

# The Disclosure of Exchange Information in Peer-to Peer Lending

Sitong ZHANG

School of Law and Politics, Zhejiang Normal University, Jinhua, 321004, China

**Abstract:** The success of P2P lending between two strangers lies in the key factor- the of information. Thus, it is necessary to make it a rule to disclose their basic information when the two parties are making a deal. In China, there is no clear regulations related to this new financial form in the economy department, and so the fair stage should be established to help further development. Especially, based on current situation of P2P lending in Chinese market, it's practical to balance the relation between government and market and protect legal rights of investors as well. For one thing, everyone is forced to reveal his information; for another thing, voluntarily they can keep parts as secrets. Generally speaking, the stage will be established to anti-default financially.

**Keywords:** Finance; P2P; Leading; The Disclosure of Information

## 1. Introduction

For the reason that trust is the foundation of dealing, it's essential to know about each other. And this is so-called "information exchange", which is the most valued resource. Primarily, the amount is small when the deal is made by P2P lending. While the way to do a survey and collect information by oneself goes against the principle being "economic effectiveness". Besides, it's also hard for any investor to carry out the plan. What's more, the openness of information, the reliability and the quality of it will directly lead to success or failure. In order to help people make a judgment, it's a must to ensure these three items by establishing a stage where whoever is a creditor or debtor has to disclose his information. And the information disclosed is supposed to be true, accurate and accordingly cover necessary information, which will help to reduce the unbalance in market and improve the situation.

## 2. The Development Status and Existing Legal Problems of the P2P Network Lending Platform in China

P2P network lending is a credit mode which individuals using independent third party P2P network lending platform to make trade and belongs to one of the branches of Internet finance. In essence, it is the third party network platform linking lenders and borrowers of individual funds. It is a new form of borrowing and lending closely related to Internet, micro credit and other innovative technologies and innovative financial models. P2P network loan platform provides a convenient and fast financing channel for a large number of small and micro entrepreneurs who cannot finance through traditional

financial institutions, complements the market that traditional financial institutions are unwilling to cover. In addition, investors can get borrowers' information to some extent through P2P net loan platform and can freely choose transaction objects which solve the problem of asymmetric information between borrowers and lenders in traditional financial industry to some extent. Therefore, how the quality of the P2P network lending platform will directly determine the future of the P2P network lending market.

### 2.1. The development status of P2P network lending platform in China.

Since the introduction of the model of foreign lending platform to China in 2007, the domestic P2P network lending platform has flourished, and has been formed a certain scale rapidly. At the end of December 2015, the net loan industry operating platform reached 2595PCS and increased 1020 PCS compared to the end of 2014. The number of new on-line platform in 2015 increased sharply, resulting in the competition between small and medium-sized platform become more intense; At the same time by the impact of fluctuations in the stock market, many platforms are facing enormous pressure on the operation, the number of business platform termination increased day by day. The number of problem platform reached 896 in the whole year of 2015 and the proportion is as high as 34.5%, which is 3.26 times of that in 2014. With the landing of supervision system, many illegal platforms run away further to accelerate the number of problem platform.

### 2.2. The legal problems existing in the development of P2P network lending platform in China

### **2.2.1. The lagging of private lending legislation**

Private lending and illegal fund-raising intertwined, which make lending disputes in civil and criminal litigation cross. It is difficult to transfer some false loans to the public security and the disputes cannot be solved quickly, both of them will affect social stability. The Lenders Ordinance drafted by central bank has been submitted to the State Council Legal Office but has not been introduced. In 2015, the Supreme People's Court promulgated the provisions on several issues applicable to the trial of private lending cases. The first item is: "private lending" refers to the behavior of natural persons, legal persons and other organizations and their mutual financing. These Provisions shall not apply to the financial institutions and their branches that are approved by the financial regulatory authorities to engage in loan businesses, because of disputes arising from loans and other related financial businesses." The absence of special laws on private lending brings three problems to private lending: first, the legal boundaries between normal private lending and illegal fund-raising are not clear. Two, the legal status of the borrower is not clear. Three, the code of behavior of private lending is not clear.

