



October 6, 2016
The Honorable Richard Cordray
Director
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552

Re: SEIU Florida comments on proposed rulemaking on payday, vehicle title, and certain high-cost installment loans

Docket number CFPB-2016-0025 or RIN 3170-AA40

Dear Director Cordray,

SEIU Florida files this comment in response to the CFPB's proposed rule on payday, vehicle title, and certain high cost installment loans. Thank you for the opportunity to submit comments. The rule is a critical first step in stopping the harms of unaffordable loans, but the rule must be strengthened to ensure it stops the debt trap once and for all

SEIU Florida is a statewide community union empowering working families to fight for economic and racial justice, immigration reform and healthcare for all. SEIU Florida represents over 55,000 active and retired healthcare professionals, public employees, and property service workers in the state of Florida. Our members provide vital public services in Florida's hospitals, nursing homes, public schools, community colleges, municipal and county governments, malls, and universities. With over 2.1 million members, SEIU is the fastest-growing union in North America.

Unfortunately, many of our members and their families struggle financially each month to pay for living necessities due to low wages, insufficient benefits and the lack of adequate consumer protections. We are especially concerned about predatory financial products, such as payday loans and title loans, that purport to help working families in times of emergency when their entire business model is deliberately designed to trap borrowers in a never ending cycle of debt. While the outrageously high annual interest rates and fees impact many of our members directly the payday loan and title loan business models impact entire communities as well by depleting resources and by discouraging more traditional lending institutions from offering small dollar, short term loans alternatives at reasonable rates. Predatory lending hurts workers who are already suffering from low wages by providing a false solution to emergency financial needs that ultimately ends up harming workers, family stability, and the credit of borrowers, further limiting their financial options.

In Florida, the debt trap payday loans cause is currently unchecked. On a \$300, two-week payday loan, payday lenders typically charge 304%.¹ Annually, these high cost lenders drain \$311,046,128 in payday

¹ Center for Responsible Lending, Map of U.S. Payday Loan Interest Rates, 2016,
<http://www.responsiblelending.org/research-publication/map-us-payday-interest-rates>

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Monica Russo
PRESIDENT

Martha Baker, RN
VICE PRESIDENT

Helene O'Brien
SECRETARY

Alphonso Mayfield
TREASURER

Alyssa Cundari Roelans
EXECUTIVE BOARD MEMBER

Jennifer Lamont
EXECUTIVE BOARD MEMBER

Cloreta Morgan
EXECUTIVE BOARD MEMBER

Theo Webster
EXECUTIVE BOARD MEMBER



fees, a significant loss both to borrowers and to the overall state economy.² Furthermore, a large proportion of borrowers are continuously mired in the debt trap, as 92% are reborrowed within 60 days of repayment of the previous loan.³ This is particularly detrimental to Florida's 1,538,636 veterans and communities of color, populations which the payday loan industry targets and exploits. Payday lenders' ability to seize money directly out of borrowers' bank accounts means that people are left with little choice but to reborrow becoming more deeply mired in a cycle of debt. The CFPB's rule would help these borrowers by beginning to rein in predatory lending practices.

The core principle of the CFPB's proposal is the right approach – requiring lenders to ensure that a loan is affordable without having to re-borrow or default on other expenses. This is critically important to stopping the harms of this predatory business model, and we strongly support this approach. This basic principle though must be applied to every loan – with no exceptions and no room for future evasion. As currently written, the proposed rule contains dangerous loopholes that significantly undermine this standard. For example, the proposal could allow six, 300% APR payday loans a year to be made without any ability to repay standard. This is 6 unaffordable loans too many. In addition, the rule exempts longer-term payday loans with high origination fees from its proposed ability to repay test. These loopholes must be closed.

We are also concerned that the proposed rule does not go far enough to prevent the flipping of borrowers from one unaffordable loan to the next. The CFPB should do more to ensure that short-term debt doesn't become unaffordable long-term debt. It should ensure a 60-day cooling off period, rather than just 30 days as proposed, between each short-term loan. It should also ensure that short-term loan indebtedness doesn't exceed a total of 90 days every 12 months, consistent with FDIC 2005 guidelines for its banks. In addition, it is critically important to strengthen the protections against repeat refinancing of longer-term loans. If lenders can repeatedly flip borrowers from one long-term loan into another, debt will continue to pile up and borrowers will once again be stuck in a debt trap.

Finally, the rule must be strengthened to ensure that people have enough money to live on after paying back the loan. Right now, the proposal falls short in this regard and may allow lenders to simply continue "business as usual." Time and time again, SEIU Florida hears about families who have gone hungry, gone without medicine or paid hundreds in overdraft fees after a loan payment was taken out of their account. Lenders should be required to use an objective measure for projecting a borrower's basic living expenses and avoid over-reliance on back-end measures like default and reborrowing rates. Even low default rates are not sufficient evidence of ability to repay, given the lender's ability to coerce repayment through control over the borrower's bank account. At the same time, the Bureau should take care not to sanction

² Center for Responsible Lending, "Payday and Car Title Lenders Drain \$8 Billion in Fees Every Year", 2016, <http://www.responsiblelending.org/research-publication/payday-and-car-title-lenders-drain-8-billion-fees-every-year>

³ Table 21, page 108, CFPB Supplemental findings on payday, payday installment, and vehicle title loans, and deposit advance products, http://files.consumerfinance.gov/f/documents/Supplemental_Report_060116.pdf

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industry-wide high rates of defaults and reborrowing by comparing one payday lender's rates only to other payday lenders' rates.

We are thankful that one loophole has already been closed – an exemption from the proposed ability to repay test, included in the Bureau's preliminary outline, if loan payments are less than 5% of a borrower's income. Examining income only is not enough to determine if a loan is affordable. We call on the CFPB to close the remaining loopholes and issue the strongest rule possible to stop the harmful debt trap of unaffordable payday loans.

In Florida, we will need the new rule to aid our current law because it does not stop payday loan debt. Data shows that over 80% of payday loans go to borrowers with 7 or more loans a year, typically taken in rapid succession. The CFPB rules must be strong, without loopholes, to ensure that loans are affordable in light of a borrower's income and expenses. The CFPB must enact a strong rule that ensures payday lenders cannot continue their "business as usual" debt trap lending.

Thank you for this opportunity to comment. For further clarification on these comments, please contact Marcus Dixon at Marcus.Dixon@seiufil.org or 305-720-1627.

Sincerely,

SEIU Florida

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