

State AGs submit comments to FDIC on small-dollar lending

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A group of 13 state attorneys general and the District of Columbia AG [have sent a letter](#) to the FDIC commenting on the agency's request for information on small-dollar lending. The RFI, [published in November 2018](#), seeks input on "steps the FDIC could take to encourage FDIC-supervised institutions to offer responsible, prudently underwritten small-dollar credit products that are economically viable and address the credit needs of bank customers."

In their letter, the AGs assert that "payday lenders are once again returning to 'rent-a-bank' schemes in order to evade state law." They recommend that "the FDIC discourage banks from entering into these relationships in any guidance it issues on small-dollar lending."

The AGs also recommend "that the FDIC discourage banks from extending small-dollar loans without considering the consumer's ability to repay" and "include in any guidance on small-dollar lending factors banks should consider in evaluating a consumer's ability to repay." The specific factors they urge the FDIC to identify are "a consumer's monthly expenses such as recurring debt obligations and necessary living expenses," "a consumer's ability to repay the entire balance of the proposed loan at the end of the term without re-borrowing," and the "consumer's ability to absorb an unanticipated financial event...and, nonetheless, still be able to meet the payments as they become due."

In May 2018, [the OCC issued a bulletin](#) intended to encourage its supervised institutions to offer small-dollar loans. With the comment period on the FDIC's RFI having ended on January 22, the FDIC could soon follow suit.

In October 2018, [the CFPB issued a statement](#) in which it stated that it expects to issue a proposed rule this month to revisit the ability-to-repay provisions of its final payday/vehicle title/ high-rate installment loan rule but not the rule's payments provisions. The Bureau also stated that its proposal would address the rule's August 19, 2019 compliance date. On January 14, *American Banker* [published an article](#) indicating that the Bureau was expected to issue its proposal "within days or weeks." According to the article, the Bureau has concluded that the best approach is to entirely remove the rule's ability-to-repay provisions.

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