



Key Provisions <sup>2</sup>	Short-Term Loans (45 days or less) & Longer-Term Loans with Large Balloon	Longer-Term Loans with APR>36% (based on Truth in Lending Act) & Account Access
Ability to Repay (ATR) Determination	Yes, with exception of up to 6 loans in 12 months	No*
Payment Protections	Yes	Yes
* CFPB is not finalizing ATR requirements on longer-term loans without a large balloon payment at this time, but it states that it “remains concerned that failing to underwrite such products may nonetheless pose substantial risk for consumers” and that it will address these in a later rulemaking.		

**Ability-to-repay.** The rule provides that it is an unfair and abusive practice to make a short-term covered loan (which includes payday, car title, and bank “deposit advance” loans) without a reasonable determination that the borrower can repay the loan, based on the borrower’s income, debts, and estimated basic living expenses, according to its terms—i.e., without needing to reborrow. Lenders are given some flexibility in underwriting, with guidelines for what is and is not reasonable. Performance measures, like defaults and reborrowing rates, are also evidence of whether determinations are reasonable; a lender’s non-comparative measures are primary, while comparative metrics versus other lenders are complementary. There is a limit of three sequential loans (within 30 days of each other) before a 30-day prohibition; meaningful examples show that this limit is not a free pass to make unlimited sequences of loans.

-> **Exception** under prescribed circumstances, so long as an exception loan does not result in more than 6 short-term covered loans or 90 days’ indebtedness in short-term covered loans in 12 months (across lenders). The exception not available for car title loans. This exception was strongly opposed by CRL and many others.

**Payment protections.** The rule provides that it is an unfair and abusive practice to attempt to collect payment from a consumer’s account after two failed consecutive attempts on a loan, at which point a new consumer authorization is required for subsequent attempts. It also requires notice to consumers prior to attempting to collect a payment.

**Exemption for typically lower risk loans,** defined as (1) “Alternative loans,”<sup>3</sup> like the National Credit Union Administration’s Payday Alternative Loans, and (2) “Accommodation loans,”<sup>4</sup> typically bank-offered personal loans.

**Enforcement.** Both CFPB and state Attorneys General and state regulators have the authority to enforce the provisions, as provided by the Wall Street Reform Act. The rule includes a clause prohibiting evasion.

**Additional requirements.** Lenders must report covered loan activity to registered information systems, for which the rule lays out a registration process, and then consult those databases before making covered loans. Lenders must also comply with requirements for written policies and procedures and loan-level record-keeping.

**Role of state law.** CFPB emphasizes its rule does not preempt stronger state laws like interest rate caps, which CFPB lacks authority to set. Sixteen states plus DC have caps of 36% or less that keep payday lenders out.

**Compliance date.** Aug. 19, 2019.

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<sup>1</sup> A more detailed summary that includes CRL’s analysis is available on [CRL’s website](#).

<sup>2</sup> Rule’s scope excludes credit cards, certain wage advance loans and no-cost advances, purchase money security interest loans, real estate secured credit, student loans, non-recourse possessory pawn loans, overdraft lines of credit, and fee-based overdraft programs.

<sup>3</sup> \$200-\$1,000, 1-6 months long, no balloon, max of 28% interest and \$20 application fee, max of 3 loans from same lender in 180 days.

<sup>4</sup> Lender makes no more than 2,500 covered loans annually and they are no more than 10% of lender’s revenue.