### **2.2.2. The lack of P2P Specialized regulation.**

As an innovative way of private financing, the special laws and regulations for P2P are still in a blank state. According to the thirteenth article of the opinion of the Supreme People's Court on the trial of the cases of borrowing and lending by the people's court, the P2P belongs to the financial intermediary service agency. With the expansion of the scale of P2P lending platform, it has solved the problem of financing difficulties for large financing providers, and is also an important way of financing for many high net worth customers in China. P2P network lending service industry belongs to a new industry. The difference and gap between P2P network lending platform and traditional finance make the past financial laws and regulations cannot be well adapted to P2P network lending platform. At present the P2P financial lending regulations can be well applied in banking regulations, such as "People's Republic of China banking supervision law", "on the strengthening of commercial banks and third party payment agencies business management notice"; the insurance regulations, such as "Internet insurance business information disclosure management rules"; fund regulations, such as "Securities Law of People's Republic of China "the securities investment fund information disclosure Law"; Internet information service regulations, such as "Internet information services management law"; asset securitization, such as the "asset securitization business of securities companies and fund management subsidiary information disclosure guidelines"; the banking asset securitization law, such as "asset-backed securities" insurance assets information

disclosure rules; "asset backed securities law, business plan management procedures" etc.. At present, there is lack of special internet financial laws and regulations.

### **2.2.3. The supervision system is imperfect and lack of self-discipline.**

Due to the lack of laws and regulations, the identity of China's P2P network lending platform has been very vague. There is no clear regulatory department, which leads to a regulatory vacuum of P2P and further exacerbates the risk of online lending business. First, the absence of supervision and the dislocation of supervision are coexisting. P2P's online lending business is essentially a financial business and should be included in the regulatory scope of the CBRC. However, so far, the CBRC has not assumed the regulatory responsibilities of P2P, which means that the real regulatory body of P2P is missing. On the other hand, most of China's P2P are registered in the business administration department, and the industrial and commercial departments that do not have financial supervision ability to bear the responsibility for supervision and management. The funds of P2P network platform is without third party management, then the safety of funds was entirely dependent upon the P2P operators' own moral bottom line. The P2P lending platform has 100% control power over the lending funds; many individuals and institutions lending with high interest rates to earn interest and to attract consumers, and there is a huge amount, which makes the P2P network lending in lending relationship in a serious vicious spiral state. The thirtieth regulation of Wenzhou folk financing management involves industry penalties, but it lacks specific operational norms. In general, the P2P regulations in China show that the regulatory system is imperfect and lacks the characteristics of self-discipline.

### **2.2.4. Professional lenders may transfer creditor's rights through the P2P platform.**

Debt transfer mode platform accounted for the majority of net loan market in China, while in this mode, there are breeding a number of professional lender; they first use free money to make lending, then make the debt packaged and transfer it out in the form of financial products; and take use of the recovery funds to make relending, fast circulation, rapid expansion to support business. This middle account model brings great financial risk to the loan audits. If the professional lenders using precipitation funds to release loans and haven't transfer the creditor's rights in the closing period of time, the cost will be unable to timely make payment to the loan company audit. When investors are rich in capital and slow in development of creditor's rights, the probability of such risk occurring is very low. However, once the investment is in stagnant and the transfer of creditor's rights is becom-

ing difficult, the loan audit company will bear more and more pressure until it collapses.

### 3. The Characteristics and Problems of P2P Lending Pattern in China

The pamphlet “White Paper on P2P lending in China” published in 2014 divided the debtor-creditor relationship into six models: totally online; obligatory lights allowed to transfer; collateral form; online to offline model; person to business model; mixed model. And among these models exists below four problems: firstly, most enterprises actually aim to raise capital by issuing fake bids, such as E-rent and Baixin Fortune in Shenzhen; secondly, there is a risk that the creditors would reallocate the fund as they want or illegally take them away before debtors realize it, which will lead to the payment period messed up; thirdly, the absence of third party that is responsible for monitoring the fund and which is often acted by banks will raise the risk; last but not the least, there is a lack of risk management. Currently, the breach of contract and doubtful accounts often happen in the period of economical transition.

### 4. An Idea of how to Establish a Stage for Information Exchange in P2P Lending

As the stage established mainly to protect rights of investors, the regulations will tend to benefit them in terms of clear standards, methods, duties and punishments.

