Payday lenders get thousands of borrowers to complain to government about rules meant to protect them

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WASHINGTON, D.C. -- Payday lenders, facing a clampdown by regulators who object to their high interest rates and practices that trap low-income consumers in debt, are fighting back by having borrowers write personal notes telling the government to back off.

"These loans are life savers!!" wrote Jennifer Sons of Chino Valley, Arizona, a payday loan customer whose handwritten note was forwarded to Washington by Cincinnati-based Axcess Financial. "Do not change anything please!"

"If I did not have the advantage of a payday loan, I wouldn't be able to pay for things like my medicine when I run out, especially since I get paid twice a month," wrote Kathy Walsh of Shellsburg, Iowa.

The notes and online comments have come in at such a volume that the federal government's regulatory website, Regulations.gov, lists them under a feature called "What's trending." As of Monday morning, there were more than 22,561 comments, with at least 830 written notes forwarded by Axcess, which operates Check 'n Go and Allied Cash Advance stores. About 800 more comments were submitted by customers of Nashville-based Advance Financial, some with such simple messages as "I have bills to pay." And, "Leave me alone."

A cleveland.com review of the correspondence shows the letters from borrowers who worry about credit drying up far outnumber notes and comment from the payday loan industry's critics. Those critics, primarily consumer watchdogs and groups that advocate for the working poor, say they worry the lenders are misleading their customers because, the watchdogs say, credit for most won't dry up. It'll just have to have more reasonable terms.

But the industry, which says the rule will shut down legitimate loan companies and deprive borrowers of credit and cash, is fighting back with its best weapon: the borrowers.

"This is just the tip of the iceberg," said Cullen Earnest, vice president of public policy for Advance Financial. By Oct. 7, the last day the federal Consumer Financial Protection Bureau will accept public comments before issuing a final payday loan rule, "there will be many, many more."

What this is about:

Under practices unregulated by Washington until now, payday lenders can make short-term loans to nearly anyone who has a job. If the borrower cannot pay his other bills because of the need to repay the lender with his next paycheck, he can take out a new loan.

But the pattern tends to repeat itself; more than 80 percent of payday loans were rolled over or re-borrowed, according to a federal government study that tracked loans over 10 months. The resulting annual interest rate from one loan rolling into the next can be massive.

A $300 payday loan in Ohio, for example, can wind up costing a borrower $680 in interest over five months -- with the annual percentage rate leapfrogging to 591 percent. States including Ohio have tried their own regulations but the industry restructured their products and litigated to get around state rules.

Payday lenders and the federal Consumer Financial Protection Bureau disagree on the need to reign in an industry accused of predatory practices.

The Consumer Financial Protection Bureau, authorized to act nationally under a law Congress passed in 2010, would require lenders to document the borrower's ability to repay the loans and make ends meet. The right to take out loan after loan would be capped if the pattern involved shifting an old balance to a new one while interest multiplied and the borrower was caught in a so-called debt trap.

The bureau, headed by former Ohio Attorney General Richard Cordray, issued the proposed rule June 2 and is expected to make it final by the end of the year.

Why lenders like the letters:

The very purpose of a public comment period is to let federal agencies hear from all sides before it finalizes a rule. Numerous public interest groups, particularly in the environmental movement, organize mass comment campaigns when new rules and regulations are considered. The volume of comments from one side or another should not necessarily sway agency regulators when they make final decisions.

In that regard, the payday lenders and their trade group, the Community Financial Services Association of America, are engaging in a time-honored practice. They are using the Internet, with a web page titled Credit Strengthens Communities that urges consumers to contact the consumer agency "and tell them: Don't take my credit away."

They're lobbying, with the industry group spending $608,000 in the first six months of 2016, records show.

But the letter-writing campaign is different. The writing begins when borrowers call or come to a payday loan store and are told their ability to get credit is being threatened. These are Americans who live paycheck to paycheck and even then need a loan. They seldom voice their concerns directly or send hand-written notes to Washington.

Too often their perspective is left out, said Jamie Fulmer, senior vice president of Advance America, a South Carolina-based lender with stores across the country. "We think it's critically important" that they're heard, he said.

Why watchdogs are concerned:

Consumer advocates say they worry borrowers are being misinformed by their lenders.

States such as Colorado have undertaken their own regulations and succeeded in keeping credit available, but without usury rates, says the Pew Charitable Trusts. The same $300 loan that costs an Ohioan $680 in interest in five months costs a Coloradan $182. But not every state has been as welcoming of regulation.

"The question here isn't whether there should be less credit," said Nick Bourke, project director in consumer finance at the Pew Charitable Trusts. "The question is whether there should be credit that is less costly and less harmful."

Whether coercion is involved:

There's nothing wrong with writing to the government, said David Rothstein, a former advocate for non-predatory resources at Neighborhood Housing Services of Greater Cleveland and now a principal at the Cities for Financial Empowerment Fund.

That is, "as long as the customers and clients know what they're writing about and what they're asking for," he said.

In this case, however, the payday lenders are "providing the pen and paper and, let's not forget, providing the cash for the loan." This suggests that the letter-writing involves an element of coercion or pressure, directly or implied. Rothstein called it "disingenuous" for the lenders to boast that the letters reflect the true opinions of the typical payday borrower.

Asked to respond, Earnest, from Advance Financial, called that assessment "ridiculous."

"These consumer advocates think that people are being forced into doing all these things," he said. "They think they are being forced to walk into the store."

They go to the payday loan store, he said, "because they've been turned down elsewhere" for loans "and have nowhere else to go." Now they're writing, he maintained, to preserve that right.