

August 3, 2018

Mr. Gerard Poliquin
Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314-3428

Re: Payday Alternative Loans, Proposed Rule, 12 CFR Part 701, RIN 3133-AE84

Dear Secretary Poliquin:

The 100+ undersigned community, consumer, civil rights, faith, and legal services groups submit these comments in response to the National Credit Union Administration (NCUA or the Board)'s proposal to expand its payday alternative loan program.

We urge NCUA to make no changes to the payday alternative loan (PAL) program that would increase the likelihood that credit union members end up in cycles of high-cost, short-term loans that resemble payday loan debt. Most critically, we strongly oppose permitting more than six application fees in twelve months as proposed for PAL II. We also oppose permitting 28% interest on loans as large as \$2,000, dropping the minimum loan size, and proposing a PAL III program that would permit even more expensive or larger loans or weaker underwriting. Finally, we urge NCUA to address abusive overdraft fee programs, which lessen the incentive for credit unions to offer more affordable small loan products.

We share NCUA's concern that payday loans often trap borrowers in a cycle of debt, leaving them unable to "break free."¹ At the same time, we underscore that many credit unions serve small dollar loan needs with a range of existing affordable products outside of PAL programs—small dollar loans within the current 18% interest cap, overdraft lines of credit, other lines of credit, signature installment loans, and credit cards—as well as free financial counseling and savings plans to help members back on their feet. These products are lower cost than PAL loans and have the advantage over PAL of not being structured like payday loans carrying a significant upfront fee per loan. We urge NCUA to continue to encourage these types of products rather than expanding permitted application fees under PAL or PAL II or proposing a PAL III.

The number of permitted application fees should be limited, and by no means increased.

Since inception, PAL has permitted three loans, each with an application fee of up to \$20, every six months. Some undersigned groups have opposed permitting these six fees annually because it creates an incentive to offer shorter-term loans with a fee-per-loan model that resembles payday loans and can lead to a similar cycle of debt. Thus, tighter restrictions on application fees under PAL would be appropriate.

The current proposal, however, moves in the opposite direction, proposing that application fees be unlimited under PAL II because "[t]he Board believes this will better enable [federal credit unions] to meet the demands of those borrowers who take out very small loans, repay them rapidly, and need

¹ 83 Fed. Reg. 25585.

additional loans within a six-month period.”² PAL I already allows members to reborrow twice more in a six-month period; encouraging even more rapid reborrowing seems to be exactly the scenario that PAL I’s limit of three loans per six months aims to prevent. Allowing a fee each time also multiplies the cost.

Consider, for example, a one-month \$200 loan with two semi-monthly payments, with a \$20 application fee, at 28% interest. This loan is already permitted under PAL I and carries an effective APR of 180%. Under the new rules, this loan could be flipped every month for twelve months—effectively \$200 of credit, flipped 12 times, at an annual cost of \$240 in fees, plus 28% interest. With the proposed elimination of the minimum loan amount, the same loan flipping and multiplying fees could be done with a \$100 loan, at an effective APR of 345%.³ This is a cycle of debt at an extraordinarily high cost. It should not be expected to help an already financially distressed consumer. Thus, we oppose any loosening of the limit of three fees per six months, and we oppose eliminating the minimum loan size.

We oppose expanding the interest rate exemption to loans up to \$2,000.

While our greatest concern with PAL II as proposed is the unlimited number of application fees, we are also concerned about erosion of the federal credit union interest rate cap, currently 18%, by permitting loans up to \$2,000 at 28%. This is a high rate for a large loan. A larger, longer-term loan provides greater opportunity for revenue, so the exemption from the rate cap should not be necessary, yet it threatens an already slippery slope. In addition, the proposed minimum loan term on a \$2,000 loan is only one month, facilitating unaffordable large loans that could be flipped indefinitely with additional fees.⁴

We oppose proposing a PAL III, and particularly higher costs and weaker underwriting.

We strongly oppose proposing a PAL III, and in particular:

- Raising fees or rates would invite a race to the bottom among all lenders. Nonbanks will use the change to justify the loosening of state lending laws, leading to more predatory lending, not less.
- Underwriting should be based on ability to pay, considering both income and expenses—and especially for higher cost products targeted at financially distressed consumers struggling to make ends meet.
- We oppose larger maximum loan sizes, permitting more than one kind of PAL loan at a time to a borrower, and permitting overdraft fees to be charged in connection with any PAL.

Address abusive overdraft fees, which undermine responsible loans and leave consumers vulnerable.

Overdraft fees strip billions of dollars annually from struggling consumers, leaving them more vulnerable to predatory promises of “short-term” loans and generally financially worse off. Thus, any credit union program aiming to provide responsible credit options en route to financial stability will be far less effective when paired with a high-cost overdraft program. We urge NCUA to address high-cost overdraft programs by advising that credit unions not charge overdraft fees on debit card point-of-sale and ATM transactions, which can easily be declined for no fee when the account lacks sufficient funds; make any overdraft fees reasonable and proportional to cost; and limit overdraft fees to one per month and six per year. These changes would go a long way toward making members less vulnerable to payday loans and other predatory products.

