Peter Renton: Welcome to the Fintech One-on-One podcast episode number 323. This is your host Peter Renton, Chairman and Co-Founder of LendIt Fintech.

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Peter: Today's episode is brought to you by LendIt Fintech LatAm The region's leading fintech event that's happening both online and in person in Miami on December 7th and 8th. Latin America is still the hottest region for fintech in the world, and LendIt Fintech LatAm features the leading players in the region. So join the LatAm fintech community this year where you will meet the people who matter, learn from the experts and get business done in person and virtual tickets are available at lendit.com/latam.

Peter: Today on the show, I'm delighted to welcome Garry Reeder, he is the CEO of the American Fintech Council, or the AFC. Now the AFC grew out of a merger between the Marketplace Lending Association and the Online Lending Policy Institute. And we get into that in some depth about how sort of the AFC really formed, we talk about the policy goals. We talk specifically about bank partnerships, Garry shares his kind of experience working with the other trade associations that are in Washington. We talk about crypto, we talk about working with the Senate and House and much more. It was a fascinating episode. Hope you enjoy the show.

Peter: Welcome to the podcast, Garry.

Garry Reeder: Thanks for having me.

Peter: My pleasure. So, let's get started by giving listeners a little bit of background about yourself. You've had some interesting jobs, both in government and outside of government. Why don't you give us some of the highlights.

Garry: First half of my career was predominately spent in asset management. So I covered financial institutions, both on the buy side and sell side in New York, predominantly financial institutions in the US. And then I moved on to do work in Turkey, Japan and other places, but it always was focused around consumer finance. And so when the financial crisis hit, I left New York to come to the Treasury Department to work on TARP. I felt that as someone who was a finance person by training, it was a way to, you know, do my part in public service. And I had assumed I would be going back to New York after we did the General Motors IPO, I was on the auto team, however, ended up starting a family here and the Treasurer Secretary asked some of us to go over and start the CFPB.

And that sort of has reshaped my career, I ended up going over the team from Treasury to build the Consumer Financial Protection Bureau with now Senator Warren. Helped set up numerous departments and ended up serving as Chief of Staff to Richard Cordray. After that, I basically have spent the last almost decade as a consultant to industry as an entrepreneur as an investor, both in the for profit and nonprofit arenas, I ran the fintech accelerator inancial solutions lab prior to coming here to AFC.

Peter: Right. And so what was it that really attracted you to the job? And obviously, that the American Fintech Council, it's a relatively new organization, but it's been... has its roots for many years. And tell us a little bit about sort of how you got involved and how that all came to be?

Peter: The answers starts back in 2010. When I was at the CPB, I would constantly have new companies coming to us as regulators saying, “oh, what should we do?”, “How should we do this?”, “How should we do that?” And every single time, the first thing I would say is you should have a trade association, because in Washington, unless you're a very, very large, firm, and even in those cases, trade associations are really the most efficient way for regulated entities and the government to interact, because there are shared issues. And generally regulators and the government find it very difficult to be making policy decisions based on the needs of a single firm.

Peter: Right.

Garry: Because it creates winners and losers. So I've been giving that advice for decades. Paradoxically, I had never considered being in the trade industry. I don't know why, but it just never occurred to me. I had known a number of the board members and known Nat who was my predecessor at MLA. And as they were going through the transition of thinking about creating a larger trade across the industry. I was in the process of determining whether I was going to go back to the administration since I knew many folks from the Obama years, or I was going to go into Regulatory Affairs at a large bank.

And this sort of was perfect for me because I have started businesses, invested in businesses. I've spent much of my career around where public policy and financial services intersect. And so this felt like a good mix of being a small business owner or small business management, which I enjoy, with the private sector piece, and how it interacts with public policy and with politics. And so when they reached out, I was in the process of considering other jobs. But this allowed me to, hopefully, I think people will see this over time play to my strengths.

And also, I'm a parent of an eight year old and a 10 year old. And the good thing about trade industry business is while there, there will be travel when the pandemic is behind us. Predominantly, my work is here in Washington, I do want to spend the next 10 years as my kids are growing up being as close to home as I can, where many other jobs as some of these listeners know, require tremendous amounts of travel. And so it was sort of a perfect fit. Interesting question for me is why I never thought of it before now. But it never presented itself, so...

