

# Payday-Lending Curbs: Thumbs Down From Banks, Thumbs Up From Fintech

Consumer activists, industry representatives show up for rowdy CFPB ‘field hearing’



Elliott Clark, at center in the white shirt, addresses opponents of the payday-lending industry before a ‘field hearing’ of the Consumer Financial Protection Bureau in Kansas City, Mo. Photo: James V. Grimaldi/The Wall Street Journal

By

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In [unveiling new rules Thursday](#) to shake up the payday-lending market, federal regulators said they wanted to curb what they consider abusive practices, while encouraging new lenders to enter the market and maintain credit for hard-up, low-income borrowers.

But many conventional lenders—credit unions and community banks—said the new rules were too onerous to encourage them to try to expand in a market that many have abandoned to smaller storefront and online lenders.

Prominent online lenders, on the other hand, said they could step up their business in the small-dollar credit market under the new regulations, seeing opportunity for the rapidly growing sector to expand even further.

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The new rules were proposed Thursday in Kansas City, Mo., and the final version would likely take effect in 2018 or later.

The “field hearing” was one of the Consumer Financial Protection Bureau’s longest—and rowdiest—since the agency was created five years ago. Regulating payday lending is highly controversial because it is seen as a product that has helped millions of Americans under financial duress and yet often predatory because the fees can be more expensive than the loan amount itself and trap people in a repeated cycle of debt.

About 1,000 people—consumer activists from community organizations, church groups, social-service agencies, as well as representatives of the payday-lending industry—filled the art deco Music Hall downtown to cheer and challenge witnesses commenting on the new rules.

After the CFPB heard from a panel of industry representatives and community organizers, members of the public offered one-minute statements; the speeches stretched to more than two hours.

The supporters of the CFPB’s new rule came largely from churches and nonprofit organizations that serve the inner city, while the opponents of the rule included sales agents from payday-lending stores in the Kansas City metropolitan area and the broader region.

Elliott Clark, 65, of Kansas City, Mo., spoke at a rally before the hearing, saying he was delighted with the proposed rule, as he has been campaigning for such changes since 2008. “Are we happy?” Mr. Clark asked. “It’s been eight long years coming.”

Mr. Clark said he got a payday loan when his wife had \$25,000 in medical bills. His first loan was \$500 from a storefront loan shop. “That was the bait in the debt trap,” he said. He said the debt grew to “\$50,000 in five doggone years.”

Speaking on the panel at the hearing, Keith Sultemeier, president and chief executive of Kinecta Federal Credit Union, said his group agrees in principle with the proposed rules’ objectives, but worries that like previous regulations from the CFPB, it will raise costs and decrease revenues for Kinecta. “We fear that we may be reaching the point at which the credit union can no longer provide short-term, small-dollar credit and still be seen as a responsible steward of our members’ capital,” he said.

On the financial technology, or fintech, side, the reaction was largely positive.

Ken Rees, CEO of online small-dollar lender Elevate in Fort Worth, Texas, said in a statement: “While parties on both sides of the issue will likely have concerns, 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.”

Many of the emerging online lenders say they have newer technology and automated systems that allow them to comply with rules faster and with lower costs than more traditional lenders that would likely have to build the

rules into their legacy systems.

“We build from the ground up” so “we have a streamlined system that is integrated and caters to the customer so we can respond to their needs,” said Sasha Orloff, the CEO and co-founder of LendUp, a startup small-dollar online lender in Silicon Valley. “While we know there are some in the industry who will characterize these changes as ‘the end’ of short-term lending, we believe it is disingenuous to say curbing predatory practices equates to restricting access to credit.”

The CFPB’s rule requires that lenders ensure the borrower has the ability to repay the loan without immediately needing another loan. But the rule also has different ways to test that ability to repay, depending on the type of loan as well as different caveats that allow certain loans leniency on the underwriting, or due diligence on the borrower. Those requirements and caveats also depend on whether the loan is longer or shorter than 45 days and whether it is less than \$500, which could make it harder for certain products to be offered, some lenders said.

“For the already highly regulated businesses that offer these consumers’ preferred credit option, particularly smaller lenders, they are a death sentence,” said Jamie Fulmer, senior vice president of Advance America, one of the largest U.S. payday lenders, in a statement. “The resulting rules will leave consumers with even fewer options to responsibly manage their finances, and will instead push them into the arms of unregulated lenders or more expensive options.”

The payday proposal, spanning more than 1,300 pages, is longer than [the 800-page mortgage rule](#) that Congress required the CFPB to release in 2013 in response to preventing another mortgage crisis.

Advance America estimates that it will take 5.4 work days (at 8 hours each) to read the entire rule, at a pace of 160 words a minute with no breaks.

Many traditional banks and storefront payday lenders agreed that they didn’t expect the rule to be as cumbersome and extensive as proposed, ultimately making it harder and too costly to continue offering certain small-dollar credit.

The CFPB’s proposal will make it hard for banks to meet the needs of the estimated 50 million consumers using small-dollar lending products each year, Virginia O’Neill, senior vice president of the center for regulatory compliance at the American Bankers Association, said in a statement. “While the bureau has frequently expressed interest in expanding banks’ trusted role in this market, the proposal fails to do so in a meaningful way and will significantly limit the availability of small-dollar credit.”

CFPB Director [Richard Cordray](#) said at the field hearing that his agency wasn’t trying to push small banks and credit unions further out of the small-dollar market.

“We do not intend to disrupt the basic underwriting approaches taken by many banks, credit unions, and traditional finance companies, as well as some newer entrants, which offer installment loans in ways designed to assure that consumers can afford to repay them,” Mr. Cordray said. “We believe these lenders will have little difficulty adhering to our proposed rule.”

Many consumer advocates and religious groups at the field hearing said the rule didn't go far enough because it had other options that allowed lenders to bypass the ability-to-repay test if it met other requirements.

"The CFPB must strengthen its proposal by eliminating exemptions from the ability to repay standard and by building upon our state protections," said Kerry Smith, staff attorney at the Community Legal Services of Philadelphia, who spoke on the CFPB's panel.

Striking the right balance of regulating payday loans without killing the product is a challenge for the CFPB given the political debate swirling around the issue.

Democratic presidential candidate [Hillary Clinton](#) said in an emailed statement Thursday morning: "The Consumer Financial Protection Bureau—a government watchdog dedicated solely to protecting working Americans from unfair and deceptive financial practices—is putting forward an important proposal to crack down on abusive payday lending, and I stand with them in that effort."

Later Thursday, Sen. Ted Cruz (R., Texas) tweeted that the CFPB "rule will kill jobs, close small businesses, & add strain on families/workers struggling to access loans."

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