Wolters Kluwer's Expert Insights

Next-generation digital lending

An executive discussion on digital lending solutions and transformation with Steve Bisbee, Senior Advisor for Applied Technology at Wolters Kluwer Compliance Solutions

Wolters Kluwer

Learn how digital lending and the laws supporting it have changed the finance industry landscape for lenders and consumers alike

Digital lending is transforming traditional practices in the consumer finance industry and driving innovation in the financial technology (FinTech) sector. How did we get here? How are companies using digital technology to serve customers better? And what are the possibilities as digital lending technology and solutions mature?

Steve Bisbee, Senior Advisor for Applied Technology at Wolters Kluwer Compliance Solutions, provides his expert perspectives on digital lending. Steve is the founder of eOriginal, Inc., a leading solutions platform for creating, managing, and monetizing trusted digital loans. Wrapping digital business and legal processes in security technologies, eOriginal, Inc. minimizes the inefficiencies of paper-based transactions and was used to enable the first fully-digital mortgage, equipment lease, and international trade transactions. In 2020, eOriginal, Inc. was acquired by Wolters Kluwer to better support digital financial solutions worldwide.

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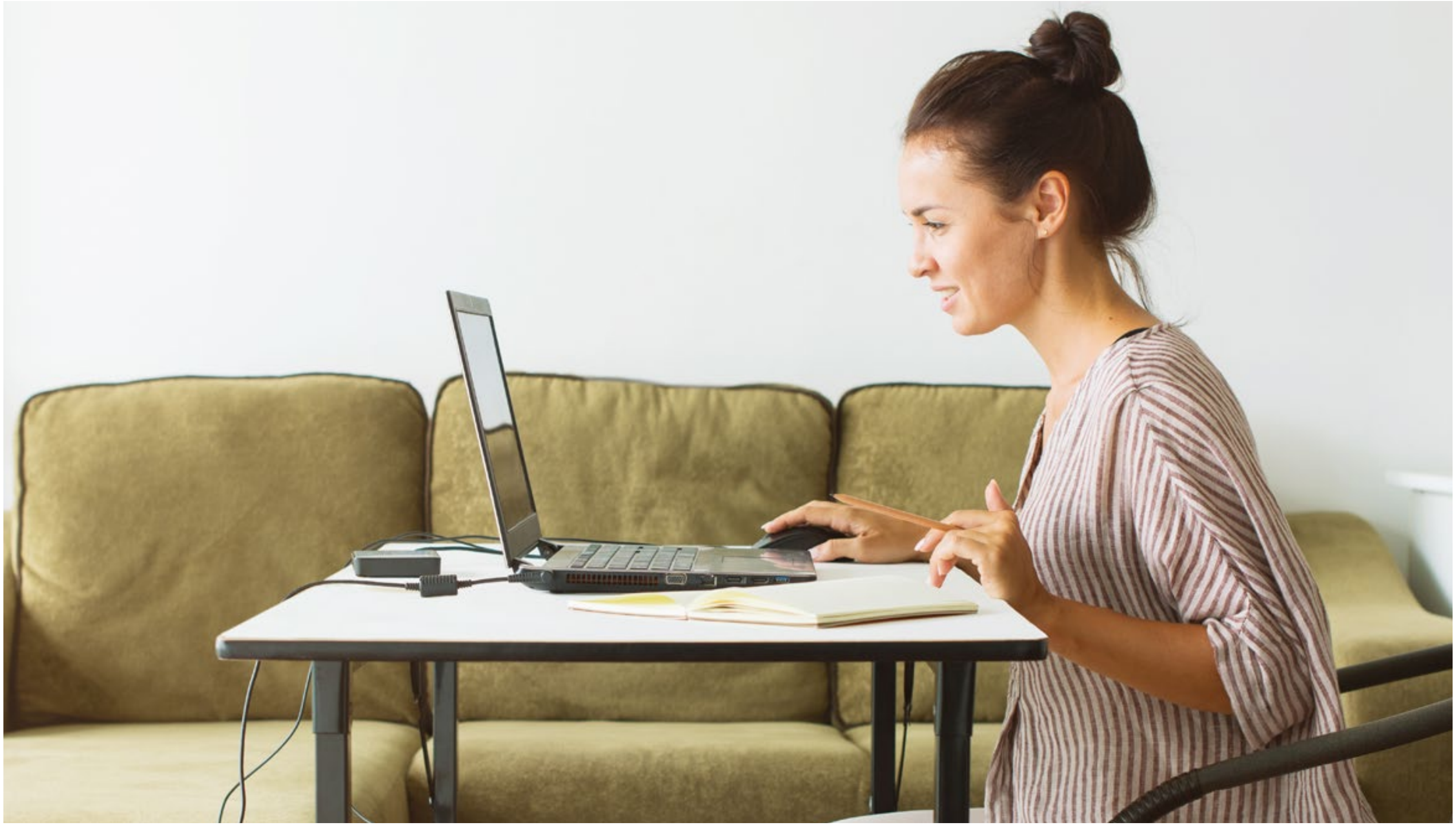


