



1. Introduction

1.1 Crowdfunding is an innovative fundraising method to pool together funds from contributors or investors through online platforms. Not only can it widen financing channels for small businesses, it also offers new investment products for investors. Crowdfunding has thus grown by leaps and bounds across the globe in recent years, with the amount of raised funds surging by more than 90 times to almost US\$140 billion (HK\$1,089 billion) during 2011-2015.¹ However, crowdfunding can pose latent risks to investors and stability of the financial system in the event of fraud or mismanagement of online platforms. More recently, there is an emerging trend amongst global regulators to set up dedicated regulatory regimes to strike a balance between the objectives of financial innovation and investor protection.

1.2 At the request of Hon Kenneth LEUNG, the Research Office has completed a research study on recent regulatory approaches taken in selected places with respect to crowdfunding.² The United States ("US") and the United Kingdom ("UK") are selected for further study because they are the global leaders in crowdfunding on the one hand, and have introduced new regulatory measures during 2014-2016 on the other. This information note begins with a brief review of global developments of crowdfunding and major regulatory issues in Hong Kong. It then discusses the salient features of the recent regulatory regimes on crowdfunding in both the US and the UK, along with two summary tables (**Appendices I and II**).

¹ This is based on the most recent and comprehensive statistics compiled under a collaborative study by a number of global institutions. See University of Cambridge (2016a-c) and University of Cambridge (2017).

² The request was made under a pilot scheme of a new initiative to strengthen research support to individual Members in the Sixth Legislative Council.

2. Global development of crowdfunding

2.1 Crowdfunding came into existence in the early 2000s, upon rising penetration of the Internet and the robust development of the financial technology which facilitates the automatic assessment of credit risks and selection of investment portfolios. By and large, crowdfunding can be categorized into four major types by nature, namely (a) **donation-based** where the collected funds are earmarked for charitable causes; (b) **reward/presales-based** where goods or services are delivered in return for fund contribution; (c) **equity crowdfunding**³ where investors acquire shares of a business investment for financial return; and (d) **peer-to-peer ("P2P") lending**⁴ where debts are issued to borrowers for interest in return. As the latter two types of crowdfunding carry financial returns, coupled with wide involvement of both individuals and businesses in such activities, they are the key regulatory concerns of global securities regulators. As such and unless indicated otherwise, this note will focus only on the regulation of equity crowdfunding and P2P lending.

2.2 In just four years, the global market size of crowdfunding has surged by more than 90 times to almost US\$140 billion (HK\$1,089 billion) in 2015.⁵ The US, the Mainland and the UK are now the top three crowdfunding markets in the world (**Figure 1**).⁶ As a new financing channel, crowdfunding can provide more funding flexibility for individuals and small business firms, as they generally face more difficulties in the access to bank loans. Moreover, it provides new products for investors to diversify their investment portfolios, especially in new start-ups which are deemed to have more growth potential. However, there are also risks associated with crowdfunding, including the reliability of online platforms, fraud, default, asymmetric information and cyber-security.⁷

³ Businesses may also offer debentures through the crowdfunding platforms, which are named as "investment-based crowdfunding" or "securities-based crowdfunding" in some places. More recently, there are also crowdfunding activities on investment in real estate assets.

