estate sector ranks at the top. Local “hometown funds” have been created in many regions. Those funds attract investors who would like to support local specialties and the vitalization of their local economy.

Under the revised Financial Instruments and Exchange Law, crowdfunding is categorized into three groups: contribution, purchase of goods, and money investment. Within money investment, there are three subgroups: equity, lending, and funds. For equity investments, securities offerings laws are applied, and platforms need a Financial Instruments Business Operator Subsection 1 license, commonly used by brokerage firms. For lending and funds, operators need to get a Financial Instruments Business Operator Subsection 2 license. The requirement for Subsection 2 operators is less strict compared to Subsection 1 if the investment amount is small (less than 5 million yen) and securities offerings are conducted on a website. This results in a relatively lenient approach toward P2P lending and is intended to promote its development. From the standpoint of protecting investors, the platforms are supposed to

- remain financially sound and have a minimum capital of 5 million yen;
- maintain adequate operations and staff to meet the compliance guidelines;
- conduct proper due diligence and monitoring of borrowers regarding financial conditions, use of proceeds, and business plans; and
- preserve transparency regarding risks, fees, and other contract information.

The law prohibits platforms from providing guarantees to investors. The FSA conducts inspections and monitors compliance with this law. One challenge for the operator under these constraints is to obtain good returns, given the high operating and compliance costs.

For lending, platforms also need to secure money lenders' licenses under the Money Lending Business Law. This can lead to conflicts of interest between investors and borrowers. Under the Money Lending Business Law, platforms need to maintain the anonymity of borrowers, but on the other hand the Financial Instruments and Exchange Law requires disclosure to protect investors. Information disclosed to investors includes how the borrower plans to use the funds, whether there is collateral for the loan, and an anonymized description and comments about the borrower. One case illustrating the tension between the twin objectives of disclosure and anonymity is the fraudulent behavior of Minnano Credit. The company collected 4,500 million yen from investors, claiming that it would invest the proceeds in a spread of promising SMEs. However, in practice the proceeds were extended to a single entity that was affiliated with Minnano Credit itself. The company had hidden this fact from investors by exploiting loopholes in the disclosure requirements. Minnano Credit was subject to administrative sanctions including a one-month suspension of business activities. There have not been many cases of scandal or misconduct in the P2P industry in Japan, but this case presents a palpable example of the conflicts arising from the competing principles of disclosure and anonymity. Currently, the FSA is considering to revise the current legal framework and improve disclosure for investors.

In Japan, one of the constraints may be that the pressure for increased regulation may stifle the entry of new firms. New P2P platforms in Japan must obtain separate licenses for money lending and for handling financial instruments before they can begin activities. This is a major challenge because it is difficult to obtain start-up funding without first demonstrating a strong growth trajectory, which is only possible after obtaining the relevant licenses. A solution could be a regulatory sandbox, as implemented by the FCA in the UK, permitting new companies to operate under a provisional license until they graduate to a full license. The advantages of this are in reducing entry barriers and allowing the regulatory authority to see the business in practice, giving it a more accurate picture of the business before deciding to award a full license. Such a scheme would

promote innovation by reducing the current pressure on new entrants to present the regulator with more conservative plans to avoid being turned down for a license before they can begin operating.

6. COMPARISONS ACROSS COUNTRIES

Table 3 shows the remarkable divergence across these regulatory regimes. The regulatory bodies in these four countries have purposely, or inadvertently, shaped the profiles of their respective P2P industries. The UK and Japan have established regulatory sandboxes to allow new entrants to experiment without being overburdened with legal constraints in the early stage of their growth. Licenses are shown to be required in all four countries, but the ease of obtaining a license varies. The originator of the loan varies across these countries and depends on prevailing regulations. The P2P platforms in the US and the PRC are restricted to the role of information intermediary, and therefore the platforms in these countries must rely on banks to originate the loans. In contrast, in the UK and Japan, platforms can issue their own loans.

Table 3: P2P Regulatory Comparisons

Regulatory Feature	US	UK	People's Republic of China	Japan
Regulatory sandbox available	No	Yes	No	Yes
Operational licenses required	SEC license and licenses from state governments; platforms operating without an SEC license can seek investments from accredited investors	FCA license required but provisional licenses are common	Internet content provider license	FSA license
Role of P2P platform	Facilitator of bank loans to borrowers; the platform purchases the loan using funds from investors	Facilitator of loans between investors and borrowers	Facilitator of bank loans to borrowers	Direct lender and aggregator of investment funds
Originator of the loan	Bank	P2P platform	Bank	P2P platform
Provision funds	Permitted but not a widespread practice	Permitted except for ISA (tax-free) investments	Not legally permitted but occur in practice	Not used

Source: Authors' original.