² 83 Fed. Reg. 25585.

³ PAL II loans, if repayable in 45 days or less and exceeding three fees in six months, would be covered by CFPB’s final payday loan rule, which would not permit repeat loans to this degree. CFPB has stated that it is reconsidering that rule.

⁴ *Id.*

We thank NCUA for considering our comments.

National groups

Allied Progress
Americans for Financial Reform
Center for Financial Social Work
Center for Global Policy Solutions
Center for Responsible Lending
Congregation of Our Lady of the Good Shepherd, US Provinces
Consumer Action
Consumers Union, advocacy division of Consumer Reports
Main Street Alliance
NAACP
National Advocacy Center of the Sisters of the Good Shepherd
National Association of Consumer Advocates
National Consumer Law Center (on behalf of its low income clients)
National Federation of Community Development Credit Unions
National Rural Social Work Caucus
People Demanding Action
UnidosUS (formerly NCLR)
U.S. PIRG

State & local groups

Action NC (NC)
Affordable Homeownership Foundation Inc. (FL)
Arkansans Against Abusive Payday Lending (AR)
Arkansas Community Institute (AR)
Arkansas Community Organizations (AR)
BCMw Community Services (IL)
CAFE Montgomery MD (MD)
Caldwell County Habitat for Humanity (NC)
California Asset Building Coalition (CA)
California League of United Latin American Citizens (CA)
CASH Campaign of Maryland (MD)
Center for Economic Integrity (AZ)
CNAHS (MA)
Connecticut Legal Services, Inc. (CT)
Consumers for Auto Reliability and Safety (CA)
Cooperative Baptist Fellowship of Florida (FL)
Cultivate Abundance, Inc. (FL)
CWA Local 1081 (NJ)
Delaware Community Reinvestment Action Council, Inc. (DE)
East LA Community Corporation (CA)
Emmaus Campus Ministry, ELCA (MT)
Empower Missouri (MO)
Exodus Lending (MN)
Financial Pathways of the Piedmont (NC)
Florida Alliance for Consumer Protection (FL)

Florida Alliance for Retired Americans (FL)
Florida Consumer Action Network (FL)
Florida Council of Churches (FL)
Genesee Co-op FCU (NY)
Georgia Watch (GA)
The Greenlining Institute (CA)
Habitat for Humanity of Catawba Valley (NC)
Habitat for Humanity of Cleveland County (NC)
Habitat for Humanity of Forsyth County (NC)
Habitat for Humanity of North Carolina (NC)
Heartland Alliance for Human Needs & Human Rights (IL)
Hispanic Baptist Convention of Texas (TX)
Home Sweet Home Community REDEVELOPMENT Corporation (TX)
Housing and Economic Rights Advocates (HERA) (CA)
Housing Equality Law Project (HELP) (CA)
IDA and Asset Building Collaborative of North Carolina (NC)
Innovative Changes (OR)
The Interfaith Alliance of Colorado (CO)
Kentucky Equal Justice Center (KY)
Madison-area Urban Ministry (WI)
Maryland Consumer Rights Coalition (MD)
Montana Organizing Project (MT)
National Association of Social Workers West Virginia Chapter (WV)
NC Justice Center (NC)
NC State AFL-CIO (NC)
NC United Methodist Conference (NC)
New Economics for Women (CA)
New Economy Project (NY)
New Jersey Citizen Action (NJ)
New Jersey Tenants Organization (NJ)
New Ventures Maine (ME)
NM Fair Lending Coalition (NM)
North Carolina A. Philip Randolph Educational Fund (NC)
North Carolina A. Philip Randolph Institute (NC)
North Carolina Assets Alliance (NC)
North Carolina Council of Churches (NC)
THE ONE LESS FOUNDATION (PA and CO)
Orrville Area United Way (OH)
Partners In Community Building, Inc. (IL)
PathWays PA (PA)
Pennsylvania Council of Churches (PA)
Pisgah Legal Services (NC)
Prince George's CASH Campaign (MD)
Public Justice Center (MD)
Public Law Center (CA)
Reinvestment Partners (NC)
SC Appleseed Legal Justice Center (SC)
South Carolina Christian Action Council (SC)

Tennessee Citizen Action (TN)

Texas Appleseed (TX)

Texas Christian Community Development Network (TX)

Tzedek DC (DC)

Ventura County Community Development Corporation (CA)

Virginia Citizens Consumer Council (VA)

VOICE - OKC (OK)

West Virginia Center on Budget and Policy (WV)

Wisconsin Public Interest Research Group (WI)

Women's Foundation of Montana of the Montana Community Foundation (MT)

Woodstock Institute (IL)

WV Citizen Action Group (WV)