Consumer Financial Services Webinar Series

Webinar #7:
CFPB Proposed Rules for Small-Dollar Loans: An Overview and What It Means for CDFIs

August 29, 2016   1:00 – 2:00 PM ET
Presenters

• **Lauren Stebbins**  
  Senior Associate, Small Business Initiatives  
  Opportunity Finance Network

• **Diane Standaert**  
  Director of State Policy  
  Center for Responsible Lending

• **Dafina Williams**  
  Vice President, Public Policy  
  Opportunity Finance Network
Agenda

• NEXT Awards and Consumer Financial Services

• Overview of the CFPB’s Proposed Rules on Small-Dollar Loans

• Implications for CDFIs

• How You Can Get Involved

• Q&A
2016 NEXT Awards

• Year-long awards program

• Awarded more than $70 million since 2007

• 2012-2016 theme of expanding coverage
  – 2016 subtheme: consumer financial services

• Goals
  – Take CDFIs to the next level of growth and impact
  – Increase visibility of CDFIs and the work they do

• Combines financial support, visibility, learning, and sharing
For More Information

- nextawards.org
  - Awardees announced this month!
  - Visit nextawards.org to find out who they are and learn about their innovative strategies!

- Webinar series to support the theme of consumer financial services
Reminders

• This webinar is being recorded!

• The recording and powerpoint will be posted at nextawards.org/webinars

• During the webinar, you can type your questions into the GoToWebinar question box
CFPB Proposed Rule to #StopTheDebtTrap of Payday, Car Title, and High-Cost Installment Loans

August 29, 2016

Diane Standaert
Director of State Policy, Center for Responsible Lending
dianes@responsiblelending.org
1. Harms of payday and car title lending
2. Importance of this moment
3. CFPB’s Proposed Payday Rule: Overview
4. How will this impact the states?
5. What you can do now to help
Payday Loans are a Debt Trap

- Average loan ~ $350
- Average APR = 391%
- Secured by borrower’s post-dated personal check
- Car title loan = payday loan secured by title to your car
Longer-Term Payday Loans and Car Title Loans Are Also Dangerous

• Payday lenders and car title lenders’ pushing proposals to weaken existing laws by allowing as long-term loans, either as open-end or closed-end, lasting for months or years.

• These dangerous, longer-term loans are made by payday and car title lenders in 21 states.

• Details are messy, but common characteristics are:
  – High fees (triple-digit APRs)
  – Fees structured that make it difficult to repay
  – Allow access to a borrower’s bank account (or car or personal property)
  – Payments tied to payday

Source: bit.ly/CRLInstallment
Lenders Succeed When Borrowers Fail

- Business model relies on borrower’s inability to repay
- Excessive fees + financial leverage (post-dated check or car title) ensure borrower will come back
- Borrowers more likely to have overdraft & bounced check fees, fall behind on other bills, lose their bank account & file for bankruptcy
The Cost of Payday and Car Title Lending

Over $8 billion in fees are drained annually from states with payday or car title lending

Over $5 billion in fees are saved annually in states without payday or car title lending
U.S. Payday Interest Rates
Calculated on a Typical Loan

States with the Payday Loan Debt Trap
States with Some Protections Against the Payday Debt Trap
States where Rate Caps Stop the Payday Debt Trap

Center for Responsible Lending, 2016
Typical APR based on average rate for a $300, 2-week loan advertised by largest national payday chains.
Voters Oppose Payday Lenders and Support Regulation

- Favorability
  - Used Car Salesmen: 16%
  - Wall Street Banks: 15%
  - Payday Lenders: 3%

- Support for Strengthening Government Regulation of Payday Lending: 71%
CFPB Proposed Rules to Stop Payday Debt Trap
• The ability-to-repay – based on income and expenses – approach is the right one. Under this requirement, lenders will have to evaluate if a borrower:

1) Has the ability to repay the loan;
2) While continuing to meet other major financial obligations and basic living expenses; and
3) Without needing to reborrow.

• However, significant loopholes must be closed...
What’s Covered by the CFPB Rule?

