JSRI
JESUIT SOCIAL RESEARCH INSTITUTE
LOYOLA UNIVERSITY NEW ORLEANS
RESEARCH ▪ EDUCATION ▪ ADVOCACY

September 30, 2016
The Honorable Richard Cordray
Director
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552

Re: Jesuit Social Research Institute 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 Jesuit Social Research Institute (JSRI) 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.

JSRI works to transform the Gulf South through action research, analysis, education, and advocacy on the core issues of poverty, race, and migration. The Institute is a collaboration of Loyola University New Orleans and the Society of Jesus rooted in the *faith that does justice*. Our organization has worked for nearly a decade to stop the debt trap caused by predatory lending because it exploits those in need, and our Catholic tradition warns against such modern day usury. Scripture warns strongly against abusive lending to those in desperate circumstances, saying “If you lend money to my people, to the poor among you, you shall not deal with them as a creditor, you shall not exact interest from them” (*Exodus* 22:25) and “Do not rob the poor because he is poor” (*Proverbs* 22:22). Our U.S. Catholic bishops have also expressed to Congress the need to protect low-income families from extremely onerous interest rates and fees as in payday loans.

In Louisiana, the debt trap caused by payday and car title loans goes unchecked. On a $300, two-week payday loan, payday lenders typically charge 391%. According to the Center for Responsible Lending, these high cost lenders drain over $145 million in payday loan fees and over $95 million in car title loan fees annually, a significant loss both to borrowers and to the overall state economy. Furthermore, CFPB data reveal that a large proportion of borrowers are continuously mired in the debt trap, as 79% of loans are re-borrowed on the same day that a previous loan is repaid, and 92% are re-borrowed within 60 days of repayment of the previous loan. This is particularly detrimental to the more than 200,000 veterans in Louisiana and its communities of color, populations that 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 mean 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 predatory lending practices.

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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 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 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 Bureau should take care not to sanction industry-wide high rates of defaults and re-borrowing 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.

Louisiana law does not stop the debt trap of unaffordable payday and car title loans. For the vicious cycle borrowers' face to be brought to an end, the CFPB rules must be strong, 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 me directly at (504) 864-7747 or fkammer@loyno.edu.

Sincerely,

Fr. Fred Kammer, SJ, JD

Executive Director, Jesuit Social Research Institute
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