

March 18, 2019

Director Kathleen Kraninger  
Consumer Financial Protection Bureau  
1700 G Street NW  
Washington, DC 20552

**Re: Comments on Proposal to Delay Compliance Date for Rule Governing Payday, Vehicle Title, and Certain High-Cost Installment Loans, Docket No. CFPB-2019-0007; Document No. 2019-01905**

Dear Director Kraninger,

The undersigned 130 consumer, civil and human rights, labor, and community organizations write in strong opposition to the Consumer Financial Protection Bureau's (CFPB or Bureau) proposal to delay the August 19, 2019 compliance date for the Mandatory Underwriting Provisions of the 2017 Final Rule governing Payday, Vehicle Title, and Certain High-Cost Installment Loans (2017 Final Rule or Rule).

The Bureau's proposal misguidedly downplays the harm to consumers of spending fifteen more months in the debt traps created by payday and vehicle title loans made without a determination of ability-to-repay. The Bureau correctly points out that its proposed delay will prolong consumers' exposure to the devastating effects of reborrowing and defaulting on these loans. But despite identifying these harms, the Bureau troublingly concludes that the financial benefit to industry participants in pushing back compliance with the 2017 Final Rule, and allowing their abusive practices to continue, outweighs the detriment to consumers.

The Bureau's proposal is especially concerning given that the 2017 Final Rule itself identified the harmful consequences associated with reborrowing or defaulting on covered loans made without an ability-to-repay determination or having to put off necessary expenses in order to pay an unaffordable loan made without such a determination. These include loss of a consumer's only reliable transportation to repossession, the inability to meet critical expenses like rent, utilities, or medicine as a result of unaffordable payments, and illegal and psychologically harmful debt-collection tactics.<sup>1</sup>

Despite being glossed over in the Bureau's current proposal, these problems are still as real and as harmful as they were when the 2017 Final Rule was promulgated—a fact that the Bureau has not disputed. Consumers cannot afford to wait fifteen more months for the relief provided by the Rule's Mandatory Underwriting Provisions. Much more is at stake than industry revenue, including consumer harms such as:

- **Foregoing basic living expenses.** One of the primary reasons for promulgating the 2017 Final Rule was to ensure consumers did not lose the ability to meet basic living expenses like rent, groceries, electricity, and health care as a result of using covered products that were offered without any determination of their ability to repay them.<sup>2</sup>

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<sup>1</sup> See Payday, Vehicle Title, and Certain High-Cost Installment Loans, 82 Fed. Reg. 54472, 54555 (Nov. 17, 2017).

<sup>2</sup> *Id.* at 54591 (“borrowers ... experience injury when covered short-term loans are made without making a reasonable assessment of their ability to repay and they are unable to cover the loan payment on top of major financial obligations

- **Vehicle repossession.** The CFPB’s own research has found that over one-third of vehicle-title loan borrowers secure loans with their household’s only working vehicle.<sup>3</sup> Repossession of a borrower’s sole means of reliable transportation, as the result of an unaffordable car title loan, adversely affects his or her ability to get to work or school, or perform day-to-day tasks like obtaining food, medicine, or other vital services.<sup>4</sup>
- **Aggressive debt collection.** The CFPB’s own enforcement and supervision efforts found that payday lenders engage in numerous illegal collection practices such as illegal calls, harassment at borrowers’ residences, and false threats of legal action.<sup>5</sup> Some borrowers are arrested and jailed.<sup>6</sup>
- **Health effects.** As the Bureau’s 2017 rule found, debt collection efforts and vehicle repossession that result from unaffordable payday and vehicle title loans can inflict significant psychological harm, including stress and anxiety. Delay of the rule will permit those harms to continue, as well as the consequences to physical health and well-being that are associated with emotional distress.
- **Reborrowing that costs billions of dollars.** The various fees associated with payday and vehicle-title loans cost consumers an estimated \$8 billion in fees annually.<sup>7</sup> Nationally, according to the CFPB’s own data, 75% of all payday loan fees are due to borrowers stuck in more than 10 loans a year.<sup>8</sup> Delaying the compliance date of the Bureau’s rule would lead consumers to pay to billions in fees on reborrowing unaffordable payday and vehicle-title loans across the proposed fifteen-month period. Indeed, CFPB found that 85% of payday loans are reborrowed within 30 days, suggesting the borrower did not have the ability to repay them.<sup>9</sup>

Accordingly, delaying the compliance date will undoubtedly result in countless borrowers suffering from an additional fifteen months’ worth of vehicle repossessions, an unending cycle of debt of unaffordable loans, aggressive debt collection efforts, and other harms. The irreparable injury posed

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and basic living expenses. These injuries include those associated with default, delinquency, and re-borrowing, as well as the negative collateral consequences of being forced to forgo major financial obligations or basic living expenses to cover the unaffordable loan payment.”)

