Client Alert:

Three Steps FinTech Lenders Must Perform in Wake of PPP Fraud Study

SEPTEMBER 2021

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A study recently published by researchers from the University of Texas at Austin found that FinTech lenders had significantly higher rates of suspicious PPP lending when compared to traditional banks. The researchers used indicators of potential PPP fraud to identify $76.3 billion in potentially fraudulent loans, $21.3 billion of which were originated by FinTech lenders. The outcomes of the study led to recent negative press coverage and increased reputational risk for some FinTech lenders.[1] This article suggests three practical steps FinTech lenders should consider taking to mitigate the legal and reputational risks related to the PPP loan study.

1 Apply The Same Fraud Indicators Used in the Study to Your PPP Loan Portfolio

FinTech lenders, particularly those mentioned in the University of Texas study, should consider applying the same fraud indicators used in the study on their PPP loan portfolio to identify potentially fraudulent loans. The researchers identified several indicators of potentially fraudulent PPP loans, including non-registered businesses, multiple loans at a residential address, abnormally high implied compensation compared to industry norms, and inconsistencies between jobs reported by a borrower in its PPP application and another contemporaneous government program application. This information is

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publicly available and FinTech lenders should analyze the data to identify loans meeting these criteria. Further, lenders may have access to other information that the researchers did not have that may indicate potential fraud. For example, the beneficial owner of LLCs or LLPs who may have adverse media associated with them.

2 Perform Additional Due Diligence on Potentially Fraudulent Loans

When selecting loans for further review, the lender should categorize loans based on the number of potential fraud indicators. Loans with fraud indicators for which the borrower has not yet applied for loan forgiveness should be given highest priority since the lender can reject the loan forgiveness application and require the borrower to repay the funds. The lender should treat the high-risk loans the same as it would under its existing AML program by performing additional investigation. Procedures should include reviewing the customer's use of loan funds, ownership structure, manner of introduction to the lender, and requesting additional supporting documentation from the borrower where needed to verify the accuracy and authenticity of PPP loan and loan forgiveness applications.

3 File Suspicious Activity Reports (SARs) & Enhance Lending Processes

Once a potentially fraudulent loan is identified, lenders should separate loans file SARs in accordance with Bank Secrecy Act requirements. Lenders should monitor the number of SARs filed and consider enhancing processes to avoid future fraudulent lending. For example, lenders should consider incorporating the same review for fraud indicators used in the lookback analysis as part of its standard lending practice.

[1] Did FinTech Lenders Facilitate PPP Fraud? August 17, 2021, pages 1-3.

[2] https://www.usatoday.com/story/news/investigations/2021/08/17/covid-19-ppp-loan-borrower-fraud-fueled-fintechs-report-finds/8124023002/. https://www.nytimes.com/2021/08/17/business/ppp-fraud-covid.html.

[3] Did FinTech Lenders Facilitate PPP Fraud? August 17, 2021, page 2.