

# PUBLICATION

---

## CFPB's First Project Catalyst Innovation Report Addresses FinTech Regulation

Authors: Alexander Frank Koskey, III  
December 07, 2016

In October, the CFPB issued its first ever Project Catalyst Innovation Report highlighting "innovation insights" by FinTech companies in multiple areas. The CFPB launched the Project Catalyst initiative in November 2012 with the mission of collaborating with financial technology innovators on marketplace developments and creating programs and policies that support "consumer-friendly innovation." The report is noteworthy as it provided insight as to the CFPB's philosophy for regulating FinTech companies following a recent enforcement action.

One of the critical issues being debated by the CFPB is how to regulate FinTech companies. In prepared remarks discussing the report at a recent conference, CFPB Director Richard Cordray noted that "Everyone who provides consumers with financial products and services must adhere to the same standards and will be held to the same expectations."

This position echoes a recent \$3.63 million enforcement action by the CFPB against Flurish, Inc., an online lender doing business as LendUp, for "failing to deliver the promised benefits of its products." LendUp promoted itself as an alternative to traditional payday loans through the "LendUp Ladder," a program pitched to consumers as providing the ability to improve credit scores and obtain more favorable rates over time. However, the CFPB found that many of the products offered by LendUp were not available, that inaccurate information was provided regarding the true cost of the loans and, despite promises that consumers could improve credit scores, the company did not furnish any credit reporting on its loans until more than two years after origination. As part of the consent order, LendUp was required to provide \$1.83 million in restitution to impacted customers and a civil penalty of \$1.8 million. In the enforcement action, Director Cordray stated that "The CFPB supports innovation in the FinTech space, but start-ups are just like established companies in that they must treat consumers fairly and comply with the law."

Along with discussing regulation, the Project Catalyst Report also noted current initiatives and marketplace developments by FinTech companies in the following areas:

- **Credit Reporting Accuracy.** The Project Catalyst is placing an emphasis on helping consumers understand negative information on credit reports. The report notes that many FinTech companies are developing applications to allow consumers to "streamline the process for consumers to dispute errors on their credit reports directly." Other companies are offering consumers free credit scores and present hypothetical scenarios for consumers to improve credit scores.
- **Mortgage Servicing Platforms.** FinTech companies are working to develop more modern platforms to "improve loan servicing and provide more flexibility, scalability, and systems integration capacity." The report notes that many servicers are currently using legacy technology platforms which increase the risk of "data inaccuracies" during servicing transfers.
- **Access to Consumer Financial Data.** The CFPB remains focused on the ability of companies to access the personal information and financial data of consumers in order to reduce the time spent to verify consumer accounts. This has been met by resistance from financial institutions who want to limit the sharing of consumer data with third parties. Director Cordray commented that the CFPB is "gravely concerned" about the resistance from financial institutions in this area.

- **Cash Flow Management.** Due to challenges posed by changes in income and expenses, the Project Catalyst has been working with FinTech companies who are developing applications and products to minimize distress. These ideas include: (1) developing services to allow employees to access accrued wages before a payday; (2) allow consumers to "smooth" income by setting aside earnings from above-average pay periods; and (3) deducting a portion of a consumer's wages and applying it to recurring payments.

While the first report from the Project Catalyst emphasizes that it wants to engage with FinTech innovators to develop new products and services, the report and recent enforcement action demonstrate that no regulatory leeway will be given for the sake of innovation. The CFPB will hold all companies, regardless of size, to the same regulatory standards. Whether FinTech Companies and the CFPB will be able to meld the goal of evolving technology with strict regulatory standards remains to be seen.