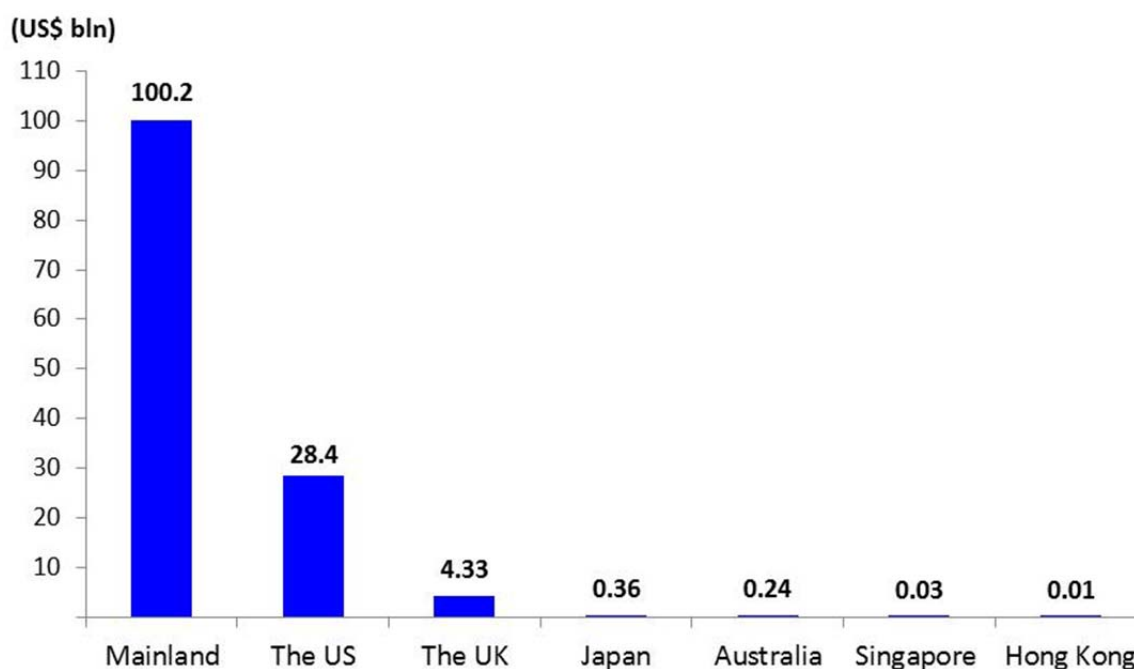
⁴ P2P lending is also called as "marketplace lending", "debt-based crowdfunding" or "loan-based crowdfunding" in some places. Where the lending business involves the issue of securities or loan securitization, borrowers and/or platforms are often subject to investment regulation.

⁵ See CGAP (2017).

⁶ See University of Cambridge (2016a-c) and University of Cambridge (2017).

⁷ See International Organization of Securities Commissions (2015).

Figure 1 — Estimated value of crowdfunding in selected places in 2015



Note: This is the transaction sum of various forms of crowdfunding and P2P lending.
Sources: University of Cambridge (2016a-c) and University of Cambridge (2017).

2.3 In face of this emerging crowdfunding, global regulators tend to take a facilitative approach towards crowdfunding, as compared with the existing regulatory regimes over securities. Against this backdrop, the regulatory regimes for crowdfunding in many advanced places have been relaxed in recent years, including the US, the UK, Japan, South Korea, New Zealand and Finland. Most recently, Singapore has eased the regulatory requirements on crowdfunding platforms in June 2016.⁸ Similarly, Australia has just enacted a new piece of legislation to be effective in September 2017 which allows businesses to raise funds through crowdfunding with less stringent disclosure and reporting requirements than securities regulation.⁹

⁸ The Singaporean government relaxed the requirements on crowdfunding platforms in June 2016. This included (a) reducing their base capital requirement by about 80% to S\$50,000 (HK\$289,000); (b) simplifying pre-qualification check on investors for small-offer funding activities; and (c) allowing platform operators to publicize their services subject to advertisement guidelines.

⁹ The regulatory framework will allow eligible businesses to raise funds more easily through issuing securities under less stringent disclosure and reporting requirements, subject to a fund raising limit of AU\$5 million (HK\$28.9 million) within a year. Platform operators are required to be licensed, and retail investors can invest a maximum of AU\$10,000 (HK\$57,800) per issuer in any 12-month period, and are protected by a five-day cooling off period.