Peter: Fair enough. Tell us a little bit about the coming together of like the MLA and the OLPI and how sort of the American Fintech Council came to be.

Garry: So the Marketplace Lending Association began back in 2016 as really a way to represent the large... at that point, some of them were peer to peer, installment lenders, and how are they going to differentiate themselves from other types of small dollar credit, which obviously, there's a long history in Washington around policy arguments related to high call small dollar loans. And generally, if it's not a loan made by bank, people tend to conflate a bank loan with good and a non bank loan with bad. And so part of it was making that distinction. And then OLPI was doing something similar, but being led by Cross River Bank as a partner bank, because partner bank is just one of the two partners that occurs in much of fintech lending.

And so the idea was to bring those together, partly because there is a need for representation of the whole industry and all of its complexity. Even with all the complexity of business models being payments, or securities or lending. There are similar regulatory challenges and issues around competition, that require us to all band together. Frankly, many other industries have highly concentrated trade representation here in Washington, and, frankly, being a 15 or 20 member organization, unless it's the largest organizations in the world, as you would see with some of the banking trades or tech trades, it's very hard to have a seat at the table, there will continue to be need for some consolidation across the fintech trade association industry, because we have to constantly be at the table with very, very large institutions that are also part of very large trades.

Peter: Right, right. Obviously, the MLA and OLPI both have lending in their name, you've chosen the name, American Fintech Council, without lending. But you look through the membership, it's still obviously pretty lending centric, but there are some that are obviously not in the lending space at all. But maybe you can tell us who are you targeting for membership today?

Garry: So yes, obviously, when we started at Inception, and membership was 100% lenders. Today, we're at 44%. So that is dramatically different. But to your point, it is still predominant, it is not... it’s no longer the majority of our members, but it is the predominant concentration. Many of our members are in the supply chain of being in the fintech lending business, or provide some services to lenders, but are themselves not lenders, or they provide services to a wide swath of other providers.

The other thing that's happening for our members, which unfortunately, will stop happening fairly soon, is a number of our members have become banks. So they are simultaneously in the fintech trades, and in some of the bank trades. It is becoming increasingly clear that ability to get a charter in the current environment is nearly impossible. There are some acquisitions that have occurred. But part of the diversification is in becoming a bank, because even if you're a lender, once you become a bank, you have a different set of regulatory challenges.

In terms of what we're targeting, I would say, being more focused in the payments space, obviously, there's been tremendous amount of innovation in payments and the way that they interface with both merchants and consumers. So I spend a fair amount of my time with emerging payments companies to think about how to integrate them with us. And we have buy now pay later with Affirm which is some ways I would argue is a blending of payments and credit. So Affirm would count as a lender because they lend but they also are point of sale payments mechanism as well.

And then they also there is an enormous amount of innovation in the entire ecosystem of how a financial transaction occurs. Everything from AML/BSA, broader diligence, wringing costs out of the mortgage supply chain, for example, being involved with those folks, because in many cases, they come from pure tech backgrounds. And when you start to touch a financial contract, or financial transaction, suddenly, you're now subject to a slew of things that you didn't, didn't know before. And so it's that broader ecosystem with a big concentration for the moment in payments, where I think that there are very large firms and they're emerging firms and blending them into our organization. There's a lot of synergy on the types of policy issues that we all care about.

Peter: Mmh mmh..that makes sense. I mean, there is so much innovation happening in the payment space right now it is. It's very exciting. So then maybe we can switch to policy and what are the main goals you have for the AFC right now, when it comes to public policy?

Garry: Probably should start by just describing my own philosophy about how to focus because I think Washington is a place where you could spend an entire career on a single topic. And you may have... be having the same conversation 30 years from now that you're having today. And there's a place for that. But that's not what trade associations should be doing. So part of what I start with is the question of is there a vehicle available, whether it's legislation, Reg text through a rulemaking, other activities, that the government's undertaking that would allow for a change.

So it's important to be providing thought leadership, but if there's not a vehicle, by which that change can be effectuated, at the federal or state level, we have to be very careful with our resources that we then don't devolve into a think tank. So you'll see when I describe some of them, they're... they're attached to specific opportunities to have a say in policy decisions that are going to happen. So for example, consumer data rights, which are being determined under Section 1033 of Dodd Frank. So it's a rulemaking the CFPB is sort of halfway along with, I would argue, is the most important set of policy decisions for how fintechs and incumbent financial institutions are going to be able to compete with one another vis-a-vis, the consumer and the consumers data.

