Center for Responsible Lending

Payday Lending Rule: Myths & Facts

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Myth The payday rule represents federal overreach and violates states' rights.

FACTS

- Congress charged the CFPB with addressing unfair and abusive practices, and that's what this rule does—with the reasonable requirement that lenders determine whether borrowers can afford the loans.
- The rule does not prevent states from enacting laws stronger than what the rule provides. It operates as a floor, leaving in place further regulatory measures by States and local jurisdictions, and not preventing those jurisdictions from taking further measures in the future.
- Congress was particularly concerned about payday lending when it established the CFPB. Payday lenders were one of only a few categories of financial actors that Congress explicitly authorized CFPB to supervise, regardless of their size.
- The rule provides additional enforcement tools to the states, as state Attorneys General and regulators will be able to enforce the rule against actors making unfair and abusive payday loans in their state.

Myth The payday lending rule will hamper access to needed credit.

FACTS

- The rule takes aim at unaffordable credit that leads to a debt trap, by requiring only that lenders determine whether a borrower has the ability to repay the loan before making it. The rule also provides an exception from that requirement for up to six payday loans in a year.
- The payday lender business model is not about providing credit; it's about creating a debt trap. Over four out of five payday loans—more than 80%—are taken out within a month of the borrower's prior loan. In essence, payday lenders generate their own demand by making unaffordable loans.
- Payday lending is not a universally legal product—far from it. Fifteen states plus DC, home to nearly a third of Americans, have laws that keep payday lenders out of their states altogether. And former payday borrowers in states that used to have payday lenders, but then passed laws that drove the lenders out, report a range of credit and non-credit alternatives they use instead.
- The Independent Community Bankers Association (ICBA) stated: "[An] exemption [in the final rule] will enable community banks the flexibility to continue providing safe and sustainable small-dollar loans to the customers who need it most"; the National Association of Credit Unions (NAFCU) stated: "The final rule appears to exempt loans issued by credit unions in conformance with [National Credit Union Association] parameters for payday-alternative loans."

Myth Payday lending abuses can and should be addressed through better disclosures

FACTS

- The CFPB studied whether disclosure alone could address the core harms from cycles of repeat loans that the rule aims to prevent:
  - Evidence from a field trial of disclosures aimed specifically at reborrowing showed only a marginal effect on repeat loans.
  - Analysis of actual disclosures implemented in Texas showed that the likelihood of a repeat loan decreased by only 2% following implementation.
- The CFPB concluded that the impact of disclosures on the core harm caused by repeat loans was "nearly negligible."
- The CFPB attributes the inadequacy of disclosure in part to the strong incentives payday lenders have to ensure borrowers stay in long cycles of repeat loans.