OCC and FDIC Proposal Could Ban Banks from Making Payday Type Loans

May 1, 2013 - Last week we told you about a white paper issued by the CFPB on "deposit advance" loan products. These are loans that are almost identical to those made by payday lenders, and they produce huge returns for the banks and credit unions that issue them. This week, the Office of the Comptroller of the Currency (OCC) and the Federal Deposit Insurance Corporation (FDIC) have proposed new rules for banks that issue deposit advance loans. The net effect of the new rules would put a stop to the vast majority of deposit advance loans that banks would be allowed to issue.

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The proposed rules would require banks to have written policies for issuing deposit advance loans. And those policies would have to follow specific guidelines. Among them:

- Deposit advance loans could only be issued to clients who have maintained a regular deposit account with the lender for a minimum of six months;

- Borrowers could only receive one deposit advance loan in any two month period;

- The lender would have to take into account the borrower's ability to repay the loan in full, without any refinancing of the debt through another lender;

- Borrowers would have to be reevaluated for loan eligibility every six months.

These policies would make the qualification process for borrowers significantly more difficult than current standards. But one additional policy would place these loans out of reach for many of the borrowers who use them. Both the OCC and the FDIC want to include a policy that would forbid banks from making deposit advance loans to anyone with current delinquencies on their credit report.

Many borrowers are having credit and repayment issues when they use payday loan products the first time. Because of the high fees and interest rates associated with these product, those credit issues often get much worse, very quickly when borrowers find themselves unable to repay their last loan in full. The normal course of action for these borrowers is to refinance their last payday loan with a new payday loan. And this refinancing may also include new borrowing at the same time. The end result is an ever increasing spiral of debt that borrowers will never be able to climb out of. The annual interest rates on these loans - even from banks - normally exceed 350%.

The new proposed rules are an effort to strictly limit consumer exposure to this type of debt cycle.

byJim Malmberg
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