So that piece is important for security, it's important for liability. It's important for competition. And so we want to make sure we have a seat at that table. There are other trades that are very focused on particularly the link between the fintech industry and the incumbent financial institutions. We’re more focused on how the consumer connects either to the fintech or to the bank and how the consumer can have the ability to permission the things they need in order to get what they want. And that is not predetermined, and decides what the competitive landscape is going to be. So that's rulemaking.

Another rulemaking from the CFPB is what's called Section 1071, which is small business lending data collection. So anyone who's in the mortgage industry is familiar with HMDA, where they collect transaction information on all mortgages, from providers above a certain size, and that allows regulators and advocates and others to see what types of loans are being provided what's being rejected at what costs to what consumer and what community in small business has been quite opaque. Partly because the distinction between a small business loan and a consumer loan, particularly for the smallest businesses, has been difficult. And many of our members, both banks and fintechs, provide small business loans. And it's been very difficult to have a competitive market when there's no transparency and who's in this market? And what are the range of prices? And what are the range of benefits that consumers are getting. And so we want to be involved. Partly our partner banks will be the reporting entities, because they are the true lender on but for many of our members, how that gets determined, will have an impact on competition.

Then the last two, I would say a big focus are bank partnerships and chartering. So obviously, we've been through a four to five year period where chartering, which is one of the dullest topics think of going all the way back to the National Bank Act during the Civil War. I think very few people outside a handful of lawyers ever talked about bank charters for the last decade, but particular last five years that's become a very contested topic.

Peter: It's a very hot topic.

Garry: Yeah. For us. We ask that government and that the banking industry make a choice right now we have many people who ask that our members become banks. Number of our members have applied to be banks. Their ability to get a charter is difficult to non-existent and it's becoming less available. And if we can't get a charter, that then means we do have to partner with banks because they have certain benefits that a non bank can never have, you can't have access to the payment window at the Fed, you can't have access to the payment rails that are bank only in the United States. And then when it comes to interest rates and other parts of lending, only banks can use that across state lines and have consistency across the country.

And so our position is either let us get charters for those who can, can do that, and appropriately be able to be part of the banking system. And if we cannot, or are not allowed to be, why can't we have a system where people can have access to the payments rails, or access to various types of preemption that occurs in the banking system? So right now, when this awful world where everyone says you should be a bank, because you're not regulated appropriately, if you're not a bank, but when we try to be a bank, we're not allowed to get bank. So we're just asking that make a choice. And we will follow that path. And some of our members have acquired banks, which is another way to deal with this question of having a bank charter and partnerships.

And then lastly, we've been very vocal about our support of disparate impact as a regulatory tool as it relates to fair lending, both in housing and consumer finance, primarily because many of our members are trying to innovate around how to score and how to think about risk. And in a society where risk and race have been intertwined systematically, it becomes very hard to lend appropriately without some statistical analysis that tries to identify when there has been disparate impact, regardless of intent. And if we're going to add AI and Machine Learning to that, to that process, being able to have very clear guidelines from the government about what is the statistical tools that we need to be using in order to identify issues and how to remediate those issues through compliance and other tools, I think, is a much better...and our board thinks, it's a much better tool for supporting innovation in the long run.

Because without those tools, instead of measuring and using data, we're going to be having legal arguments about what's unfair, what's deceptive, what's abusive. I can tell you having been a regulator and a regulated entity, that is a much harder problem to solve than we see a statistical variance with one group of borrowers who are identical in terms of their credit risk being treated differently from some other group. And so we believe that that is an essential tool for us to be able to innovate. There's some ambiguities that we can obviously help clear those ambiguities up.

But in terms of a platform for us to innovate around underwriting, we believe that having those in place and those being the... the not the law of the land, they've been the law of land for 50 years, but that there isn't the swing back and forth. It is rather like here's a tool that we all use, we can have arguments about how to refine it. But we're not going to have arguments about whether this is something that we can or shouldn't use.

