CARLTON FIELDS

CFPB Continues Scrutiny of Payday Loans in Recent Report and Proposed Rule

June 30, 2016

Online payday loans can result in an array of "steep, hidden costs" for borrowers, according to the latest payday loan report from the Consumer Financial Protection Bureau. The report precedes potential new regulatory scrutiny of payday lenders by the CFPB. A payday loan is a short-term loan typically due, at least initially, on the borrower's next payday. Using data from an 18-month period in 2011 and 2012 from 330 online payday lenders, the CFPB found that half of online borrowers are charged an average of $185 in bank-related penalties for failed debits when the lender attempts to collect payments from the borrower's account. More than one third of online borrowers who were hit with a bank penalty ended up losing their account, the report noted, with the closures usually occurring within 90 days of the first non-sufficient funds transaction. Lenders' repeated payment requests—often done electronically through the borrower's depository institution—typically failed to result in collection of payments from the borrower. When lenders made multiple payment requests on the same day, the payment requests typically all succeeded (76 percent) or all failed (21 percent), the report found. Only 3 percent of same-day payment requests resulted in at least one successful payment, suggesting that same-day payment requests rarely result in a successful second debit from the borrower's account and might often end with the borrower paying additional penalties when the account lacked sufficient funds. The payday lending report is the third from the CFPB since it began supervising payday lenders in January 2012. The report preceded the CFPB's June 2, 2016 announcement of a proposed new rule that would, among other things, make it an abusive and unfair practice to give a payday loan without first reasonably determining that the consumer will be able to repay the loan and still meet other financial obligations like basic living expenses. The proposed rule is sure to face legislatively scrutiny. The House Appropriations Committee recently adopted a bill and amendment designed to stop the CFPB from finalizing or enforcing the rule until the CFPB submits a consumer impact report.

Related Practices

Consumer Finance
Consumer Finance