SEIU Healthcare Illinois Indiana
United for Quality Care

Illinois
2229 S. Halsted
Chicago, IL 60608
Phone: 312.980.9000
Fax: 312.939.8256

Indiana
1800 N. Meridian Street
Suite 305
Indianapolis, IN 46202
Phone: 317.927.9701

Missouri
5585 Pershing Avenue
St. Louis, MO 63112
Phone: 314.533.3633

www.seiuhealthcareilin.org

September 14th, 2016
The Honorable Richard Cordray
Director
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552

Re: SEIU Healthcare Illinois Indiana 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 Healthcare Illinois Indiana 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.

We are a union of healthcare, home care, and child care workers that represents more than 91,000 workers across Illinois, Indiana, and Missouri. These workers provide vital care to our states' children, seniors, patients and people with disabilities, and we are committed to quality care and making these quality jobs for home care, hospital, nursing home and child care workers. Our members are predominantly women and people of color, and many hover near the poverty line. Our members often have to choose between paying for their medicine or for their groceries. And because of their vulnerable economic situations, they are especially susceptible to payday loans and other

In Illinois, the debt trap payday and car title loans cause is currently left largely unchecked. On a $300, two-week payday loan, payday lenders typically charge 404%.[1] Annually, these high cost lenders drain $270,204,194 in payday fees and $233,259,868 in car title fees, a significant loss both to borrowers and to the overall state economy.[2] This is particularly detrimental to Illinois' 699,522 veterans and 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 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.

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[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

[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

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Candice Byrd's story demonstrates the harm predatory lending can cause. Candice Byrd borrowed $500 to cover a car payment. The lender soon misleadingly suggested that it help her to roll it over into a new loan. This trapped Candice. For two years, she borrowed again and again to cover the carrying costs on her debt. She lost her car and her apartment and had to ultimately, ruining her credit.[3] In addition, Illinois is very aware of the harms of long-term payday and car title loans that carry these high costs, and with terms lasting for months or year, leading to harms of repeat reborrowing and defaults. For example, title loans in Illinois now have an average term of 18.6 months with principal amounts of $1,089 and average fees of over $3,000.[4]

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 usual." Time and time again, SEIU Healthcare Illinois Indiana 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

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[3] Cowley, Stacy. "Payday Loans' Debt Spiral to Be Curtailed." *The New York Times*. The New York Times, 01 June 2016. Web. 05 July 2016.

[4] Illinois Asset Building Group and Woodstock Institute, "No Right Turn: Illinois Auto Title Industry and Its Impact on Consumers," 2015, http://illinoisassetbuilding.org/title.lending.Illinois.report

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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% 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 Candice face to an end, we, in Illinois, will need a strong rule, without loopholes, to ensure that payday and car-title loans, especially when made as longer-term loans over 45 days, 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 Erica Bland at erica.bland@seiuhcil.org or (312) 980-9017

Sincerely,

SEIU Healthcare Illinois Indiana