

FOR IMMEDIATE RELEASE
NR 2000-88

November 27, 2000

**Agencies Urge Banks and Thrifts to Evaluate Risks with Vendors
Engaged In Practices Viewed as Abusive To Consumers**

WASHINGTON--The Office of the Comptroller of the Currency (OCC) and Office of Thrift Supervision (OTS) today alerted national banks and federal thrifts that the agencies have significant safety and soundness, compliance and consumer protection concerns with banks and thrifts entering into contractual arrangements with vendors to fund so-called "title loans" and "payday loans."

The OCC and OTS each issued guidelines that reflect a consistent supervisory approach for addressing the risks associated with title lending and payday lending in national banks and federal thrifts.

The OCC and OTS guidance noted the agencies' intention to carefully examine payday and title lending activities, through direct examination of banks and thrifts, and, where applicable, review of any licensing proposals involving this activity. These examinations and reviews will focus not only on safety and soundness risks, but also on compliance with applicable consumer and fair lending.

"Title loans" are short term (typically 30 days or less), small denomination loans, made at extremely high interest rates (often 25% or more per month) and secured by liens on borrowers' titles to their automobile loans. "Payday loans" are typically short-term (until the borrower's next payday) loans with a fee financed into the loan.

"The OCC's and OTS's supervisory concerns are not limited to these particular products," said Comptroller John D. Hawke, Jr. and Director Ellen Seidman in a statement released with the supervisory guidance. "Title loans and payday loans are examples of types of products being developed by non-bank vendors who have targeted national banks and federal thrifts as delivery vehicles. These include check cashing services and 'secured' credit cards."

The OCC and OTS said they have learned that non-bank vendors seeking to avoid individual state laws are approaching federally-chartered banks and thrifts urging them to enter into agreements to fund payday and title loans.

Although title and payday lenders must disclose the annual percentage rate of interest, borrowers who are frequent users of these loans do not appear to be deterred by the fact the rates or fees can be exceedingly high. Financial pressures and the lack of other less costly credit alternatives, may

influence their decision to take out such loans. Because of these loans and borrower characteristics, the agencies have significant consumer protection concerns with title loans and payday lending.

The agencies noted that payday and similar short-term lending can meet a demand for short-term credit, but should be conducted only in a safe, sound and responsible manner, and with appropriate disclosures and other consumer protections. They also noted that they encourage the development of alternative and affordable forms of short-term credit.

However, they noted that they had particular concerns with the involvement of third party vendors in the promotion of payday and title loans.

“Many vendors of such products engage in practices that may be viewed as abusive to consumers,” said Mr. Hawke and Ms. Seidman. “We urge national banks and federal thrifts to think carefully about the risks involved in such relationships, which can pose not only safety and soundness threats, but also compliance and reputation risks.”

The two regulatory agencies said institution management should carefully weigh the possible ramifications of these types of lending and consult with their legal counsel and regulators before pursuing title or payday lending.

Depending on the nature of the agreement between an institution and a vendor, the appropriate supervisory agency may conduct an examination of the vendor and assess the bank or thrift the additional costs of conducting an examination or investigation of these title and payday loan activities.

The OCC also announced that, concurrent with its guidance on payday and title lending, the agency issued a proposal to amend its regulations to clarify that the OCC may assess a national bank a special examination or investigation fee when it examines the activities of a third party service provider. OTS already has such authority in its assessment regulations.

According to Mr. Hawke and Ms. Seidman, “vendors who have targeted national banks and federal thrifts as a means of marketing such products free from state and local consumer protection laws should not automatically assume that the benefits of the bank or thrift charter will accrue to them by virtue of such relationships, or that the OCC or OTS will defend their efforts to avoid state and local laws if challenges are raised.”

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- [Joint Statement](#)
- [Advisory Letter - "Payday Lending"](#)
- [Advisory Letter - "Title Loan Programs"](#)