2.4 On the other hand, the Mainland has tightened its regulation towards crowdfunding, after buoyant development of crowdfunding especially P2P lending in recent years which had reportedly led to the sharp correction of the stock market in 2015.¹⁰ To address the potential risks, the regulatory authorities in the Mainland have introduced guidelines or measures for at least three occasions during 2015-2016. They included (a) banning P2P platforms from taking public deposits and requiring them to appoint banking institutions as fund custodians; (b) imposing a lending limit on P2P lenders; and (c) strengthening enforcement over portals of equity crowdfunding involving unauthorized/illegal activities.¹¹ As a result of these measures, crowdfunding activities in the Mainland are reported to have cooled down.

3. Crowdfunding in Hong Kong and major regulatory issues

3.1 Local market interest so far appears to focus more on P2P lending. In 2015, total transaction value of crowdfunding in Hong Kong was just US\$9.3 million (HK\$72 million), far less than other global leaders. Within this total, 59% was raised through P2P lending, while the rest of 41% through reward-based crowdfunding. There was no transaction record on equity crowdfunding for retail investors in 2015, however.¹²

3.2 At present, there are no specific regulations on crowdfunding in Hong Kong. However, crowdfunding activities are potentially subject to regulation of the following three ordinances:¹³

- (a) **Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap.32) ("CWMPO")**: Under CWMPO, issue of prospectus¹⁴ for offering shares in or debentures of a company to the public for subscription must comply with the content requirements and

¹⁰ It is estimated that the transaction in P2P lending amounted to US\$98 billion (HK\$762 billion) in 2015. Many P2P platforms had reportedly offered investors various loan products and margin financing to borrowers for investment in the stock market in the first half of 2015. About one-third of the 3 600 P2P lending platforms were claimed to be problematic. For details, see University of Cambridge (2016c) and China Banking Regulatory Commission (2015).

¹¹ See, for example, Ministry of Industry and Information Technology of the People's Republic of China (2016) and China Securities Regulatory Commission (2016).

¹² See University of Cambridge (2016c).

¹³ See GovHK (2017) and Securities and Futures Commission (2014).

¹⁴ Under CWMPO, a "prospectus" is defined as any prospectus, notice, circular, brochure, advertisement or other document.

must be authorized by the Securities and Futures Commission ("SFC").¹⁵ The prospectus requirements may be exempted if certain conditions are met, for example, (i) the offer is made to professional investors; (ii) the offer is made to not more than 50 persons within a period of 12 months; or (iii) total consideration payable for the shares or debentures does not exceed HK\$5 million within a period of 12 months;

- (b) **Securities and Futures Ordinance (Cap.571) ("SFO"):** Under SFO, it is an offence to issue any advertisement, invitation or document which contains an invitation to the public to acquire securities or participate in a collective investment scheme, unless the issue has been authorized by SFC or an exemption applies (e.g. the offer is made only to professional investors).¹⁶ In addition, crowdfunding activities may also touch upon the SFO provisions relating to automated trading services and recognition of exchange companies; and
- (c) **Money Lenders Ordinance (Cap. 163) ("MLO"):** Under MLO, if a person runs a money lending business, he/she must obtain a money lender's licence and operate the business pursuant to the requirements in MLO.

3.3 Some of the market participants feel that the above ordinances are too stringent for development of crowdfunding in Hong Kong. **First**, most of local start-ups are too small to meet the above regulatory requirements. **Secondly**, even for those bigger companies, compliance with the prospectus requirements is considered costly and burdensome. **Thirdly**, while some fundraisers may get around the prospectus requirements through exemptions under CWMPO (e.g. offer to professional investors only or fewer than 50 persons), this move cannot capture the full benefits of crowdfunding. **Fourthly**, the above regulations cannot keep pace with the global leaders in financial innovations.

¹⁵ See Financial Services Development Council (2016) and Companies Registry (2011).

¹⁶ For the exemption cases, if the activities of the platform operators constitute regulated activities such as dealing in securities or advising on securities, they may still be required to obtain a licence and fulfil two financial resources requirements, namely (a) paid-up share capital ranging between HK\$5 million and HK\$30 million and (b) liquid capital ranging between HK\$500,000 and HK\$15 million.

