NBA Nebraska Bankers Association

www.nebankers.org

Update COMPLIANCE

July 13, 2018 Vol. XXXV, No. 14

CORE LENDING PRINCIPLES FOR SHORT-TERM, SMALL-DOLLAR INSTALLMENT LENDING

I. INTRODUCTION

The Office of the Comptroller of the Currency (OCC) has encouraged banks to offer responsible short-term, small-dollar installment loans, typically two to 12 months in duration with equal amortizing payments, to help meet the credit needs of consumers. The bulletin reminds banks of the core lending principles for prudently managing the risks associated with offering short-term, small-dollar installment lending programs. Banks should develop and implement these programs in a manner consistent with sound risk management practices and should align the programs with the banks' overall business plans and strategies. Such strategies could include working with consumers who have an ability to repay a loan despite a credit profile that is outside of a bank's typical underwriting standards for credit scores and repayment ratios. In all programs, banks should offer lending products in a manner that ensures fair access to financial services and fair treatment of consumers and complies with applicable laws and regulations.

In October 2017, the OCC rescinded its guidance for deposit advance products. Continuing the guidance would have subjected banks to potentially inconsistent regulatory direction and undue burden as they prepared to comply with the Consumer Financial Protection Bureau's (CFPB) final rule titled "Payday, Vehicle Title, and Certain High-Cost Installment Loans" (Payday Rule). The Payday Rule's underwriting requirements, which have a compliance date in August 2019, generally apply to consumer loans with maturities shorter than 45 days or longer-term loans that involve balloon payments.

II. CORE LENDING PRINCIPLES

Banks already offer a variety of installment lending products with maturities greater than 45 days that do not include balloon payments. The OCC believes that banks can offer these loans safely, profitably, and with reasonable pricing and repayment terms. These loans generally are not covered by the Payday Rule's underwriting requirements.

The OCC has published three core lending principles that banks should consider when offering short-term, small-dollar installment lending products:

- All bank products should be consistent with safe and sound banking, treat customers fairly, and comply with applicable laws and regulations.

- Banks should effectively manage the risks associated with the products they offer, including credit, operational, compliance, and reputation.
- All credit products should be underwritten based on reasonable policies and practices, including guidelines governing the amounts borrowed, frequency of borrowing, and repayment requirements.

Reasonable policies and practices specific to short-term, small-dollar installment lending would generally include the following:

- Loan amounts and repayment terms that align with eligibility and underwriting criteria and that promote fair treatment and access of applicants. Product structures should support borrower affordability and successful repayment of principal and interest in a reasonable time frame.
- Loan pricing that complies with applicable state laws and reflects overall returns reasonably related to product risks and costs. The OCC views unfavorably an entity that partners with a bank with the sole goal of evading a lower interest rate established under the law of the entity's licensing state(s).
- Analysis that uses internal and external data sources, including deposit activity, to assess a consumer's creditworthiness and to effectively manage credit risk. Such analysis could facilitate sound underwriting for credit offered to consumers who have the ability to repay but who do not meet traditional standards.
- Marketing and customer disclosures that comply with consumer protection laws and regulations and provide information in a transparent, accurate, and customer-friendly manner.
- Loan servicing processes that assist customers, including distressed borrowers. To avoid continuous cycles of debt and costs disproportionate to the amounts borrowed, timely and reasonable workout strategies should be used.
- Timely reporting of a borrower's repayment activities to credit bureaus. Borrowers should have the ability to demonstrate positive credit behavior, build credit history or rebuild credit scores, and transition into additional mainstream financial products.