Peter: Right, and I think that's one of the real innovations that the fintech lenders have brought to finance in general is really, the Machine Learning and... in general is innovation in underwriting and expanding access to credit. But I want to go back to bank partnerships, because I know that was a big push for both the predecessor organizations, the MLA and OLPI. We've written this sort of somewhat strange time where we've, you know, there's been a valid wind made ruling that has been affirmed, I guess, you would say, but true lender, those things are obviously it feels related to me was not affirmed and was rejected or repealed or whatever you want to however you want to put it. What does that leave the bank partnership model, do you think, when it comes to regulatory clarity?

Garry: Yes, we as an organization have spent a tremendous amount of time and effort here. It's essential for much of fintech. Not just the lending space, but it's also true for payments and other products about who can partner with whom. But certainly in lending, who the true lender is, determines what laws applies relates to interest rates and disclosures and other important consumer protections.

What I tend to say to try to simplify extremely complicated situation is we're back to the status quo. It's strange mix, but we are back now in the world before the OCC offered up the true lender rule as a way to clarify this. For decades, there has been ambiguity about this question. There has been litigation. There has been case law at the state level about trying to determine what is a true lender, and so it was our preference to try to get that clarified through a rulemaking.

For those who don't follow this closely, which I congratulate because not been nearly as stressed as others, it was a rule that was rescinded by the Congress to what's called the Congressional Review Act. The positive side of how quickly that occurred was that it was never fully implemented, and was never really reflected deeply into sort of how the securitization market worked, or how anyone was actually going about their business.

I think it is unfortunate, the way I think about it is, regulators should be focused on the outcome for the consumer. If you want to get into the question of the true lender, you're now regulating the supply chain. And in general, I think it is extremely hard to regulate the supply chain of anything. We're obviously seeing supply chain of physical goods around the world and seeing how complex they are... trying to do that in financial services, I think is problematic.

Regulators should be focused on is this a product that's creating good outcomes for customers are not. And if it's not, then whoever it is that's touching the customer, and is... part of that interface should be answerable for that issue. You know, on the federal level, we don't expect any material change where we are, we don't have a confirmed comptroller. This does not appear to be a priority of either any of the regulators or this administration and certainly leadership in Congress.

So the upside is that we've returned to where we were a year and a half ago, which was uncertain, but not precarious. It was more just vague. And vagueness has some advantages as well, there, there isn't a bright line. And so there's opportunity to continue to work to sort this out. But there are activities going on at the state level. So a number of advocates began to focus at the state level.

While for a national bank, the states can't really dictate who the true lender is, but they can for state chartered banks and for others, and we're starting to see it in terms of things like predominant economic interest tests, which is another way of saying true lender because it says who has a predominant economic interest in that loan. Whoever that is has is the true lender is not a bank, then a lot of the flexibility that banks have disappear, and then the fintech lender, who is a licensed state lender, would be subject to that state. In summary, we were spending a tremendous amount of time in specific states, we're staying involved at the federal level, but there isn't currently a vehicle available to try to create more certainty.

Peter: Right, right. And then how are you interfacing with the other trade associations in Washington? I know there are several bank organizations, there's other fintech associations as well, how are you working with them?

Garry: One of the best parts of this job is that I find the trade association community to be one that is very pragmatic and one where people are trying to solve real world problems. For those who you know, watch Washington mostly on TV and don't experience a day to day, there's very little of what I just said, at least, as it appears on TV. And certainly, I don't think I am making a political statement when I say that... particularly the current Congress, finds it very difficult to make decisions and be able to move forward and solve pragmatic problems, there's a whole set of other challenges that they face.

So I've found the cooperation to be very high. In fact, like there have been more letters and phone calls that we've done in coordination with others than we've done by ourselves. Because if you think about it for us, we're in many of the activities that other trades represent. We are partners, customers, competition, and some of our members are in these other trades as well. We are deeply interconnected. So I found the cooperation to be quite hard, because when you're trying to solve a practical, pragmatic problem, it is very rare that somehow one coalition of folks can handle it all by themselves.

So we have very positive things to say about that. Part of that is our members have done a good job over the years of having those relationships, Nat, before me, did a great job. And then I think that as fintech has become more and more integrated into many other incumbent financial institutions, in terms of the way we work together, can't really separate them out when you're trying to solve a regulatory issue. Particularly things that take third party risk management guidance from the prudential regulators. Well, we're the third party. So it matters that we're very coordinated with our partners.