Applies to:

- Short-Term Loans
  - 45 days or less

- Longer-Term Loans
  - Longer than 45 days
  - "All-in" APR greater than 36%
  - Within 72 hours of loan disbursement, access to the borrower’s bank account or car title

Products Covered

Payday Loans
Deposit Advance Products (aka Bank Payday Loans)
Car Title Loans
Certain High-Cost Installment Loans
Certain Open-End Line of Credit and Other Loans
(bona fide pawn loans are excluded)
# Proposed Methods of Compliance

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<tr>
<th>Ability to Repay</th>
<th>OR</th>
<th>NO Ability to Repay</th>
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<tr>
<td><strong>Short-Term Loans</strong>&lt;br&gt;• 45 days or less</td>
<td>• Assess ability-to-repay by examining income and expenses&lt;br&gt;• 30 day cooling off period</td>
<td><strong>No ability-to-repay assessment if:</strong>&lt;br&gt;• 6 loans in a 12-month period&lt;br&gt;• Loans of $500 or less&lt;br&gt;• One loan at a time, and&lt;br&gt;• 90 days of total indebtedness</td>
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<td><strong>Longer-Term Loans</strong>&lt;br&gt;• &gt; 45 days&lt;br&gt;• “All-in” APR 36%&lt;br&gt;• Holds access to bank account or car title (within 72 hours)</td>
<td>• Assess ability-to-repay by examining income and expenses&lt;br&gt;• Determination at each refinance or re-borrow&lt;br&gt;• Some limitations on refinancing delinquent borrowers</td>
<td><strong>No ability-to-repay assessment if:</strong>&lt;br&gt;• NCUA’s PAL model&lt;br&gt;• 28% APR &amp; $20 Fee&lt;br&gt;• 5% Portfolio default exception&lt;br&gt;• “All-in” APR 36% &amp; $50 fee or reasonable proportion of underwriting costs</td>
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CFPB Proposed Payday Rule: What Works?

- Broad Scope
- Ability-to-Repay Approach
  - Based on income *and* expenses
- Payment Protections
- Strong anti-evasion language
- Supports state usury caps, does not preempt
- 5% payment-to-income (PTI) loophole removed
What Doesn’t Work? 
Loopholes!

• “Business as Usual” loophole
  – Lenders could assert that successful seizure of payments in the past means that borrowers have an ability-to-repay going forward

• Exceptions to the ability-to-repay requirement
  – 6 short-term loans (carrying triple-digit APRs) in a 12-month period would not be subject to the ATR test
  – Certain long-term loans with high fees exempt

• Inadequate protections against loan flipping
CFPB Needs to Hear from You:
We Need a Strong Rule to Stop the Debt Trap

- An ability-to-repay test, based on income and expenses, with no exceptions:
  Apply it to every single loan where the lender takes control over the borrower’s checking account, car, other property, or wages.

- Stronger protections against flipping loans: Ensure borrowers can’t be stuck in so-called two-week loans for three months or more, and prevent serial flipping of longer-term loans.

- Enhance strong state laws: The rule must not undermine states that prohibit these high-cost abusive loans, and must deem a violation of state law an unfair practice.

- Close the loopholes: Ensure lenders can’t game the rule in a way that leaves borrowers without enough money to live on.


Why we oppose a 5% payment-to-income exemption (2 pages): http://bit.ly/1tAH7qV

How Can You Participate?

- **Comment period open until October 7, 2016**

- **Provide feedback directly to OFN**
  - Email: dwilliams@ofn.org
  - Phone: 215.320.4318

- **Submit your own comments**
  - Visit [http://stopthedebttrap.org/comment-page/](http://stopthedebttrap.org/comment-page/)

- **Share payday lending stories**
Payday Lending Stories

- Have you seen or heard of people who have experienced the following with a payday, car title, or high cost installment loan?
  - The loan was not affordable in light of their income and expenses
  - Needed to quickly re-borrow the loan one or more times
  - Charged penalty fees by the bank or payday lender
  - After making the loan payment, could not pay for other basic living expenses such as rent, utility payments, or other bills

- If so, the CFPB needs to hear these stories before October 7, 2016
Q&A

Type your question into the GoToWebinar question box