

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.¹

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.²

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

² *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.³ 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.⁴
- **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.⁵ Some borrowers are arrested and jailed.⁶
- **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.⁷ 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.⁸ 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.⁹

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

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.”)

³ *Id.* at 54574.

⁴ *Id.* at 54575.

⁵ *Id.* at 54574.

⁶ 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. 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.

⁷ 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.

⁸ CFPB, PAYDAY LOANS AND DEPOSIT ADVANCE PRODUCTS, 22 (April 2013).

⁹ 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