CFPB Payday Rule Survives Legislative Threat, Remains Intact For Now

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Advocates urge consumer bureau to preserve and enforce the rule, protect consumers against payday lending debt trap

WASHINGTON, D.C. – Congressional Review Act (CRA) resolutions—S.J. Res 56 and H.J. Res 122—to repeal the Consumer Financial Protection Bureau's (CFPB or consumer bureau) payday and car title lending rule will not advance in Congress, as their legislative clock has expired. The CFPB rule, finalized in October, establishes basic consumer protections on these 300% or more interest loans, including the common sense standard that lenders should have to verify a borrower's ability to repay before making the loan. Consumer and civil rights advocates are urging the consumer bureau to keep intact the rule, which is set to go into effect summer 2019, and to fulfill the bureau's responsibility to enforce the law.

The CRA is a fast-track legislative tool that allows lawmakers to undo federal regulations years in the making without public hearings with a simple majority vote in both the House and Senate. If invoked, the CRA prohibits a federal agency—like the consumer bureau—from rolling out regulations substantially the same as those it reversed. Since neither chamber brought the payday rule resolutions to a vote during the limited time allotted for a CRA challenge, the important rule was not overturned.

As written, the payday lending rule will result in fewer families falling into financial ruin. At the heart of the rule is the common sense principle of ability to repay based on a borrower's income and expenses—which means that lenders will be required to determine whether a loan is affordable to the borrower before making it. An affordable loan is one a borrower can reasonably be expected to pay back without re-borrowing or going without the basic necessities of life – like food or rent money. In a 2017 poll of likely voters, more than 70% of Republicans, Independents, and Democrats support this idea. The requirement helps to ensure that a borrower can repay without reborrowing and without defaulting on other expenses—that is, without getting caught in a debt trap.

Even as they prepare for additional threats to the rule, organizations from around the country are lauding the defeat of the CRA resolutions as a victory for communities who came together in a coalition to fight against the payday lending debt trap. More than 1,000 advocacy groups in all 50 states have long been pushing to see this important rule come to fruition, which was developed over the course of more than five and a half years. **[Key background points at the bottom.]**

Representatives from the Stop the Debt Trap campaign released the following statements:

"Members of Congress were wise not to side with the predatory lenders charging 300% interest who were trying to overturn a common sense rule against deliberately unaffordable loans," **said Lauren Saunders, associate director of the National Consumer Law Center**. "The consumer bureau's new leadership must also stand with American families, not predatory lenders, and should abandon announced plans to revisit the rule before it even goes into effect."

“This is welcome news for people across the country and for constituents who reached out to their members of Congress urging them to support this important consumer protection. Payday loans trap people in a vicious cycle of debt with loans costing more than 300% annual interest. The debt trap is their business model, with 75% of loan fees going to people trapped in more than 10 loans a year. This often leads to overdraft fees, involuntary bank account closures, delayed medical care, and even bankruptcy,” **said Yana Miles, Senior Legislative Counsel at the Center for Responsible Lending**. “The consumer bureau should now focus on enforcing this rule as written and defend it against the payday lenders, who are desperately trying to block the rule from moving forward.”

“A coalition of over 1,000 community, consumer, civil rights, labor, faith-based, veteran, and other types of organizations in all fifty states can claim victory today after calling on the CFPB to issue these consumer protections, and congress to support them,” **said José Alcoff, Payday Campaign Manager at Americans for Financial Reform**. “Tens of thousands have stood up to payday lenders who have been preying on their communities, and fought to rein in these debt traps at the state and federal levels. The consumer bureau should now prepare to rigidly enforce these protections to show debt trap lenders that no one is above the law.”