Finally, the table shows that the safeguarding of investors through provision funds is common in the UK, less common in Japan and the US, and, although formerly widely used in the PRC is now prohibited in that country.

7. CONCLUSIONS

Globally, the regulation of P2P lending has evolved significantly in recent years, with mostly beneficial effects on the industry. Regulatory responses have varied greatly among countries, and the characteristics of the markets that have emerged vary as a result. Despite these regulatory efforts, some issues remain. There are problematic incentives for platforms that rate credit and originate loans without holding the risk of these loans. In addition, when investor returns are guaranteed by platforms, investors have no incentive to distinguish among risk categories. In several countries, notably the PRC, P2P platforms have engaged in fraudulent behavior and Ponzi-like schemes. On the other hand, stringent regulation in the US has excessively impeded new entrants from providing competition to established platforms. Regulators should be mindful of these risks and others, while also seeking to capitalize on the benefits that the sector offers for providing new funding opportunities to SMEs. The principles outlined in Figure 1 offer a general guide when assessing potential legislation; the primacy of different issues varies across countries, but regulators could use these principles as a starting point when engaging in constructive dialogue with market participants.

REFERENCES

- Bank for International Settlements (2017). "FinTech credit: Market structure, business models and financial stability implications." *Report Prepared by a Working Group established by the Committee on the Global Financial System*. Basel, CGFS.
- Cambridge Centre for Alternative Finance (2016). "Harnessing potential: The Asia-Pacific Alternative Finance Benchmarking Report." *Cambridge Centre for Alternative Finance at Cambridge Judge Business School*. https://www.jbs.cam.ac.uk/fileadmin/user_upload/research/centres/alternative-finance/downloads/harnessing-potential.pdf.
- (2017a). "Entrenching Innovation: the 4th UK Alternative Finance Industry Report".
- (2017b). "Expanding Horizons: the 3rd European Alternative Finance Industry Report".
- (2017c). "The Americas: Alternative finance industry report: Hitting stride." *Cambridge Centre for Alternative Finance at Cambridge Judge Business School, Polsky Center for Entrepreneurship and Innovation at the University of Chicago*.
- The Economist. (2017). "In fintech China shows the way." *The Economist*. February. (<http://www.economist.com/news/finance-and-economics/21717393-advanced-technology-backward-banks-and-soaring-wealth-make-china-leader>).
- Edinburgh Group (n.d.). "Growing the global economy through SMEs." http://www.edinburgh-group.org/media/2776/edinburgh_group_research_-_growing_the_global_economy_through_smes.pdf.
- Financial Conduct Authority (2016). "Interim feedback to the call for input to the post-implementation review of the FCA's crowdfunding rules." *FCA*. <https://www.fca.org.uk/publication/feedback/fs16-13.pdf>.
- Government Accountability Office (2011). "Person-to-person lending: New regulatory challenges could emerge as the industry grows, GAO, USA." <http://www.gao.gov/new.items/d11613.pdf>.
- Leng, S. (2016). "One third of China's 3,000 peer-to-peer lending platforms 'problematic': new report." *South China Morning Post*. <http://www.scmp.com/news/hong-kong/economy/article/2022317/one-third-chinas-3000-peer-peer-lending-platforms-problematic#!>
- Lo, B. (2016). "It ain't broke: The case for continued SEC regulation of P2P lending." *Harvard Business Law Review* <http://www.hblr.org/2016/08/it-aint-broke-the-case-for-continued-sec-regulation-of-p2p-lending/>.
- Ratesetter (2017). "<https://www.ratesetter.com/invest/everyday-account/protection.>"
- Samitsu, A. (2017). "Structure of P2P lending and investor protection: Analyses based on an international comparison of legal arrangements." *Bank of Japan Research Laboratory Series*. 17-E-6 (Tokyo).
- Wildau, G. (2016). "China P2P regulations target hucksters and risktakers." *Financial Times*. August 24th.

- Xie Ping, Z. C., and Liu Haier (n.d.). "The fundamentals of internet finance and its policy implications in China." *Working Paper, Institute of Internet Finance*. Peking University.
- Yin, J. (2017). "P2P lending industry in China." *International Journal of Industrial and Business Management*. 1(4): 1–13.
- Yiqing, W. (2016). "Surge in P2P scams leads to stronger supervision." *China Daily*. http://europe.chinadaily.com.cn/business/2016-10/09/content_27000442.htm.