3.4 In this regard, there are suggestions that the Government should introduce regulatory measures which can reduce the compliance cost of start-ups to raise funds through crowdfunding. According to a dedicated report of the Financial Services Development Council, such regulatory possibilities on equity crowdfunding in Hong Kong include (a) issuing conditioned exemption from the prospectus requirements by SFC; (b) granting conditioned licence to crowdfunding platforms under SFO; and (c) placing a limit on the investment amount of retail investors.¹⁷

4. Regulatory approach in the United States

4.1 The US is widely seen to be a global pioneer in crowdfunding, buoyed by its robust development in start-ups and demand in consumer loans, with a total market size of US\$28.4 billion (HK\$218 billion) and a global share of over 20% in 2015. P2P lending is the most pre-dominant form of crowdfunding activities in the US, accounting for 94% of crowdfunding volume, followed by equity crowdfunding (2%) and reward-based crowdfunding (2%).¹⁸

4.2 On **equity crowdfunding**, the US has set up a new regulatory regime to reduce the compliance requirements of platform operators and securities issuers, while protecting investors at the same time. In April 2012, the Jumpstart Our Business Startups Act ("JOBS Act") was enacted to support start-ups, followed by implementation of the final rules on equity crowdfunding under Title III of the JOBS Act with effect in May 2016. Major regulatory features are summarized below and in **Appendix I**:

- (a) **New type of regulated intermediary:** A new type of internet-based intermediary (i.e. **funding portal**) is created to offer securities to the public. All crowdfunding portals need to be registered with the Securities and Exchange Commission ("SEC") and the Financial Industry Regulatory Authority ("FINRA"), although the compliance requirements are less stringent than those for brokers and dealers in the securities market;¹⁹

¹⁷ See Financial Services Development Council (2016).

¹⁸ See University of Cambridge (2017) and CGAP (2017).

¹⁹ Funding portals are prohibited from certain activities such as offering investment advice and soliciting sales or offers to buy the securities on its website or portal.

- (b) **Ceiling on funds raised by a company:** Fundraising companies must be incorporated in the US, and a company can raise no more than US\$1.07 million (HK\$8.32 million) through crowdfunding platforms within a 12-month period;
- (c) **Prospectus exemption and information disclosure requirements:** Fundraising companies are exempted from preparing prospectus document²⁰ but they need to file with SEC and disclose to investors the business information in the form of offering statement, including capital structure, directors and officers, business plan and risks, intended fund usage, and financial statements;
- (d) **Investment ceiling of investors:** All US citizens can invest in crowdfunding but are subject to an investment ceiling in any 12-month period. For those investors having an annual income or net worth of investable assets²¹ below the threshold of US\$107,000 (HK\$832,500), they can invest up to the greater of either (i) US\$2,200 (HK\$17,100) or (ii) 5% of the lesser of their annual income or net worth of investable assets. However, if their annual income and net worth of investable assets are above the threshold, they can invest up to 10% of their annual income or net worth of investable assets, whichever is lesser, but subject to a ceiling of US\$107,000 (HK\$832,500);²² and
- (e) **Risk acknowledgment and right of withdrawal:** US Investors in crowdfunding need to complete a questionnaire, acknowledging the potential risks in such investment. They also have an unconditional right to withdraw from the investment for any reason until 48 hours prior to the deadline specified in the issuer's offering materials.

4.3 As to regulation of **P2P lending** in the US, there are two major lending models: (a) P2P platforms partner with banks to originate loans for borrowers and then purchase the loans for sale to investors as whole loans or in the form of securities; and (b) P2P platforms originate loans and then hold

²⁰ Fundraising companies are exempted from filing a registration statement with SEC along with prospectus.

²¹ The value of an investor's primary residence is not included in calculating net worth for this purpose.