“The CFPB’s rule cracking down on predatory payday lenders may have survived a repeal effort by Congress but the industry has been quietly laying the groundwork to secure White House intervention since President Trump was candidate Trump. They spent more than $620,000 to help elect him and more than $1.2 million on his inauguration. Since then, they’ve lobbied the White House, hired his former campaign manager, held their annual conference at one of his luxury golf resorts, begun actively investing in his reelection, and cheered as he selected Mick Mulvaney, an industry champion that has been showered with thousands in payday industry campaign cash, to lead the CFPB. They have every reason to think their investment will pay off despite today’s victory for consumers. Now is not the time for celebration – now is the time to double down and stand up to Trump, Mulvaney, and their predatory payday pals,” **said Karl Frisch, executive director of Allied Progress**.

“This historic victory is the culmination of years of hard work by consumer advocates. Hundreds of thousands of consumers in Illinois have turned to payday loans, but our laws do not protect them from getting caught in a debt trap – a cycle of repeat borrowing that extends far beyond a single payday,” **said Brent Adams, Senior Vice President of Policy and Communication for Woodstock Institute**. Adams wrote the State’s first payday loan law in 2005, and regulated the industry as Secretary of Financial and Professional Regulation from 2009-2012. Adams went on to say, “These new protections will require payday lenders to do what they should have been doing all along – determining whether the borrower can actually afford to pay back the loan without forgoing basic living expenses like rent, food, and electricity.”

“Payday loan sharks and their congressional chums tried overturn even the CFPB’s most basic protections against predatory lending, but every day people stood up and fought back,” **said George Goehl, executive director of People’s Action Institute**. “We won’t rest until our government builds and enforces consumer protections that put an end to predatory lending once and for all.”

“While payday lending is most aggressively pitched to communities of color, it is designed to fail consumers of all background. It claims to help people when they’re desperate, but the reality is that too many get stuck with more debt than they can handle. The CFPB rule is based on a principle that most people would agree is obvious: lenders should verify that borrowers can repay their loans. Congress has wisely chosen not to override this rule, so now the administration needs to enforce it,” **said Vanita Gupta, president and CEO, The Leadership Conference on Civil and Human Rights**.

“The Consumer Bureau’s compromise-oriented payday lending regulation is a positive first step toward providing adequate protection for the American public,”**said Christopher Peterson, Director of Financial Services at the Consumer Federation of America**. “Now the Trump Administration needs to stay focused on implementing these rules.”

“UnidosUS, our Affiliate network and the Latino community have long supported efforts to curb the abusive lending practices that target our families and threaten their financial stability,” **said Marisabel Torres, Senior Policy Analyst at UnidosUS**. “The CFPB’s common sense payday rule was the result of tireless advocacy by people who had experienced first-hand the harmful effects of these products. Congress should work to defend and further strengthen consumer protections, instead of giving into the desires of Wall Street. The CFPB must enforce the rule and stand up to the payday industry.”

“It is encouraging to see Congress support the financial well-being of millions of consumers rather than allowing predatory lenders predatory lenders to continue with business as usual,” **said Andrea Levere, President of Prosperity Now**. “This victory, made possible by the advocacy of countless constituents and advocates, should serve as a strong signal to the CFPB that it must fully implement and enforce the rule it produced last year, including its ability to repay standard, as well as defend it against efforts that would weaken it.”

Background

- At the heart of the payday lending rule is the common sense principle that lenders check a borrower’s ability to repay before lending money. In a recent poll of likely voters, more than 70% of Republicans, Independents, and Democrats support this idea. This requirement ensures that loans are affordable, meaning a borrower can repay without reborrowing and without defaulting on other expenses.
- Currently, the debt trap is the cornerstone of the payday lending business model – three quarters of all payday loan fees are from borrowers with more than ten loans in the course of a year. The ability-to-pay requirement is a straightforward way to prevent this vicious cycle of debt and support lenders with legitimate business models.
- Payday lenders have anticipated possible crackdowns on their abusive practices and begun morphing their business plans toward other schemes in order to evade the law, such as offering predatory long-term loans. Despite important progress with today’s announcement, the struggle for financial fairness will continue.