National consumer and civil rights groups urge CFPB to strengthen payday and car title lending rule

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Rule should protect families from debt traps, close off paths to evasion for predatory payday lenders

(WASHINGTON, D.C.) Today, the Center for Responsible Lending (CRL), the Consumer Federation of America (CFA), and the National Consumer Law Center (NCLC) (on behalf of its low income clients), with support from seven national consumer and civil rights organizations, is sending the Consumer Financial Protection Bureau (CFPB) a joint comment urging the CFPB to strengthen its proposed rule on payday and car title lending. The organizations' comment reflects the decades of research and work these groups have done to fight against abusive predatory lending practices like payday lending, which can trap consumers in long-term debt at annual interest rates of 400 percent or higher. Read the groups' executive summary and the comments.

The organizations expressed support for the proposed rule's underlying principle, an ability-to-repay requirement, but insisted that without closing harmful loopholes, the rule will fall short of achieving its intended goal—to ensure that borrowers can repay these loans without financial hardship, and without being forced into a cycle of debilitating repeat borrowing.

"Payday and car title lending cause real and significant harm to borrowers, their families, and communities. They lead to a cascade of financial consequences such as bank penalty fees, bankruptcy, and loss of cars and bank accounts. They kill hope and steal futures," said **Mike Calhoun, President of the Center for Responsible Lending**. "The CFPB's rule must be strong enough to stop this harm. As written, it is not yet there."

VIDEO: CRL President Mike Calhoun's discusses on CFPB's proposed rule [Download Video] [Download B-roll] [Download Audio]

The groups find several areas where the rule must be strengthened in order to be effective. One provision in the proposed rule exempts the first six loans per year from the ability-to-repay requirement–but even one unaffordable loan can cause significant harm to borrowers, impacting their ability to manage other expenses and keep their bank account in good standing.

The proposed rule also falls short to protect against "loan flipping," the practice of putting borrowers into one unaffordable loan after another. Payday lenders accomplish this by extracting payment directly from a borrower's bank account on the borrower's payday, ahead of the borrower's other obligations and expenses, leaving the borrower without enough money to pay essential living expenses. Car title lenders threaten repossession of a borrower's car to coerce repayment. Stronger safeguards against repeat refinancing of the longer installment loans that the industry is moving into are especially important, the groups said.

"Longer-term high-cost loans can put families in an even deeper and longer debt trap than conventional payday loans," said **Lauren Saunders, Associate Director of the National**

Consumer Law Center. “For example, CashCall can make a profit after receiving only about 14 months of payments on a $2600, 135% 4-year loan, even though over 40% of customers cannot keep up with the unaffordable loan payments.”

The scope of the rule should be broadened, the groups contend, to include loans where the lender obtains access to the borrower’s checking account even after the first few days of the loan term; loans secured by personal property; and loans where the lender retains the right to garnish wages.

“When payday lenders take unfettered access to a borrower’s checking account, consumers too often face frequent and unpredictable bank penalty fees,” said **Tom Feltner, Director of Financial Services at Consumer Federation of America**. “The CFPB must take strong action to stop the aggressive collection tactics that push too many borrowers out of the banking system entirely.”

The CFPB rule must also specify that both income and living expenses must be taken into consideration when a borrower’s ability to repay a loan is assessed, not just their income. And those living expenses must be based on objective standards, not the subjective judgment of payday lenders.

The groups’ comment contends as well that the CFPB should not undermine consumer protections for the 90 million Americans living in the 14 states and the District of Columbia where payday loan interest rates are capped. They underscored that the CFPB rule must build on rather than put at risk these strong state laws with rate caps. In addition, states can and must continue to enact and enforce rate caps of about 36% to most effectively prevent the harms of these high-cost loans.

“We’re proud to join with the CRL, NCLC, CFA, NAACP, NCLR, National CAPACD, LULAC, AFR, People’s Action Institute, and countless thousands of Americans in filing these comments in support of the CFPB’s efforts to reduce the scourge of payday lending,” said **Wade Henderson, President and CEO of the Leadership Conference on Civil and Human Rights**. “While the rules could certainly use some improvements, they will finally add real teeth to a principle that strikes most people as obvious, but which for years was absent from much of the lending industry: lenders shouldn’t make loans if borrowers can’t pay them back on time. While the rules themselves may be complex, the bottom line is as simple as it gets.”

As part of its rulemaking process, CFPB released its proposed rule on June 2, 2016, and has since received public comments from families, communities, and organizations. The final day for public comment is October 7, 2016. The CFPB is expected to make its final decision on the regulations in 2017.

Several organizations, including the NAACP, National Council of La Raza, League of United Latin American Citizens, National Coalition for Asian Pacific American Community Development (CAPACD), Americans for Financial Reform, and People’s Action Institute also joined the groups’ call for CFPB to strengthen its proposed rule.

“The NAACP commends the Consumer Financial Protection Bureau for taking on the issue of short term loans and addressing the predatory, wealth stripping nature of these debt traps. Furthermore, we call on the CFPB to strengthen the ability-to-repay standard in its payday loan proposal,” said **Hilary Shelton, the Director of the NAACP Washington Bureau and the Senior Vice President for Policy and Advocacy**. “We believe that it is crucial that the Bureau not allow payday lenders to issue six loans to a borrower without thoroughly accessing the borrower’s ability to repay. An ability-to-repay standard must be clearly enforceable on every loan.”

“Payday lenders target and strip wealth from communities of color, and we welcome the CFPB’s move to reform this predatory industry," said **Lindsay Daniels, Associate Director, Economic Policy, National Council of La Raza**. "But the CFPB must take care of some serious loopholes in the final rule that would allow business as usual to continue. We have seen the determination of payday lenders to exploit every loophole and prey on vulnerable consumers. The final rule must prevent borrowers from getting stuck in a never-ending debt trap."

"For years, the payday loan industry has used predatory practices to target Latinos, leaving the community trapped under debt impossible to pay back," said **Brent A. Wilkes, National Executive Director of the League of United Latin American Citizens**. "The industry needs increased oversight to stop the profiteering of hardworking Latinos who have fallen on hard times. LULAC supports the proposed payday rule as a positive step towards reining in these bad actors."

"As an organization focused on the community development needs of Asian Americans and Pacific Islander Communities, we are concerned about the threat of payday lending to our families and communities," said **Lisa Hasegawa, Executive Director of the National Coalition for Asian Pacific American Community Development**. "We appreciate the step toward protection that the CFPB is taking with its proposed rule and urge that it not stop there, but go all the way to solid reform. We don't want our families in any way vulnerable to the abuse payday lenders carry out – trapping people with little money into cycles of debt that put them into ever worse situations."

"We look forward at the end of this rulemaking to seeing a rule that will stop loans engineered to trap people in financial quicksand. And we know we need a strong rule to do so. Until recent changes to stop them, these lenders spent years evading gaps in the Military Lending Act to continue exploiting service members, and have defied multiple state laws put in place by voter referendum. The loopholes in this rule must be closed in order for it to succeed in stopping abusive business as usual in debt trap lending," said **Gynnie Robnett, Payday Campaign Director for Americans for Financial Reform**.

"For decades the communities we stand with have fought against the payday and car title lenders who have stripped billions of dollars in wealth from our pockets. The CFPB must not squander this opportunity or shirk its responsibility," said **Liz Ryan Murray, Policy Director for People's Action Institute**. "The CFPB must work quickly now to issue a final rule that truly protects families from predatory lenders. We have fought too hard and waited too long."