<sup>3</sup> *Id.* at 54574.

<sup>4</sup> *Id.* at 54575.

<sup>5</sup> *Id.* at 54574.

<sup>6</sup> See Melanie Hicken, *In Texas, payday lenders are getting borrowers arrested*, CNN Money (Jan. 8, 2015), <https://money.cnn.com/2015/01/08/pf/payday-lenders-texas/> (“Texas Appleseed analyzed more than 1,500 criminal complaints filed by more than a dozen payday lenders between 2012 and mid-2014. Yet it says these are ‘just the tip of the iceberg’ since it only examined public records from eight of the state’s 254 counties.”); In addition, a recent report by the ACLU found that collection litigation related to payday and vehicle-title loans have led to borrowers’ arrest and imprisonment. AM. C.L. UNION, A POUND OF FLESH: THE CRIMINALIZATION OF PRIVATE DEBT, 33 (2018), [https://www.aclu.org/sites/default/files/field\\_document/022118-debtreport.pdf](https://www.aclu.org/sites/default/files/field_document/022118-debtreport.pdf). This “debt-to-jail pipeline” can result in long-term lost income, psychological trauma, and other harmful effects on consumers and their families. *Id.* at 19. In one case identified by the ACLU, a Missouri borrower was jailed for three days after failing to appear at a collection hearing on a \$425 payday loan. *Id.* at 55.

<sup>7</sup> DIANE STANDAERT AND DELVIN DAVIS, CENTER FOR RESPONSIBLE LENDING, PAYDAY AND CAR TITLE LENDERS DRAIN \$8 BILLION IN FEES EVERY YEAR, 1 (2016), [https://www.responsiblelending.org/sites/default/files/nodes/files/research-publication/crl\\_statebystate\\_fee\\_drain\\_may2016\\_0.pdf](https://www.responsiblelending.org/sites/default/files/nodes/files/research-publication/crl_statebystate_fee_drain_may2016_0.pdf).

<sup>8</sup> CFPB, PAYDAY LOANS AND DEPOSIT ADVANCE PRODUCTS, 22 (April 2013).

<sup>9</sup> CFPB, SUPPLEMENTAL FINDINGS ON PAYDAY, PAYDAY INSTALLMENT, AND VEHICLE TITLE LOANS, AND DEPOSIT ADVANCE PRODUCTS, 111 (June 2016).

to consumers by these disastrous consequences of lenders' failure to assess borrowers' ability to repay far outweighs any injury lenders will experience as a result of meeting the current compliance date.

The CFPB's claim that delay is needed because of state law changes is spurious at best. Vague allusions to implementation challenges do not justify delaying the compliance date. We expect that payday lenders will always seek delays in complying with consumer protection regulations, at the expense of vulnerable consumers, and CFPB's reliance on a handful of lenders' complaints is unwarranted.

The 2017 Final Rule is the product of years of research and ample public input. The agency has mountains of data showing the need to protect consumers from debt-trap lending practices. We urge you and your staff to focus on this information, about the impact of existing practices on consumers. The proposal to delay the August 19, 2019 compliance date sends a clear message to consumers: the CFPB would rather see ordinary Americans endure fifteen extra months in a debt trap than allow predatory lenders to lose a dime of revenue. The Bureau should not prioritize industry profits at the expense of the consumers it was created to protect. On behalf of consumers desperate for relief from the harmful effects of unaffordable payday and vehicle-title loans, the undersigned groups urge the CFPB to keep the August 19, 2019 compliance date in place.

Thank you for the opportunity to submit these comments.