²² The securities purchased are generally subject to resale limitations for one year.

them on their balance sheets.²³ For the former type, platform operators act as a third-party service provider of banks and are subject to examination by the bank regulator. When P2P operators sell loans to investors in the form of securities, they are subject to the securities laws and regulation including preparing prospectus and registering their securities with SEC.²⁴ For the latter type, platform operators are required to obtain a lending licence from each state in which they lend.²⁵

4.4 If P2P lending involves loans to individual borrowers in the US, it is also regulated by other laws and regulations on consumer credit, covering consumer protection, interest rate ceiling, data privacy, anti-money laundering, on top of aforementioned SEC regulation.²⁶ While these laws are too elaborate for the scope of the current study, it is noted that there are calls from P2P market participants in the US to simplify the relevant regulatory requirements.²⁷ The US Department of the Treasury has reviewed the market landscape and consulted stakeholders on the way forward in 2016. At this juncture, there is no further information on the progress of its policy development, however.²⁸

4.5 In February 2017, SEC published a dedicated report on crowdfunding activities after implementation of the new regulatory regime. Response appeared to be quite positive during May-December 2016, with a total of 163 securities offering mainly through 13 funding portals. The target median value of capital raised through such offerings was estimated at US\$53,000 (HK\$412,300). As at end-December 2016, 21 funding portals have registered with SEC. Apparently, the new regulatory regime does not have visible adverse implications for development of equity crowdfunding in the US.

²³ See U.S. Department of the Treasury (2016) and Congressional Research Service (2016).

²⁴ In November 2008, SEC had ruled that the debt notes issued by a peer-to-peer lending platform as securities. As such, debt-based crowdfunding is subject to the relevant securities regulation in the US.

²⁵ For this business model, platforms operate business pursuant to the requirements under the state lending licence which vary from state to state.

²⁶ As an illustration, given that peer-to-peer lenders usually issue consumer credit, they may be subject to the Truth in Lending Act, Equal Credit Opportunity Act, Fair Credit Reporting Act, Electronic Fund Transfer Act, and Fair Debt Collection Practices Act in the US.

²⁷ Some have commented that the regulatory oversight is fragmented and there is a need for a uniform regulatory regime for P2P lending. See U.S. Department of the Treasury (2016).

²⁸ The US Department of the Treasury has indicated in December 2016 that it would issue special-purpose national bank charters to qualified financial technology companies that offer limited range of bank products and services, covering P2P lending and electronic payment.

5. Regulatory approach in the United Kingdom

5.1 In 2015, total market size of crowdfunding in the UK was estimated at £2.8 billion (HK\$29.3 billion). Within this amount, P2P lending took up 86%, while 12% went to equity crowdfunding and the rest of 2% generally related to reward/donation crowdfunding.²⁹ By July 2016, there were some 90 firms running P2P lending platforms and 23 firms operating equity crowdfunding in the UK. The Financial Services and Markets Act 2000 ("FSM Act") is the legislation regulating all kinds of securities activities including crowdfunding in the UK, but rules were amended in April 2014 to facilitate development of crowdfunding, in particular P2P lending. The Financial Conduct Authority ("FCA") is the regulatory body governing crowdfunding activities involving financial return.

5.2 On regulation of **equity crowdfunding**, FCA did not set up a new regulatory regime, contrasted against the regulatory approach in the US. Instead, FCA fine-tuned the existing securities framework (i.e. FSM Act) after a two-month public consultation in 2013. The amended rules were effective from 1 April 2014. The following are the key features:

- (a) **New financial instrument:** A new type of "non-readily realisable securities" is introduced into the FSM Act, referring to those shares or debt securities not listed on the stock markets but carrying significant risks;³⁰
- (b) **Platform authorization:** Crowdfunding platforms conducting business of such securities need to be authorized by FCA beforehand;
- (c) **Publication of prospectus:** Businesses raising capital via issue of equity or debt securities through crowdfunding platforms still need to publish a prospectus, unless with exemption (e.g. small offer or the offer is made only to professional investors);
- (d) **Information disclosure by platforms:** While firms issuing such securities need to provide clear and fair information to investors, direct business promotion by platforms is confined to certain

²⁹ See University of Cambridge (2016a).