Q: Has digital technology fundamentally changed lending practices in the consumer finance industry?

Steve: The short answer is: yes. Until recently, the principal functions of the lending process hadn't really changed for years. There were tools to speed things along, but financial assets remained paper documents, signed and held by originating companies or those purchasing or investing in the loans for payment streams.

With the advent and growth of the Internet, there was a gradual realization that a platform for digital lending was possible. But first, the laws governing the treatment of these financial assets as negotiable instruments or securities had to be revised. The goal was to offer the same processes and protections for digital assets as those in a paper medium. Work began in the late 1990s with revisions and additions to the sections of the Uniform Commercial Code (UCC) applicable to different types of secured transactions. This work included an enabling model law available for states to adopt, the Uniform Electronic Transactions Act (UETA). The Electronic Signatures in Global and National Commerce Act (ESIGN) was also enacted in 2000. The basic principle for all this enabling legislation and its progeny was simple: if you can do it on paper, you can do it digitally.

These laws and statutes defined standards for creating and signing digital agreements and records – and then transferring the rights to third parties. Important was the establishment of Safe Harbor provisions that require any digital asset that transfers those rights to be unique, identifiable, verifiable, unalterable without detection, distinguishable from all other assets, and that the secured party holding the beneficial interests in the digital asset needs to be identified. On the technology side, this called for a secure electronic signing process creating the loan agreement. It also called for an immutable record that certifies the creation of the asset and provides similarly unalterable digital chains of custody and evidence – a Digital Original® – and its management.

Initially, there was skepticism about getting this done. But there was also enormous potential for cost savings, workflow efficiencies, improved customer experiences, and lender process and compliance controls. This was particularly true for closing loans, aggregating them, and moving them to secondary markets – which enables loan originators to re-capitalize faster and accelerate lending cycles from consumer engagement, through closing and into capital markets. It also opened the market for innovators to reimagine lending.

But initially, the uptake was gradual. The "Big Bang" event for digital lending came with the COVID-19 pandemic. Suddenly, it was no longer feasible to transact in person. Fortunately, the legal and technical infrastructure existed for the wide adoption of remote, contactless transactions. Consumers loved it, and now the digital option has become the preferred method of borrowing. For the majority of consumers, there will be no turning back.

Q: As digital lending has evolved, how have both the technology and business practices evolved? Where is this trending for the future?

Steve: A lot of the digital lending evolution has to do with building digital business processes to comply with the applicable laws, statutes, and regulations.

The first generation of digital lending focused on loan origination. Traditionally, this required face-to-face meetings to determine creditworthiness. Today, with so much of the relevant information available digitally, origination is increasingly automated, though confirming identity is always critical. Increasingly, you can do the entire process on your computer or even your phone. This has dramatically improved access to credit. Even if you're among the unbanked, you can now establish credit and gain access to the money you need.

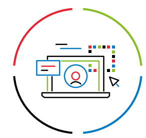
The second generation of digital lending has focused on execution and the customer experience – with technologies like remote online notary (RON) and eSignature for verification and self-service workflows to push processes along. For example, you can now schedule post-credit events including appraisals and fully digital closings. All of this is tracked for compliance and all documentation is managed remotely and shared between borrower and lender.

Now we're in the third generation of digital lending – the effort to link the various aspects of the process together on a single platform for a compliant, seamless process. In traditional consumer lending, the process is sequential, with a handoff from one participant to the next – from origination to asset monetization in the secondary markets, with many steps in between.

