DOLORES HUERTA FOUNDATION

October 5, 2016
Hon. Richard Cordray
Director
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552

Re: Dolores Huerta Foundation 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,

Dolores Huerta Foundation 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.

The Dolores Huerta Foundation is a non-profit grassroots community organization that empowers low income families to solve their community issues. We work on health, education, youth, LGBT organizing and civic education and participation. We are located in the Central Valley of California and our residents are composed of many immigrant and farmworker families.

Because of the poverty that these families find themselves, they are easy prey for the Pay Day lenders. Many of them have incomes that range from $15,000 to$20,000 a year. Unemployment is also double digits in many of our farm worker communities. These families need the protection of the federal law.

It has been difficult to pass legislation in our California legislature to provide more protection for these hard working families because of the wealthy influential lobbyists that promote Pay Day loans as a bail out when we know these loans are actually an entrapment.

Our organization holds monthly meetings with residents in all of the areas that we organize to inform residents of the dangers of Pay Day loans. We also conduct financial literacy classes and work with our local Self-Help Credit Union to inform our residents of the dangers of these predator loans.

I have personal knowledge of individuals who were in the Pay Day loan trap and had to borrow from friends and family to try to get out of their debt. Some came close to divorce when their spouses found out they had such huge debt. The negative impact on their families was huge. The personal guilt and humiliation was devastating for them.

Yesenia's story demonstrates the harm predatory lending can cause. Yesenia's mother had breast cancer, so she became her family's sole provider. After falling behind on bills, she took out a payday loan. The lenders assured her that they would not withdraw money from her bank account. However, after Yesenia defaulted on the loan,

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they withdrew the account's entire contents, sending her into overdraft. Ultimately, it cost Yesenia over $1,400 to borrow $510. She had to turn to charities to pay her family's bills.[1]

In California, the debt trap caused by payday and car title loans cause is left unchecked. On a $300, two-week payday loan, payday lenders typically charge 460% APR.[2] Annually, these high cost lenders drain $507,873,939 in payday fees and $239,339,250 in car title fees, a significant loss both to borrowers and to the overall state economy.[3] Furthermore, a large proportion of borrowers are continuously mired in the debt trap, as 67% of loans are re-borrowed on the same day that a previous loan is repaid, and 90% are re-borrowed within 60 days of repayment of the previous loan.[4] This is particularly detrimental to California's 1,840,366 veterans and its communities of color, populations which the payday and car title loan industries target and exploit. Payday lenders' ability to seize money directly out of borrowers' bank accounts and car title lenders' ability to threaten repossession of a borrower's car means that people are left with little choice but to re-borrow becoming more deeply mired in a cycle of debt. In California, payday and car title lenders have been migrating to make abusive high-cost longer-term loans over $2,500, structured with terms last many months and no limit on interest rates.[5] 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, 400% 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

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[1] Stop the Debt Trap, "Borrower Story Videos", 2016, http://stopthedebttrap.org/about/borrower-story-videos/
[2] Center for Responsible Lending, Map of U.S. Payday Loan Interest Rates, 2016, http://www.responsiblelending.org/research-publication/map-us-payday-interest-rates
[3] 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
[4] 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
[5] Center for Responsible Lending, "Predatory Payday and Larger Installment Loans Overshadow Emerging Market for Smaller, Less Expensive Installment Loans in California," December 2015, http://www.responsiblelending.org/sites/default/files/nodes/files/research-publication/crl_california_payday_dec2015.pdf

usual." Time and time again we hear 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 re-borrowing 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 or car. At the same time, the CFPB should take care not to sanction industry-wide high rates of defaults and re-borrowing 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.

For the CFPB rule to bring the vicious cycle borrowers like Yesenia face to an end, we in California will need the harms of short-term balloon payment loans to be stopped. In addition, the CFPB must strengthen its proposals for long-term payday and car title loans to prevent the harms resulting from loans larger than $2,500 and with unlimited interest rates.

Thank you for this opportunity to comment. For further clarification on these comments, please contact

Dolores Huerta, President or Camila Chavez, Executive Director

Sincerely,

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