³⁰ This is to reflect the nature of illiquid, hard-to-price and high-risk unlisted securities.

groups of investors. They include **(i) high net-worth investors** with an annual income of at least £100,000 (HK\$1.05 million) or net assets of at least £250,000 (HK\$2.63 million); **(ii) sophisticated investors** with a third-party written certificate confirming that they have sufficient knowledge to understand the risks associated with investment activity in non-mainstream pooled investments, or self-certified that they have experience in investing in such securities; and **(iii) those retail investors with investment advice** from authorized persons; and

- (e) **Investment ceiling and assessment of appropriateness:** As FCA considered equity crowdfunding as a high-risk investment, retail investors who are not high net-worth/sophisticated investors and receive no investment advice need to certify that they have not invested more than 10% of their investible assets on such securities over the past 12 months and will not do so in the next 12 months.³¹ Platform operators have the obligation to assess the appropriateness of investors receiving no investment advice.

5.3 By and large, regulation of equity crowdfunding in the UK has been tightened after implementation of the amended rules in April 2014, as FCA regarded unlisted securities as a high-risk investment. That said, about 90% of platform operators responded in a survey that the regulation was adequate and appropriate. Yet some start-ups were reported to have concerns over the regulation, especially the investment ceiling imposed on retail investors.³²

5.4 On **P2P lending** in the UK, it was previously regulated as consumer credit by the Office of Fair Trading, but regulation has been transferred to FCA since 1 April 2014.³³ FCA has introduced a newly regulated activity named as "operating an electronic system in relation to lending" into the FSM Act in 2014. According to FCA, P2P lending has a lower risk than equity crowdfunding, as the former often involves lending to individuals who repay over a period of three to five years with low default rates, whereas the latter are likely adopted by early-stage companies and their likelihood of business failure tends to be high. As such, FCA considers that there is a lesser need for

³¹ These retail investors, referred to as "restricted investors" are required to certify by signing a Restricted Investor Statement.

³² See University of Cambridge (2016a) and Grant Thornton (2015).

³³ In the past, P2P platform operators were required to hold a debt administration licence from the Office of Fair Trading.

consumer protection measures in P2P lending.³⁴ A less restrictive regime on P2P lending than equity crowdfunding is then taken in the UK, with the following key features:

- (a) **Regulated lending intermediaries:** The newly regulated activity applies to loans where either the lender or borrower on such platforms is an individual (including small partnership and unincorporated entity);³⁵
- (b) **Maximum lending to an individual:** An individual can at most borrow £25,000 (HK\$263,000) if it is for business purpose, same as other regulated consumer credit loans;
- (c) **Minimum capital of platform operators:** Operators of P2P lending platforms must have authorization from FCA for continuation of activity. With effect from 1 April 2017, they need to meet the minimum capital requirement of a fixed minimum of £50,000 (HK\$525,500), or 0.05%-0.2% of the value of loaned fund³⁶, whichever is the higher;
- (d) **Risk management of the platforms:** Platform operators need to assess the creditworthiness of individual borrowers and communicate with their customers in an easily understandable manner and display the risks or warnings. In addition, the platforms must have a resolution plan so that loan repayments to lenders will continue in the event that the platforms collapse;
- (e) **Disclosure of business information:** Platform operators need to submit regular reports to FCA on their financial position, client money position, investor complaints and details of loans arranged. Business promotion of P2P lending (including comparison of interest rates) must be fair, clear and not misleading, ensuring that investors make informed decisions; and

³⁴ See Financial Conduct Authority (2013) and Financial Conduct Authority (2014).

³⁵ If the lender participating in the P2P platform is lending in the course of a business, the lender will also need authorization from FCA.

³⁶ The loan-based minimum capital requirement is calculated as the sum of (a) 0.2% of the first £50 million (HK\$526 million) of total value of loaned funds outstanding; (b) 0.15% of the next £200 million (HK\$2.1 billion) of total value of loaned funds outstanding; (c) 0.1% of the next £250 million (HK\$2.63 billion) of total value of loaned funds outstanding; and (d) 0.05% of any remaining balance of total value of loaned funds outstanding above £500 million (HK\$5.26 billion).

