The CFPB's Payday Lending Proposed Rule: What Works, What Doesn't

June 2016

The Consumer Financial Protection Bureau (CFPB) has proposed a new national rule that addresses payday and car title lending. The proposal, as written, has some useful elements, but it is seriously undermined by several major loopholes. If the loopholes aren't closed in the final version, the rule could essentially permit payday predators to conduct business as usual.

What the rule covers:

- Payday loans: Loans in which the lender takes loan payments directly out of the borrower's bank account. These loans can range from $100 to a few thousand dollars, depending on the loan term, which can be from two weeks to more than a year.
- Car title loans: Loans in which the borrower's car is used as collateral and taken if the borrower defaults.

How these devastate borrowers:

- The business model of payday and car title lending is to make loans that borrowers cannot afford to pay back. The interest rates average over 300 percent, and the terms are structured to force people to take out additional loans and pay out far more than they borrowed.

Solving the problem:

- To prevent the devastation of payday lending, payday lenders should be required to verify that the loan is affordable. An affordable loan is one that a borrower can reasonably be expected to repay without taking out another loan to cover expenses – and without defaulting on basic necessities like food and rent.

What works in the current proposal:

- The CFPB's proposal, which is not yet finalized, requires lenders to verify that the loan is affordable. This is the right way to go.

What doesn't work:

- There are six payday loans exempted from the rule: Before lenders are required to make affordable loans, they are allowed to make six unaffordable ones to each individual borrower. Even one unaffordable loan can cause serious financial harm. The requirement should be that all loans are affordable, period.
- It gives an upside-down definition to the term "affordable": Payday lenders can almost always collect – after all, they reach into borrowers' bank accounts. The fact that lenders can collect should not figure into the decision over whether a loan is officially "affordable."
- It allows too many repeat loans: The structure of the current proposal allows a lender to put a borrower into 10 or more two-week loans a year. This is far too many.

What we can do:

- There is still time to make the rule stronger. Call for a stronger rule by sending comments to the CFPB through stoppaydaypredators.org/crl.
- We must continue to fight for rate caps in states, as rate caps are the single most effective way to end the harm of payday lending.
- Congress must extend the protections of the Military Lending Act to all Americans and implement a federal 36% rate cap on all small dollar loans.

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