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Federal Regulators Propose New Restrictions

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By Ken Sweet, Associated Press – June 2, 2016

The black-and-white commercial follows a sweaty Sylvester Stallone on his iconic training run through NEW YORK Federal regulators are proposing a significant clampdown on payday lenders and other providers of high-interest loans, saying borrowers need to be protected from practices that wind up turning into "debt traps" for many.

The Consumer Financial Protection Bureau's proposed regulations, announced Thursday, seek to tackle two common complaints about the payday lending industry.

The CFPB is proposing that lenders must conduct what's known as a "full-payment test." Because most payday loans are required to be paid in full when they come due, usually two weeks after the money is borrowed, the CFPB wants lenders to prove that borrowers are able to repay that money without having to renew the loan repeatedly.

Secondly, the CFPB would require that lenders give additional warnings before they attempt to debit a borrower's bank account, and also restrict the number of times they can attempt to debit the account. The aim is to lower the frequency of overdraft fees that are common with people who take out payday loans.

"Too many borrowers seeking a short-term cash fix are saddled with loans they cannot afford and sink into long-term debt," CFPB Director Richard Cordray said in a prepared statement.

Cordray compared the situation to getting into a taxi for a crosstown ride and finding oneself stuck on a "ruinously expensive" trip across the country. He said the proposal would aim to "prevent lenders from succeeding by setting up borrowers to fail."

Payday lenders would have to give borrowers at least three days' notice before debiting their account. Also, if the payday lender attempts to collect the money for the loan twice unsuccessfully, the lender will have to get written authorization from the borrower to attempt to debit their account again.

In a study published last year, the CFPB found that payday borrowers were charged on average $185 in overdraft fees and bank penalties caused by payday lenders attempting to debit the borrower's account.

The CFPB is also proposing that auto titles no longer be used as collateral, which would effectively end the auto-title lending industry.

A separate study found that one out of every five borrowers of auto title loans were having their cars seized after failing to repay the loan, which often had a secondary negative effect of taking away the means for the borrower to get to his or her job.

The CFPB found that annual percentage rates on payday loans can typically be 390 percent or even

higher, while rates on auto title loans are about 300 percent.

The proposed regulations are likely to face stiff opposition from lobbyists from the payday lending industry and auto-title lending industry, as well as opposition from members of Congress.

“The CFPB’s proposed rule presents a staggering blow to consumers as it will cut off access to credit for millions of Americans who use small-dollar loans to manage a budget shortfall or unexpected expense,” said Dennis Shaul, CEO of the Community Financial Services Association of America, which is a trade group for the payday lending industry.

According to the trade group, the new rules would eliminate 84 percent of the industry’s loan volume and would likely result in payday lender storefronts closing.

However Kenneth Rees, CEO of the Fort Worth-based online lender Elevate Credit, called the proposed rules “a crucial next step toward improving the credit products that millions of Americans rely on for unexpected bills and health-care emergencies.”

“Though we’re still reviewing all 1,300-plus pages of the proposed CFPB rules, we believe they will eliminate unfair and deceptive practices while preserving access to responsible nonprime credit products,” he said in a prepared statement. “We believe the rules will help both consumers and the industry by eradicating bad products, bad practices and bad actors and by creating regulatory clarity going forward.”

Elevate Credit provides short-term online installment loans and lines of credit to subprime customers, many of whom can’t get credit cards and are likely payday loan customers. Interest rates on its products can reach 176 percent, just about half the rate of payday loans, and can fall as low as 36 percent is customers make payments.

Consumer advocates had mixed reactions to the bureau’s proposal, some saying the proposed restrictions do not go far enough. Nick Bourke, director of the small-dollar loans project at the Pew Charitable Trusts, said that the rule to document a borrower’s ability to pay is good, but it does not address the high interest rates these products often charge.

The agency is seeking comments from interested parties and the general public on the proposals before final regulations are issued. Comments are due by Sept. 14.

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