Payday Lending Reform

Outline of Proposed Rule by the CFPB

A NEW LEGAL LANDSCAPE FOR PAYDAY LOANS

On June 2, 2016 the Consumer Financial Protection Bureau released a proposed new rule that would apply to payday and auto title loans nationwide. The following is a simplified summary of key points of the rule. The public is encouraged to make a comment on the rule by the **deadline of September 14, 2016.** Go to www.lendjustly.com to make a comment.

OVERALL GOAL

To require lenders to assess a borrower's ability to repay a loan and be able to meet their other financial obligations and living expenses without needing to reborrow.

COVERED LOANS - Includes payday loans, auto title loans and high-cost installment loans

Short-Term Loans

- 45 days or less

Long-Term Loans

- Longer than 45 days
- Total cost of credit that exceeds 36% **AND**
- Lender takes a security interest in a vehicle **OR** access to a bank account or payroll deduction within 72 hours

ABILITY TO REPAY REQUIREMENTS

Also called the **"Full Payment Test"**, before making a covered loan the lender would have to:

- **Verify** the consumer's **net income**, **debt obligations** and **housing costs**
- **Forecast** a reasonable amount of **basic living expenses**
- **Project** income, obligations and housing costs over the term of the loan; and
- **Determine** the consumer's **ability to repay** the loan based on the lender's projections

ALTERNATIVE REQUIREMENTS

A lender could make a loan **without** making an ability-to-repay determination under the following conditions:

Short-Term Loans

"Principle Payoff Option"

- Up to 3 loans in short succession
- Not larger than $500
- Each payment/renewal reduces principal by 1/3
- No more than 6 every 12 months or 90 days in debt per 12 months
- Not available for auto title loans

Long-Term Loans

Two loan possibilities

NCUA Payday Alternative Loan

- $200 - $1,000
- Term of 46 days – 6 months
- Interest rate limit of 28% + app. fee limit of $20

Structural Condition Loans

- Term of 46 days – 24 months
- Total cost of credit not more than 36% APR
- Origination fee – up to $50 or more
- Default rate not to exceed 5% per year

PAYMENTS PRACTICES

In addition, the rule limits the ability of lenders to repeatedly attempt to take payments from a borrower's account without written permission. This current practice often results in costly and excessive fees and penalties.

Cooperative Baptist Fellowship

Payday Lending Reform

Suggestions for Making a Comment to the CFPB

YOUR VOICE IS CRITICAL

People of faith are making a difference. When CFPB Director Richard Cordray announced the release of the proposed rule, he singled out the advocacy work of the faith community:

> *"Perhaps most telling of all, we have held numerous sessions with a broad set of faith leaders. They have shared searing experiences of how payday loans affect the people they care for every day in their churches and synagogues and mosques. And they have described how these loans undermine financial life in their communities. In devising this proposed rule, we have been listening carefully, and we will continue to listen and learn from those who would be most affected by it. And* ***we will take their comments into account as we go forward and work to finalize new reforms in this area."***

TELL YOUR STORY AND SPEAK FROM YOUR EXPERIENCE

What have you seen? How has your community been impacted by payday loans? How has your church been impacted? You don't have to be a policy expert to make a comment. Help the CFPB continue to build a record that makes the strongest case possible for the rule.

BE PASSIONATE

Why is this form of lending wrong? What does your faith say about this practice? How does scripture influence your decision to speak out? Make your best moral argument.

BE BOLD & ENCOURAGING

The rule represents a potential major improvement in payday and auto title lending practices, and for the lives of millions of borrowers. The pressures on the CFPB are great and since by law they cannot propose a limit on fees and interest, their tools are limited. Crafting an effective rule in this environment with these constraints is difficult. They have conducted meticulous research which has served as strong evidence in support of the claims people of faith have been making for years. Encourage them to be strong in preventing the harm they have witnessed and documented.

CALL FOR IMPROVEMENTS

While the intent of the rule is exactly right, some fear that too many exceptions and potential loopholes exist. Past history demonstrates how sophisticated, creative and sneaky lenders can be in response to reform – tell the CFPB we don't want to see the rule evaded or weaknesses exploited. There is still time for improvement so consider including these suggestions for strengthening the rule.

1) Strengthen the ability-to-repay provisions -
    - make sure borrowers have enough money to live on –require objective measurements
    - prevent "business as usual" of allowing industry practices of repayment via seizure of funds in bank accounts as evidence of judgment of ability-to-repay determinations
2) Improve protections against repeated flipping of loans -
    - Return to the 60 day waiting period after each short-term loan as proposed in original outline
    - Tightly restrict repeated refinancing of longer-term loans
    - Prevent unaffordable, long-term indebtedness due to lenders manipulating exceptions to ability-to-repay standards and offering a variety of short and long-term loans to an individual borrower
3) Make sure all possible predatory, debt-trap loans are covered -
    - Cover all loans with extraordinary leverage to extract payment – bank accounts, car titles and wage garnishment – not just those that do so within 72 hours
    - Lenders are notoriously creative and the incentive to avoid being covered by the rule is high