

THE
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OCC Issues Statement in Support of Proposed Revisions to CFPB Payday Loan Rule

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Comptroller of the Currency Joseph Otting [issued a statement today](#) in support of [the CFPB's proposal](#) that would rescind in their entirety the ability-to-repay (ATR) provisions in its final payday/auto title/high-rate installment loan rule. (The CFPB has also proposed to delay the mandatory compliance date for the ATR provisions until November 19, 2020, but took no action to change the rule's payment provisions or the August 19, 2019 compliance date for the payment provisions.)

In his statement, Comptroller Otting calls the proposal “an important and courageous step that will allow banks and other responsible lenders to again help consumers meet their short-term small-dollar needs.” With regard to bank small-dollar loans, he observes that “[b]anks may not be able to serve all of this large market, but they can reach a significant portion of it and bring additional options and more competition to the marketplace while delivering safe, fair, and affordable products that promote the long-term financial goals of their customers.”

In May 2018, the OCC [issued a bulletin](#) encouraging the banks it supervises “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 was intended “to remind banks of the core lending principles for prudently managing the risks associated with offering short-term, small-dollar installment lending programs.”

When the OCC [withdrew its prior restrictive deposit advance product guidance](#) in October 2017, we commented that the OCC appeared to be inviting banks to consider offering the product. The bulletin appeared to confirm that the OCC intended to invite the financial institutions it supervises to offer similar products to credit-starved consumers. However, it suggested that such products should be even-payment amortizing loans with terms of at least two months. We observed that it might or might not have been a coincidence that the products the OCC described in the bulletin would not have been subject to the ATR requirements of the CFPB's payday loan rule (or potentially to any of the rule's requirements).

Assuming the ATR requirements are rescinded as proposed, we hope the OCC will provide additional guidance encouraging the banks it supervises to offer a wider range of small-dollar loan products. We are aware of at least one national bank and one state member bank that currently offer short-term deposit advances to their customers.

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