

September 14, 2016

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

Re: IK Synod CORE Team 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,

The CORE Team of the Indiana/Kentucky Synod ELCA files this comment in response to the CFPB's proposed rule on payday, vehicle title, and certain high cost installment loans. We 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 truly stops the enslaving debt trap once and for all.

The CORE Team created by Bishop Bill Gafkjen is charged with expanding the precepts of community organizing and justice ministry within the Indiana/Kentucky Synod of the ELCA. "It is incumbent upon the Indiana-Kentucky Synod to make its corporate voice heard whenever there is a clear injustice on its synodical territory that is threatening the well-being of individuals and families." Research demonstrating the depth of harm caused by the payday lending industry, it was selected as a case study to demonstrate the types of justice issues within the synod.

One story shared with a team member, C. Ingram from Indianapolis, Indiana: "I didn't want to keep asking family for help; thought this was a way I could take care of things myself. But I was wrong. I didn't have the money to pay the loan people back from my next check, but they cashed the one I left with them, then I had to take another loan because that made me not have enough again and it just kept going. I had to get help from my family anyway and I'm not done."

In Indiana, the state legislature is not interested in pursuing the economic crisis of payday loan debt traps. Yet, on a \$300, two-week payday loan, payday lenders typically charge 382%.¹ Annually, these high cost lenders drain \$70,632,672 in payday fees, a significant loss both to

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>

borrowers and to the overall state economy.² Furthermore, a large proportion of borrowers are continuously mired in the debt trap, as 60% of loans are rolled over or re-borrowed on the same day that a previous loan is repaid, and 86% are re-borrowed within 60 days of repayment of the previous loan.³ This is particularly detrimental to Indiana's 441,925 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 re-borrow, becoming more deeply mired in a cycle of debt. The CFPB's rule would help these borrowers by beginning to rein in the worst of these predatory lending practices.

CFPB's core principle in the 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 6 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.

Of further concern is that the proposed rule does not go far enough to prevent the re-signing of borrowers from one unaffordable loan to the next. We need the CFPB to do more to ensure that what is billed as problem-solving 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 cover some of the loopholes created by the banking industry deregulation and 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 permanently disabling debt trap.

Lastly, we want to see the rule bolstered to ensure that potential borrowers 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, the CORE Team 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. These 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

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

Bureau should take care not to sanction industry-wide high rates of defaults and re-borrowing by simply 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. However, examining income alone 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.

Indiana's law is not sufficient to protect against the harms of unaffordable payday loans. 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 Rev. Ron Luckey, jimedal47@gmail.com; or Rev. Cynthia Geisen, matterofcat@hotmail.com.

Sincerely,

The CORE Team of the Indiana/Kentucky Synod, ELCA