Consumer Advocates Urge House Members to Halt Bank Payday Loan Legislation in Committee Markup

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H.R. 4861 would invite banks back into the business of making harmful 200-300% interest rate loans

WASHINGTON, D.C. – Today in a committee markup meeting scheduled for 10:30 a.m. ET, the Committee on Financial Services is scheduled to begin considering a bill aimed at weakening consumer protections for Americans and opening the floodgate for abusive predatory lending practices. H.R. 4861, the so-called "Ensuring Quality Unbiased Access to Loans" (EQUAL) Act, authored by Congressman Trey Hollingsworth (R-Ind.), will promote harmful predatory lending.

The bill would make it easier for banks to get back into the business of making 200-300% interest payday loans that trap distressed customers in a cycle of debt: It would rescind the Federal Deposit Insurance Corporation's (FDIC) 2013 guidance addressing bank payday ("deposit advance") loans; exempt banks and credit unions from the Consumer Financial Protection Bureau's (CFPB) final payday lending rule that stops repeated short-term high cost loans that drain consumers' finances; require bank regulators to write rules for bank loans without sufficient consumer protection standards; and preempt state laws covering bank and credit union small dollar loans, including by state-chartered institutions.

The Stop The Debt Trap campaign, a coalition of over 750 organizations across the country, recently sent a letter to the House Financial Services Committee urging members to vote against H.R 4861 and halt this legislation from moving forward.

"Congress should encourage banks to make affordable small dollar loans, instead of debt trap bank payday loans at 300% interest,"

said National Consumer Law Center Associate Director Lauren Saunders.

"Payday lending by any lender—including banks—is an abusive form of loan sharking, rooted in trapping borrowers in unaffordable, high-interest rate loans," **said Scott Astrada, Federal Advocacy Director at the Center for Responsible Lending.** "Unable to afford both the loan and the interest, and with a continued need to meet essential expenses, borrowers are forced to reborrow again and again, taking out one unaffordable payday loan after another. Often, the financial consequences of the debt trap don't stop there, but extend to bank penalty fees, greater delinquencies on other bills, ruined credit, loss of checking accounts and even bankruptcy. We can't afford to have Members of Congress push this payday lending bill forward, especially in a time when bad actors in the industry are pushing a deregulation agenda that aims to trap consumers in debt."

"Against the clear wishes of Hoosiers, Rep. Hollingsworth is trying to turn off the lights out on all enforcement authorities so that predatory loans can be made without any ground rules," **said José**

Alcoff, Payday Campaign Manager at Americans for Financial Reform. "In a poll commissioned by Prosperity Indiana and the Indiana Institute for Working Families earlier this year, 88% of Hoosiers were in favor of a state 36% interest rate cap, and 78% of Hoosiers said they would support ensuring borrowers have an ability to repay loans before they're made, which is the basis of the Consumer Bureau's new borrower protections. Rep. Hollingsworth's bill would blow past these protections so that banks and payday lenders can scam the public with no one to stop them when they break the law."

"Payday loans are a defective and harmful product with unreasonable interest rates. This bill panders to the greed of a few of disreputable bankers while ignoring the needs of millions of struggling families," **said Christopher L. Peterson, Senior Fellow at Consumer Federation of America.**

The effect of H.R. 4861 is to permit banks to make short-term balloon payment payday loans. The FDIC's 2013 guidance, which the bill rescinds, targeted the high-cost, unaffordable short-term balloon payment "deposit advance" loans that banks were making at that time. The CFPB final payday loan rule, from which this bill would exempt banks and credit unions, establishes ability-to-repay requirements only for loans 45 days or less. So this bill is not about encouraging banks to make affordable installment loans. It will permit them to make unaffordable balloon-payment payday loans again.

Background on Bank Payday Loans

In 2013, a handful of banks were making high-cost payday "deposit advance" loans, structured just like loans made by non-bank payday lenders. The bank repaid itself the loan in full directly from the borrower's next incoming direct deposit, typically wages or Social Security, along with annual interest averaging 225% to 300%. The data on these loans made clear that, despite banks' claims that the loans were a short-term solution to a temporary shortfall, repeat loans were typical. The CFPB's analysis of thousands of bank payday loans found a median number of advances per borrower of 14, with extremely high numbers of advances for many borrowers: Fourteen percent of borrowers had a median of 38 advances in 12 months. Bank payday loans created this debt trap despite so-called protections the banks touted.

At their peak, these loans—even with only six banks making them—drained roughly half a billion dollars from bank customers annually.

This cost does not include the severe broader harm that the payday loan debt trap has been shown to cause, including increased difficulty paying mortgages, rent, and other bills, loss of checking accounts, and bankruptcy. Payday lending has a particularly adverse impact on African Americans and Latinos. A disproportionate share of payday borrowers come from communities of color, and these loans cause people to lose their checking accounts and push them out of the banking mainstream.

Bank Payday Loans Were Met with Broad Public Outcry and Eventually Regulatory Intervention

Payday lending by banks was met by fierce opposition from virtually every sphere—the military community, community organizations, civil rights leaders, faith leaders, socially responsible investors, state legislators, and members of Congress.

Recognizing the harm to consumers, regulators took action in 2013 to protect bank customers—the OCC and FDIC with their 2013 deposit advance guidance requiring an income-and-expense-based ability-to-repay determination, and the Federal Reserve with its supervisory statement, emphasizing the “significant consumer risks” bank payday lending poses. For the most part, the banks responded by suspending their payday loan products. But under a new Acting Comptroller, the OCC rescinded its guidance in October 2017, which the agency claimed was warranted in part because the CFPB had just issued a final payday loan rule.

The CFPB’s Rule Already Limits the Impact on Banks & CUs, as Widely Acknowledged by the Industry.

There is no need for legislative exemption of banks and credit unions from the CFPB final rule because the rule already minimizes its impact on bank and credit union products. Between the proposed and final rule, CFPB added exemptions for loans that mirror “payday alternative loans” made under the National Credit Union Administration’s regulations, and for “accommodation” loans by lenders such as community banks whose short-term loans don’t exceed 2,500 loans and more than 10% of the lender’s revenue in a year. Bank and credit union trade associations were generally positive toward the final rule as a result.