Today, with platforms that have greater awareness of the end-to-end process, you can move out of sequence with the understanding that compliance is monitored throughout the process and the appropriate data and documents are all kept and managed in one place. The result is a smoother, faster process with fewer bottlenecks. For example, we currently have finance companies on the Wolters Kluwer eOriginal® platform who manage a "flow securitization" process on a dramatically faster timeline. This involves preparing securities offerings, engaging with all required participants, getting rated by a recognized agency, and finalizing the close – all done in a matter of weeks rather than months. Other financial institutions are able to execute the secondary market collateralization funding processes on a next-day basis. The capital efficiencies are dramatically improved.

The generations of digital lending

First generation:
- Focus on loan origination
- Use of available data online to determine creditworthiness
- Improved access to credit for consumers



Second generation:
- Focus on execution and customer experience
- Technologies for RON and eSignature
- Self-service workflows with tracking for full compliance

Third generation:
- Focus on platforms that support compliant, seamless end-to-end loan processes
- Ability to move out of sequence with centralized data
- Smoother, faster processes – with no need to reinvent the wheel

Q: As organizations have adopted digital lending, what are the key benefits they have gained? What is the future impact of digital lending as it becomes increasingly "mainstream"?

Steve: One of the biggest benefits has been certainty – we refer to it as Digital Asset Certainty. With traditional loans, up to 20% of documents have to be sent back through the mail or by courier due to incomplete data or missing signatures. Digital lending obviates this entirely because the process will not move forward if incomplete. Also, the loan creation data is validated and loaded programmatically into the loan document itself. For lenders, investors, regulators, and auditors this is a benefit as you don't have to chase down the data source for verification. Everything you need is in the digital loan obligation document, such as an eNote, and you know you're always dealing with true, trusted data and documents.

For consumers, everything has changed. The process is faster and easier. There's less hassle and fewer interactions. There's less hard sell as well. The consumer is in the driver's seat. They determine who they want to do business with, when, and where. Now people are buying houses and other types of assets in other states without even looking at them. Everything is virtual – from the property tour through to closing and funding. This has accelerated since the beginning of the COVID-19 pandemic – and without the processes in place to support it, it never would have been possible.

Q: How are solution providers responding with new FinTech solutions to support and accelerate the next generation of digital lending?

Steve: What we're seeing is that FinTech companies don't want to select different vendors and piece together processes from scratch. Increasingly they want third-generation, compliant, trusted digital lending platforms like what Wolters Kluwer provides.

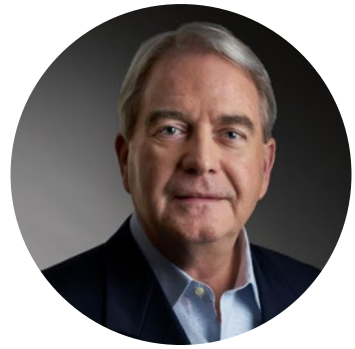
Such a platform needs to be cloud-based and preferably with an advanced digital certificate/public key infrastructure (PKI) to track transactions, ensure security, support verification, and enable the secure sharing of data, including protected personal data. Increasingly, you also need advanced analytics driven by machine learning and artificial intelligence to improve processes and yield insights. This is where the market is going.

Q: Finally, how can we simplify digital lending to accelerate adoption and speed implementation?

Steve: The challenge is to make the complexity of lending completely equitable and invisible. Years ago, most people knew basically how their cars worked. Today, they want to know how to start, stop, and drive. Successful products and services require functional simplicity, intuitive usability, and trusted performance. The same is true for digital lending.

Data will play a critical role in helping organizations meet these criteria. Right now, most digital processes are basically replicating the paper world. Instead of paper we, have PDFs or other digital replicas. What happens when we fully transform – when it's all about data and not documents? This is when the true value of analytics will create the fourth generation of real-time digital lending without the maintenance of formal document structures.

Ultimately, lending is about risk management. The more trusted, verifiable, and usable information and data you have, the less risk you will incur. By enabling organizations to access and analyze relevant data, digital lending and its capital markets will move towards ubiquity and true Digital Asset Certainty.



Steve Bisbee *is Senior Advisor, Applied Technologies for Wolters Kluwer. A real estate lawyer by training, Steve is the founder of eOriginal, Inc., a leading digital lending platform acquired by Wolters Kluwer in 2020. A pioneer in both the technology and regulatory considerations in digital lending, he is widely regarded as one of the most authoritative voices in the field.*

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