U.S. SMALL BUSINESS ADMINISTRATION
OFFICE OF ADVOCACY
REGULATION • RESEARCH • OUTREACH

FACT SHEET

Advocacy Submits Comments on the CFPB's Proposed Rule on Payday, Vehicle Title, and Certain High-Cost Installment Loans

On April 12, 2016, the Office of Advocacy submitted a letter to the Consumer Financial Protection Bureau regarding *Payday, Vehicle Title, and Certain High-Cost Installment Loans.*

- In April 2015, the CFPB convened a SBREFA panel to solicit input from small entity representatives (SERs) on proposals to prevent consumer injuries that result from lenders extending payday, vehicle title, and similar loans that a consumer cannot afford to repay.
- On July 22, 2016, the CFPB published in the *Federal Register* a proposed rule to establish 12 CFR 1041, which would contain regulations creating consumer protections for payday, vehicle title, and certain high-cost installment loans.
- The SERs at the SBREFA panel and subsequent roundtable participants were particularly concerned about the proposed ability to repay requirements (ATR). They stated that they would not be able to survive with the revenue reductions and their customers will not be able to withstand the scrutiny of the ATR requirements.
- As a result of the SBREFA panel, the 60-day cooling off period between loans that the SERs considered was reduced to a 30-day cooling off period in the proposed rule. Advocacy asserted that a 71 to 76 percent decrease in revenue may be detrimental to small entities and encouraged the CFPB to consider a shorter period to reduce the economic impact on small entities.
- Advocacy encouraged the CFPB to provide an exception for an emergency. Advocacy further encouraged the CFPB to provide clear guidance on what qualifies as an emergency.
- Many states have addressed the issue of payday loans. Some states have banned payday loans or have fee or interest rate caps that payday lenders apparently find too low to sustain their business models. Advocacy encouraged the CFPB to exempt small businesses that operate in states that currently have payday lending laws from the rule.
- The National Credit Union Administration (NCUA) has addressed the issue of payday type loans for credit unions with the Payday Alternative Loan program. Advocacy encouraged the CFPB to recognize the NCUA's expertise in the area of credit unions and exempt small credit unions from the proposed rule.

- The proposed rule may have a negative impact on small rural communities. Advocacy encouraged the CFPB to consider the detrimental effects that the proposal may have on small rural communities.
- According to tribal representatives, the proposed rule will directly impact the economic vitality of the tribal community. Tribal representatives were particularly concerned about the lack of full tribal consultation and the infringement on tribal sovereignty. In the preamble to the proposed rule, the CFPB states that it consulted with the tribes. Advocacy encouraged the CFPB to work with the tribes to resolve the issue of tribal consultation and tribal sovereignty.
- Advocacy also encouraged the CFPB to perform a full analysis of the impact that this rulemaking may have on the cost of credit for small entities as required by the RFA.
- Small entities will need time to meet the requirements of a final rule that the CFPB may issue. Advocacy encouraged the CFPB to allow at least 24 months for small entities to comply.
- Advocacy also encouraged the CFPB to reconsider its proposal and develop requirements that protect the consumers without jeopardizing their access to legitimate credit in states that do not currently regulate payday lending. Advocacy further encouraged the CFPB to perform additional research to determine the impact of the changes on small entities and consumers in those states prior to implementing permanent regulations.

For more information, visit Advocacy's webpage at www.sba.gov/advocacy or contact Jennifer Smith at 202-205-6943.