#### 4.1. The duty of individuals to disclose information

##### 4.1.1. What information to reveal

While talking about the details of information, it's better to think about investors' benefits. And below are the ideas about what information details should be revealed: To begin with, the personal information should be open to each other. As it is based on the internet and most are strangers who have no bond before, the basic information is a must-know factor when they are ready to develop a relationship of creditor and debtor. Besides, the reliability and accuracy will directly help to tell whether it is a safe deal. Therefore, the debtor has to honestly uncover his credit, the amount he need, payment date and the reason why he borrows money and so like.

Then, the information of risk possibility in the deal is another factor that should be informed. Considering that most people do not have enough knowledge of finance or may not be capable of undertaking the outcome if emergency occurs, it's obligatory of creditors to timely inform them of what the risk would probably be like in order to keep debtors the right to know and the option to change their minds.

Also, the operation of each P2P lending, which is the advantage itself, is supposed to be revealed to the mass. It's closely related to the safety of money invested in.

And information related with business operation include the general knowledge of the company, how they make the deal, previous data and all the big cases ever met.

#### 4.1.2. How to reveal information legally and effectively

The information is only needed and open to others on the company's website, which helps to reduce the expense and guarantees effectiveness compared with the regular way used by supervision department. What's more, the expression should be clear and brief with true information. Below standards can be taken into consideration: accuracy, enough proof or materials should be provided; completeness, try to not miss any information of significance; reliability, the description must be brief and thus even ordinary people who have limited knowledge of finance will understand; and then promptness, time is money in the market and so the information must be updated and provided timely to avoid big loss.

#### 4.2. Voluntary Information Disclosure by Individuals

Except for the information that must be revealed lawfully, there is also information that one can choose to reveal or not voluntarily, especially those can be used to predict in future. As a bridge between creditors and debtors, it's easy for the platform to obtain information of the two and apply it to help make decisions in the investment. Certainly, it's also a dangerous thing that they will illegally give away the information. Therefore, it is only allowed when it's for goodness and it's reasonable.

#### 4.3. The maintain of individual credit evaluation system

With the development of P2P lending, it will be a tendency to start a credit evaluation system based on the background and career situation. The rank of credit will show one's economic ability and his morality. Those who have a low degree of credit is supposed to reveal to related parties. The platform is also responsible for the announcement of whose credit changes like “Prosper”.

#### 4.4. Accountability which focuses on anti-default in P2P lending platform

The reason why information disclosure is for the benefits of investors is that default is commonly seen in the finance field. Firstly, it's necessary to make it clear what kind of action will be legally wrong. That is to say, when considering whether it is a financial crime, the government needs only to confirm whether one's action goes against the law and mislead investors regardless of psychological situation. This methodology is also applied in American private placement. As is known to all, the platform for P2P lending is processed and monitored by a group consisting of launchers, managers, directors and so-like. The high level of these position will endow

people with priorities in the disclosure of information. So their business behaviors must be taken into consideration. Apart from this aspect, civil liability goes first before administrative responsibility and criminal liability. The punishment is supposed to take effect after the judgement made by supervision department for the reason that it's more efficiently for the department to investigate and will be much more fair. At last, for anyone that suffers a great loss from the default, he is endowed with the right to call to account and ask for compensation.

## References

[1] CHEN Chu. Thinking about Chinese P2P network financing [J] people BBS,2010(26):128-129.

- [2] ZHANG Zhe, wandi fang, jia Ming. The definition and contractual characteristics of PPP [J]. Chinese soft science,2008, (1).
- [3] WU Xiaoguang, CAO Yi. On strengthening the supervision of P2P lending platforms [J]. Southern finance,2011(4):32-35
- [4] TAN Chao,WANG Jining,SUN Benzhi. The study on the adverse selection and moral hazard in P2P online lending platforms [J], financial economics college,2014 (9) .
- [5] WANG Yan, CHEN Xiaohui, XING Zengyi. Regulatory gaps in online lending and improvement [J]. Contemporary economy,2009(12).
- [6] CHEN Xiao, research on the cost of private borrowing - empirical analysis based on P2P network lending [J]. Financial economics research,2014(1).