- (f) **Cooling off period of 14 days:** Individual borrowers are given 14 days of cooling-off period and they could withdraw from the deal before the expiry of the period, same as other regulated consumer credit loans.

5.5 Regulation of P2P lending is thus less restrictive on consumer protection relative to equity crowdfunding in the UK. In a post-implementation review conducted in December 2016, operators of P2P lending platforms did not make strong adverse opinion on the new regulation. Yet industry feedback and FCA's review indicated a need for further strengthening the requirements on information disclosure and resolution plans of the P2P platforms. FCA stated that it is still reviewing the regulation and would consult the public on additional rules in 2017.

6. Observations

6.1 Regulators in advanced places generally have taken a facilitative policy stance towards crowdfunding for promotion of financial innovation, despite regulatory tightening in certain segments of crowdfunding with regard to the local situation in some places. In Hong Kong, there are views that the current regulations cannot keep pace with the global developments and there have been suggestions that the Government should introduce regulatory measures to cater for crowdfunding.

6.2 While both the US and UK regulators have amended their regulations to address crowdfunding, their regulatory approaches differ both in terms of scope and complexity. Taking equity crowdfunding as an illustration, the US regulator has set up a new regulatory regime, lowering the barriers of start-ups to raise capital within a limit under less stringent disclosure requirements. On the other hand, the UK regulator has fine-tuned its existing securities framework for equity crowdfunding, still requiring the fundraising companies to fulfil the prospectus requirement.

6.3 In striking a balance between financial innovation and investor protection, both regulators focused on (a) management of platform risks; (b) requiring equity/debt issuers to disclose essential business information; and (c) putting extra safeguard to the investment made by small investors.

Regulation of equity crowdfunding in selected places

		Hong Kong	The United States	The United Kingdom
1.	Major ordinance(s)	<ul style="list-style-type: none"> Companies (Winding Up and Miscellaneous Provisions) Ordinance; and Securities and Futures Ordinance. 	<ul style="list-style-type: none"> Securities Act. Title III of JOBS Act newly introduced with the relevant rules effective in May 2016. 	<ul style="list-style-type: none"> Financial Services and Markets Act 2000, with underlying rules amended in April 2014.
2.	Regulation of platform operators	<ul style="list-style-type: none"> Licensing by SFC needed if the activities constitute regulated activities. 	<ul style="list-style-type: none"> Registration needed to act as funding portal, a new form of intermediary. 	<ul style="list-style-type: none"> Authorization needed to carry on the regulated activities.
3.	Prospectus requirement	<ul style="list-style-type: none"> Yes, unless exempted. 	<ul style="list-style-type: none"> No. 	<ul style="list-style-type: none"> Yes, unless exempted.
4.	Dedicated disclosure/reporting requirements on issuers	<ul style="list-style-type: none"> Not applicable. 	<ul style="list-style-type: none"> Yes, business information submitted to SEC and disclosed to investors in the form of offering statement. 	<ul style="list-style-type: none"> No such requirements, based on available information.
5.	Limit on capital raising from the public by a company	<ul style="list-style-type: none"> Ditto. 	<ul style="list-style-type: none"> US\$1.07 million (HK\$8 million) in a 12-month period. 	<ul style="list-style-type: none"> No.
6.	Investment ceiling on retail investors in any 12-month period	<ul style="list-style-type: none"> Ditto. 	<ul style="list-style-type: none"> Annual income ("AI") or net worth ("NW") less than US\$107,000 (HK\$832,000): the greater of US\$2,200 (HK\$17,100) or 5% of the lesser of AI or NW. AI and NW greater than US\$107,000 (HK\$832,000): 10% of AI or NW, whichever is lesser but capped at US\$107,000 (HK\$832,000). 	<ul style="list-style-type: none"> 10% of investible assets, applicable to retail investors who are not high net-worth/sophisticated investors and receive no investment advice.
7.	Other investor protection	<ul style="list-style-type: none"> Ditto. 	<ul style="list-style-type: none"> Right of withdrawal within 48 hours. Acknowledgement of the risk involved by completing a questionnaire. 	<ul style="list-style-type: none"> Assessment by platform operators on the appropriateness of investors who receive no investment advice.