Peter: Well, what about the banking lobby? It feels like you read articles in the press of banks think that fintechs I mean, I think sometimes they just wished we'd all go away. Some of them do because there's no question that some fintechs have eaten into... into some bank's businesses, there's obviously the partnerships that have happened as well. But are you finding that the bank lobby groups, do you find them hostile? Or do you find them easy to work with? Sounds like the latter from what you're saying?

Garry: Yeah, I think the rhetoric is hotter than the reality. Okay, that's partly a function of Washington, I believe. I think that it's also a remnant of some hostility from both sides that we saw, particularly in the early to middle part of the last decade, because you had this emergence of competitors. And, frankly, the financial services system in the United States, maybe some bank trades won't want me to say this part. But I believe this, in certain parts of it, we haven't had a lot of competition. It's not because of the need to protect the stability of the system. We have limited competition and various pieces of the chain.

Many people become hostile when they are in a competitive environment where they weren't in a competitive environment before. I think we've moved past that to a world of yes, these are my competitors, but they're also my customers. They're also my partners, which is more standard in most of commerce, where one part of your business is competing with someone's business. But another part of your business is either collaborating or one is the customer of the other.

Peter: Right.

Garry: I think where this increased cooperation and collaboration could become difficult is we just finished a massive financial service regulatory cycle that really began in 2009. You know, we're into the second decade of Dodd-Frank, that has sort of leveled out, it appears and has appeared for some time that there's a technology regulatory cycle underway. Because we don't have technology regulators the way we do financial services regulators. It's unclear how that will proceed.

But the market power that a number of technology firms have, and the market power that some of our largest financial institutions have, they are likely to collide here in Washington as the technology piece becomes more prominent, because I think a lot of very large financial institutions are very worried about the role that large tech plays in eating into, you know, not just a product line, but the entire relationship with the consumer from end to end.

And so that conflict is something where in the fintech industry, we could get squeezed between those two parties. What I've tried to say is, you know, fintech looks more like a community bank, in terms of our size and scale, in most cases, then we look like the five largest banks in the United States, or the five largest tech companies, and so many of the things that we are struggling with, we look a lot more like smaller firms who are growing rapidly, but we still are smaller firms, our market power is dwarfed by a number of the largest tech and largest financial services. So my goal is to try to keep us out of that particular fight. I think that is a fight that is unavoidable. But it doesn't really involve us. We use technology to provide financial services. We are not technology firms, first and foremost the way that say, Facebook or Amazon are.

Peter: Right, right. And what about crypto? When you pick up any publication these days, when it talks to regulatory kind of activities and... and things that are really top of mind and at least in the press, it seems like regulation of crypto is sort of is the hottest topic, it seems like. How do you view that? Is that becoming a challenge that you have to sort of work through as far as getting mind space in Washington.

Garry: Two years ago, I was very worried, I wasn't in this role. But I was very worried about fintech and crypto being conflated as entirely the same thing.

Peter: Right.

Garry: It appears for various reasons that the crypto community is being seen and wants to be seen as an industry in and of itself. Which I think is a positive development for fintech industry, because I think that the challenges and the opportunities that crypto pose are radically different than what most of what we think of traditional fintech companies present.

Fintech companies traditionally have not presented questions about public and private money, haven't posed questions about you know.. what is the security of commodity a payment vehicle? All these questions that crypto brings to mind. And the vast majority of the activities that we undertake, as an industry are pretty clear that it's payments product or lending product, where I think crypto, at least for folks in Washington seems to be a class onto itself.

I don't think me personally, I don't think crypto is that new. It's pretty much a digital version of the 19th century where individual institutions would issue script. So if I wanted I lived in Virginia, I'd go to the bank of Virginia, they would issue me a currency for my account, if I came to Washington to spend it, I'd have to go to a bank in Washington, they would trade that with me. And then I could use that to purchase something. And there was a cost in that transaction. And the relationship between that private money, and the public money in the United States really didn't exist.

Once we created the greenback, and then the Federal Reserve Act, we created a system where there was private money fully backed by the public money of the US government. So to me in some ways people act like it's totally new. And I'm like, Well, it seems like we're going back to the 19th century where we fragment and privatized money. I'm not making a statement about whether that's good or bad. But it's not necessarily a different policy problem. But it has been good for us in that that industry, for tax reasons, and a whole slew of other reasons is, you know, in and of itself, having discussions outside of us.

