

September 8, 2016
The Honorable Richard Cordray
Director, Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552

Re: T-CAPP 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,

Tuscaloosa Citizens Against Predatory Practices (T-CAPP) is a collection of community groups, churches, and individuals working in coalition to fight against the high-cost consumer credit products that, although legal in Alabama, exploit borrowers during their time of need. In particular, we have focused on reform of the high-cost payday and auto title lending practices that trap consumers in cycles of unaffordable debt. As you are well aware, in Alabama, payday loans charge 456 percent interest (APR), while auto title loans charge up to 300 percent and carry the risk of vehicle repossession.

T-CAPP sprang from the church and society committee of a local church in Tuscaloosa, which is the fifth largest city in Alabama. By word of mouth, it grew into a larger committee, ultimately deciding to have a rally about high-cost lending in Alabama. When over 250 people attended the rally, we knew that we had touched a nerve. A state Senator attended our rally and pledged to carry our message to the state legislature, where industry lobbyists are extremely powerful. However, it has become clear to us that people in Tuscaloosa are extremely concerned about what is happening to the poor in our state. Since 2014, we have picketed, written op-eds and letters to the editor, obtained proclamations from our local civic leaders, and have corresponded with state legislators about our concerns regarding payday and auto title lending.

Payday lending is a particular menace in Tuscaloosa, where a recent search of the Banking Department's website revealed that we have nearly 20 payday licensees currently operating in Tuscaloosa. Along with a high number of auto title pawn lenders and other high-cost installment lenders, this suggests a large problem in a city our size, stripping wealth out of our community and preying on our most vulnerable citizens. The lenders are bad for the borrowers, and bad for economic development.

We were excited when proposed new federal rules were announced, particularly because federal action would represent a way to solve this problem in light of the state legislature's inability to act. For the past several years, we have attempted to achieve policy reform in Montgomery, but have been unable to overcome the well-financed lobbying efforts of the high-cost lending industry. Despite T-CAPP's grassroots efforts, direct actions and well-attended rallies, the lending industry has been able to maintain the status quo. Although many Tuscaloosa-area legislators have heard our message, and understand the urgency of reform, key committee members and legislative leadership have blocked even the most reasonable attempts to compromise.

The proposed federal rules are an opportunity to go around the deadlock at the state level, much like federal action in the civil rights era was an important way to circumvent state inaction on segregation, voting rights, and other forms of discrimination. T-CAPP will continue to push municipalities and state

lawmakers to achieve reform, and we will continue to work with the Alliance for Responsible Lending in Alabama (ARLA), but we expect substantive change from the CFPB rules.

The proposed rules are a critical step in stopping the harms of unaffordable loans, but must be strengthened to ensure a permanent end to the debt trap of small-dollar, high-cost consumer loans.

At T-CAPP we were pleased to see that the rule includes an “ability to repay” standard, which begins to address one of our main criticisms of payday and auto title lending – a lack of underwriting. Considering the borrower’s income and expenses is one of the most important characteristics of responsible lending practices.

Unfortunately, this “ability to repay” standard does not apply to all loans, and allows six traditional payday loans without any kind of underwriting. This is six loans too many, and the CFPB should act promptly to eliminate the six-loan exemption for lenders. The “ability to repay” standard should apply to all covered loans with no loopholes.

Worse, there are no teeth to this “ability to repay” standard. The CFPB should require a specific test that lenders must conduct in order to substantively investigate whether the loan is affordable or not. The lender should be forced to insure that the borrower has enough money to live on after the loan is repaid, and they should be forced to make a real and meaningful examination of the borrower’s living expenses. Simply requiring the lender to look at default, delinquency and re-borrowing rates is not enough, especially because lenders can currently simply rip the funds out of the borrowers’ bank accounts. It’s impossible to tell if a loan is affordable if simply looking at whether they are paid back in a timely manner – especially if the lender is already holding all of the advantages. Examination of living expenses may be difficult, but is critical.

The cooling off period is also a good idea, but must likewise be strengthened. The period should be lengthened to 60 days in order to give borrowers a chance to recover from their high-cost loan experience, and to prevent the practice of “flipping” the loan, refinancing the customer on a constant basis. Two months ought to give the borrower time to get their finances back in order before needing another high-cost loan product.

The CFPB also needs to ensure that title lending comes to an end in Alabama. We have heard far too many stories about borrowers who can’t get to work or the grocery store, or even seek medical care due to repossession of the family’s only vehicle due to a title pawn transaction. Auto title lending isn’t even specifically authorized by a statute in Alabama, and relies on a court decision that holds it to be governed by our state’s Pawnshop Act. It’s critical to apply the rules to all loans where the car title is taken by a lender, closing the exemption for longer-term loans and applying the rule no matter when the security is taken.

Weaknesses in the CFPB’s proposed rule, along with exemptions presumably negotiated by the lending industry will allow lenders to continue business as usual in Alabama and could cause additional harm to consumers by implicitly issuing a federal endorsement of dangerous debt trap practices. State lawmakers have resisted our calls for reform by saying, “Let’s wait to see what the feds do.” We cannot have their delay be answered with weak reform.

We urge the CFPB to add product safety standards to the entire proposal, such as limiting installment payments to 5 percent of a borrower's paycheck, requiring that lenders give borrowers between 46 days and six months to repay their loans, and prohibiting fully-earned origination fees. Simple and clear limits like these would better protect consumers, enable access to lower-cost credit, and save millions of borrowers billions of dollars.

We will continue to agitate for reform from our state Senators and Representatives, along with our municipal leaders. But federal rules must conclusively send a message that usury and high-cost lending are unacceptable in Alabama.

Thank you for this opportunity to comment. We appreciate the work that you have done so far to protect consumers and hope that this rule will become as strong as possible in order to truly end the debt trap. For further clarification on these comments, please contact Beebe McKinley at 4307 Pelham Heights Road, Tuscaloosa, AL, 35404, or at bbmckinley@att.net.

Sincerely,

Tuscaloosa Citizens Against Predatory Practices (T-CAPP)