Regulation of P2P lending in selected places

		Hong Kong	The United States ⁽¹⁾	The United Kingdom
1.	Major ordinances	<ul style="list-style-type: none"> Companies (Winding Up and Miscellaneous Provisions) Ordinance; Securities and Futures Ordinance; and Money Lenders Ordinance. 	<ul style="list-style-type: none"> Regulation of P2P lending subject to various existing laws such as Securities Act, Truth in Lending Act and Equal Credit Opportunity Act. 	<ul style="list-style-type: none"> Financial Services and Markets Act 2000 ("FSM Act"), with a new type of regulated activity – "operating an electronic system in relation to lending" created for P2P lending. Consumer Credit Act.
2.	Regulation of P2P platforms	<ul style="list-style-type: none"> Licensing by SFC needed if the activities conducted by such platforms constitute SFC-regulated activities. 	<ul style="list-style-type: none"> Platforms that partner with banks to originate loans are subject to examination by the relevant bank regulator. When involving the issue of debt securities to investors, platforms are subject to securities regulation. 	<ul style="list-style-type: none"> Authorization by FCA needed.
3.	Requirements of minimum capital on P2P platforms	<ul style="list-style-type: none"> Not applicable. 	<ul style="list-style-type: none"> No such requirements, based on available information. 	<ul style="list-style-type: none"> Minimum capital of £50,000 (HK\$525,500) or 0.05%-0.2% of the value of loaned fund, whichever is the higher.
4.	Dedicated disclosure and reporting requirements on platforms	<ul style="list-style-type: none"> Ditto. 	<ul style="list-style-type: none"> No such requirements, based on available information. When platform operators issue debt securities to investors, they must comply with the disclosure and/or reporting requirements under the securities regulation. 	<ul style="list-style-type: none"> Yes, regular reporting to FCA on the activities (e.g. details of loans arranged). Information communicated to clients must be clear, fair and not misleading.

Note: (1) The US is dominated by two major lending models: (a) P2P platforms partner with banks to originate loans for borrowers; and (b) P2P platforms, holding a state lending licence, originate loans and then hold them on their balance sheets. This appendix will not cover the regulatory requirements on platforms holding a state lending licence.

Regulation of P2P lending in selected places

		Hong Kong	The United States	The United Kingdom
5.	Credit limit to individual borrowers	<ul style="list-style-type: none"> Ditto. 	<ul style="list-style-type: none"> No such requirement, based on available information. 	<ul style="list-style-type: none"> Capped at £25,000 (HK\$263,000) if it is for business purpose, same as other regulated consumer credit loans.
6.	Consumer lending regulation	<ul style="list-style-type: none"> Ditto. 	<ul style="list-style-type: none"> Yes, loans to individuals subject to financial laws and consumer protection laws.⁽²⁾ 	<ul style="list-style-type: none"> Yes, loans to individuals subject mainly to the Consumer Credit Act and rules in the FCA Handbook.
7.	Assessment of creditworthiness of individual borrowers by platforms	<ul style="list-style-type: none"> Ditto. 	<ul style="list-style-type: none"> No such requirements, based on available information. 	<ul style="list-style-type: none"> Yes.
8.	Cooling off period for loans to individuals	<ul style="list-style-type: none"> Ditto. 	<ul style="list-style-type: none"> No such requirements, based on available information. 	<ul style="list-style-type: none"> 14 days, same as other regulated consumer credit loans.

Note: (2) There are other federal or state laws governing consumer loans in terms of debt collection, data privacy, money laundering, etc.

References

Hong Kong

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