I will say it does take up a lot of policy oxygen, I would call it in DC where you get that and then there's a certain amount of talent that has migrated to that industry, that I think might be problematic for financial institutions, both fintechs and legacy firms that I think has a gold rush type mentality so that it causes this dislocation of attention and talent.

But for me, I think crypto is not nearly as complex, a set of issues as some might think. But we've gotten to a place with a number of dollars, US dollars, that are represented by the industry is at a size that regulators need to make a decision, even though I had my first regulatory conversation about Bitcoin in 2010. Is now the 11th year and I've been involved in these conversations for over a decade. It does appear there are some people who seem to be surprised or unaware that I think is the part that's causing so much consternation is we're at that part of the S curve where the geometric growth is underway. And a whole group of stakeholders didn't pay attention before that part of the curve took off and they are trying to catch up.

Peter: Right, right. Okay. Okay, so. So last question. Before we go, when you're like you're building relationships in Washington, and you're talking to Congress, people, who are the lawmakers that you think... in both... I'd love to get, you know... the Senate and the House, who are the ones that you think are most receptive to fintech today?

Garry: Well, I mean, in general, because it's the best way to do business. You know, we predominantly work with the leadership of both House Financial Services, and Senate Banking. So obviously, in the house, Chairwoman Waters and Ranking Member McHenry, I think, are both interested in for different reasons. But both share an interest in having informed discussions about what the costs and benefits are.

There are other members that are part of fintech task forces and caucuses that are also involved. And I don't want to name a bunch of names because someone will feel like I left them off. I will say that, you know, there are dozens of members who are interested in maybe they're only interested in the AI/Machine Learning part, or they're only interested in lending or payments. But I also say there's a tremendous amount of staff on the Hill, who are very involved in these.

So for us, we work with leadership. And our conference is coming up in three weeks. Ranking Member McHenry will... will speak about his perspective on this topic. And Representative Lynch, who heads up the fintech task force in the House will also be speaking. And then on the Senate side, we work a lot with Senator Brown and with Senator Toomey who's retiring, so there will be a change in leadership there, even if there wasn't a change in party. And, you know, there are people on both sides who have interest.

I think we are still at a place where this is not a highly partisan part of financial services. I worry that that won't persist, because that has not persisted on almost any topic in Washington. But part of our role is to try to say that there are benefits across the board here, this isn't a partisan issue, to drive down the cost and drive up the quality of financial products, that shouldn't really be partisan. And we continue to have receptivity across the board there.

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I think the biggest struggle for us is not really on the Hill, it's that we something that's related to the hill is we don't have confirmed heads of various agencies, that creates a stability for us to have regular orders. So we can go about working for two or three years on a rulemaking, knowing who's going to be in charge. I would say that's the part where it is more difficult. And that's that's a more function of the partisanship where the normal system of decades ago where the president nominates someone in the Senate would, you know, ask questions and then generally confirm without that, for example makes it harder for regulators to regulate and for us to collaborate.

Peter: Right, right, right. Well, we'll have to leave it there, Garry, good luck with all of that. I'll make sure to link to the.. to the summit that is coming up. I think it's a great program going there. And thanks for coming on the show.

Garry: Thanks for having me.

Peter: You know, I think it's really important as an industry that we do present a united front in Washington. And that's what organizations like the American Fintech Council, enable us to do. And we've been a big supporter here at LendIt from day one. And I feel like we've had some say at the table with many of these issues, we get our voices are heard. As Garry said, you can't go in as an individual company and really get your voice heard, but a trade association, particularly one that has some heft, which is what the AFC really has now, and as it continues to grow. That's how we're going to actually have our voices heard and really create change, create sort of the legislation that is going to support fintech going forward. Anyway, on that note, I will sign off. I very much appreciate you listening, and I'll catch you next time. Bye.

Peter: Today's episode is brought to you by LendIt Fintech LatAm The region's leading fintech event that's happening both online and in person in Miami on December 7th and 8th. Latin America is still the hottest region for fintech in the world, and LendIt Fintech, Latin features the leading players in the region. So join the LendIt Fintech community this year where you will meet the people who matter, learn from the experts and get business done in person and virtual tickets are available at lenditfintech.com/latam.