September 29, 2016

The Honorable Richard Cordray

Director

Consumer Financial Protection Bureau

1700 G Street NW

Washington, DC 20552

Re: Oregon Food Bank 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,

Oregon Food Bank 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.

Oregon Food Bank’s mission is to eliminate hunger and its root causes ...*because no one should be hungry.*We collect and distribute food through a network of four Oregon Food Bank branches and 17 independent regional food banks serving Oregon and Clark County, Washington.   
  
Alongside approximately 970 partner agencies, we help nearly one in five households fend off hunger. We work to address the root causes of hunger by offering nutrition education, strengthening local food systems, collaborating with community groups, and advocating hunger relief at the local, state, and federal level.

Hunger and food insecurity affect far too many Americans. More than 42.3 million Americans lived in households that were struggling against hunger in 2015, according to USDA’s Economic Research Service.

In Oregon, 1 in 5 of our friends and neighbors rely on SNAP to help have enough nutritious food to be healthy and successful. Additionally, 270,000 Oregonians per month eat meals from food boxes. That's equal to half of Portland's population—the largest city in the state. Of those, 92,000 are children. Since the beginning of the Great Recession in 2008, food box distribution has increased 41 percent.

We are proud of our work in 2007, with then House Speaker Jeff Merkley, to help pass state legislation that dramatically reduced the negative impact of harmful payday lending practices. But even with a 36 percent cap on interest rates in Oregon, because it is not “all-inclusive,” after accounting for fees, borrowers typically pay an astonishing 154 APR on short-term loans.[[1]](#footnote-1) Last year, payday and car-title loan fees alone drained $16.5 million out of Oregon economics. That’s nearly our annual operating budget to distribute food across the state!

Our surveys of people who receive food assistance consistently show that household debt is a prominent factor in their need for assistance. In particular, we recently got a sense of how widespread the impact is of payday and car-title loans. At just one of our 970 partner agencies, for five weeks we asked people if they had been negatively impacted by these loans. In just that short time, 25 people said they had been negatively impacted—at a single partner agency.

In Oregon, even with our protections, the debt trap payday and car title loans cause is currently still causing harms. Annually, these high cost lenders drain $6,581,203 in payday fees and $10,106,902 in car title fees, a significant loss both to borrowers and to the overall state economy.[[2]](#footnote-2) This is particularly detrimental to Oregon's 313,261 veterans and its communities of color, populations which the payday and car title lenders 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 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.

Maryann's story demonstrates the harm predatory lending can cause. Unable to afford a pair of desperately needed orthopedic shoes with her monthly Social Security check, Maryann turned to a payday lender. However, her $150 loan quickly spiraled into $1,900 in debt.[[3]](#footnote-3) And we hear stories like those of John, whose $400 loan quickly escalated to a $2,300 pay back. And Lara, whose $800 loan turned into a debt of more than $4,000.

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 154 percent APR payday loans a year to be made without any ability to repay standard. This is six 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.” 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 or car. At the same time, the Bureau should take care not to sanction 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 percent 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.

Oregon's laws have cut into the worst elements of payday and car title lending, due largely to Oregon’s curbs against reborrowing. To fully bring the vicious cycle borrowers like Maryann face to an end, the CFPB must go further to enact strong rules, 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 and car title 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 Jeff Kleen at (971) 313-8305 or [jkleen@oregonfoodbank.org](mailto:jkleen@oregonfoodbank.org).

Sincerely,

Oregon Food Bank

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 [↑](#footnote-ref-1)
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> [↑](#footnote-ref-2)
3. The Oregonian, "Consumer watchdog must crack down on payday lending", 2015, http://www.oregonlive.com/opinion/index.ssf/2015/03/congress\_must\_crack\_down\_on\_pa.html [↑](#footnote-ref-3)