Yours very truly,

Allied Progress

Americans for Financial Reform Education Fund

Arizona PIRG Education Fund

Arkansans Against Abusive Payday Lending

Arkansas Community Institute

Arkansas Community Organizations

Baptist Peace Fellowship of North America

The Bell Policy Center

Beneficial State Foundation

CAARMA Consumer Advocates Against Reverse Mortgage Abuse

California Asset Building Coalition

California League of United Latin American Citizens (LULAC)

California Reinvestment Coalition

California Resources and Training

CAMEO-California Association for Microenterprise Opportunity

The Capital Good Fund

CDFI Coalition

Center for Economic Integrity

Center for Responsible Lending

Children First/Communities in Schools of Buncombe County

Coalition on Homelessness & Housing in Ohio

Color of Change

Communications Workers of America (CWA)

Community Development Technologies Center (CDTech)

Community Development Venture Capital Association  
Community Economic Development Association of Michigan (CEDAM)  
Connecticut Association for Human Services  
Consumer Action  
Consumer Advocacy & Protection Society (CAPS)  
Consumer Federation of America  
Consumer Reports  
Consumers for Auto Reliability and Safety  
CoPIRG (Colorado Public Interest Research Group)  
Covenant Community  
Covenant House, WV  
Delaware Alliance for Community Advancement  
Delaware Community Reinvestment Action Council, Inc.  
Denver District AME Zion Church  
East LA Community Corporation  
Ecumenical Poverty Initiative  
Empire Justice Center  
Faith Action Network - WA state  
Faith in Action  
Financial Education Empowerment  
Financial Protection Law Center  
Florida Alliance for Consumer Protection  
Florida Council of Churches  
Florida Policy Institute  
Georgia Watch  
Green Forest CDC  
Habitat for Humanity  
Habitat for Humanity of NC  
Hacienda Community Development Corporation  
Heartland Alliance  
Housing and Economic Rights Advocates  
Human Rights Watch  
Insight Center for Community Economic Development  
The Interfaith Alliance of Colorado  
Interfaith Center on Corporate Responsibility  
Jacksonville Area Legal Aid, Inc.  
Jubilee San Diego  
Kentucky Equal Justice Center  
The Leadership Conference on Civil and Human Rights  
League of United Latin American Citizens, AZ District 1  
Legal Aid Service of Broward County  
Legal Aid Society of Milwaukee  
Legal Aid Society of Palm Beach County, Inc.  
Legal Aid Society of the Orange County Bar Association, Inc.  
Legal Services Advocacy Project  
Local Initiatives Support Corporation (LISC)  
Louisiana Budget Project  
Maine Center for Economic Policy

Maryland Consumers Right Coalition  
MASSPIRG  
The Middleburg Institute  
Mission Asset Fund (MAF)  
Mission Economic Development Agency (MEDA)  
Mississippi Center for Justice  
Missouri Faith Voices, a Faith in Action Federation  
Montana Organizing Project  
NAACP  
National Association of Consumer Advocates  
National Association of Social Workers West Virginia Chapter  
National Baptist Convention, USA Inc.  
National CAPACD  
National Community Reinvestment Coalition (NCRC)  
National Consumer Law Center (on behalf of its low income clients)  
National Consumers League  
National Fair Housing Alliance  
National Military Family Association  
National Rural Social Work Caucus  
Neighborhood Partnerships  
NeighborWorks Blackstone River Valley  
New Economics for Women  
New Hampshire Legal Aid  
New Hope Collaborative  
New Mexico Center on Law & Poverty  
North Carolina Coalition on Aging  
North Carolina Conference United Methodist Church  
North Carolina Council of Churches  
North Carolina Justice Center  
Ohio Council of Churches  
The One Less Foundation  
Opportunity Finance Network  
Oregon Food Bank  
Pisgah Legal Services  
Policy Matters Ohio  
Prosperity Now  
Public Justice Center  
Public Law Center  
Reinvestment Partners  
Renaissance Entrepreneurship Center  
Solid Ground  
Southern Poverty Law Center  
Statewide Poverty Action Network  
Tennessee Citizen Action  
Texas Appleseed  
Together Colorado  
Tzedek DC  
U.S. PIRG

UnidosUS (formerly National Council of La Raza)  
Urban Asset Builders, Inc.  
Ventures  
Virginia Citizens Consumer Council  
Virginia Poverty Law Center  
WashPIRG Foundation  
West Virginia Center on Budget and Policy  
Wildfire: Igniting Community Action to End Poverty in Arizona  
William E. Morris Institute for Justice  
Wisconsin Public Interest Research Group Foundation