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October 7, 2016

Monica Jackson
Office of the Executive Secretary
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552

Re: Consumer Financial Protection Bureau, 12 CFR Part 1041, Payday, Vehicle Title, and Certain High-Cost Installment Loans [Docket No. CFPB-2016-0025] RIN 3170-AA40

Dear Ms. Jackson:

AARP¹ appreciates the opportunity to comment on proposed rules for payday, vehicle title, and certain high-cost installment loans. Payday and vehicle title lending are part of the alternative financial services industry that targets vulnerable borrowers who do not have access to traditional sources of credit. Most payday and vehicle title loan borrowers are low-income individuals. Payday lenders target people of all ages: approximately 26% of payday loan borrowers are ages 50+ and of those, 6% are ages 65+.² Eight percent of payday borrowers are retired. Payday and vehicle title loan borrowers often cannot repay their debt in one installment, thus leading borrowers to take out recurring loans at exorbitant interest rates that push them deeper into debt. AARP thanks the Consumer Financial Protection Bureau for taking steps to protect consumers from these harmful loans and lending practices and the debt trap that they create. We are pleased to offer comments on several aspects of the proposed rules.

¹ AARP, with its nearly 38 million members in all 50 States and the District of Columbia, Puerto Rico, and U.S. Virgin Islands, is a nonpartisan, nonprofit, nationwide organization that helps people turn their goals and dreams into real possibilities, strengthens communities, and fights for the issues that matter most to families such as healthcare, employment and income security, retirement planning, affordable utilities, and protection from financial abuse.

² The Pew Charitable Trusts, *Payday Lending in America: Who Borrows, Where They Borrow, And Why*, July 2012.

Coordination with State Law and Local Ordinances

The CFPB should ensure that terminology used in state and local laws is explicitly encompassed in the definitions and terminology of the proposed rules. Texas, Ohio and other states have payday and auto-title lending models where the service provider/storefront (called a credit services organization or credit access business in state law) is a separate entity from the actual “lender,” which is a bank. It is important to ensure that the proposed rules apply to these entities, even in states where third party models have been created to evade state usury laws.

Terminology used in local ordinances should also be encompassed by the proposed rules to the extent possible. For example, in Texas, thirty-five cities have passed ordinances to address the cycle of debt. Sixteen cities have passed zoning ordinances to limit the clustering of these storefronts in city neighborhoods. It is important that these local laws work in conjunction with the proposed rule since it provides a floor from which local and state entities can expand. To accomplish this, the CFPB should ensure that the definitions encompassing a “loan sequence” explicitly include the terms “rollover,” “refinance,” and “renewal.” Otherwise, there could be confusion over the terms— confusion that businesses could seek to exploit, even though they refer to the same things. In addition, the term “payment” should include the word “installment” in the definition to avoid any confusion on the applicability of the protections in the city ordinances and the way those protections interact with the new rule.

Ability to Repay (Short-term Loans of < 45 days)

AARP supports the proposal to require that consumers have the ability to repay the loan based on a review of their income and expenses. Lenders must verify income, major financial obligations, and check borrowing history. Lenders would then make a reasonable determination that a borrower has the capacity to repay the loan.

However, we oppose the proposed exemption to ability-to-repay requirement for certain short-term loans with a \$500 maximum amount. As proposed, the alternative short-term loan proposal could lead to excessive costs for consumers and essentially preserves the ability of lenders to make unaffordable single payment payday loans.

AARP supports the limitation on repeat borrowing (churning). Payday loans often lead borrowers into a recurring cycle of debt. Limits on repeat borrowing will address this problem, though we ask the CFPB to consider increasing the mandatory cooling off period beyond 30 days following repayment of a short-term loan.

Auto Title Lending

AARP supports the proposal to prohibit holding of car titles for short-term loans with a \$500 maximum amount. The CFPB found that one in 5 borrowers lose their car in these loan transactions.

Longer-term Ability to Repay Loans (> 45 days)

AARP supports the requirement that lenders must assess a borrowers' ability to repay longer-term loans. Protections against repeat borrowing should be strengthened. There are no limits on the duration, cost or size of long-term loans in the proposal. The payday loan market has migrated to longer-term installment loans in many states. Increasing the length of the loan term is a popular tactic to cloak unaffordability. The proposed rule would allow multi-year amortizing loans with abusively high interest rates.

Disclosures

AARP supports the requirement that lenders be required to provide disclosures at loan origination. Lenders should provide prospective borrowers with a notice in advance of the transaction and provide a final opportunity to review and confirm the loan terms. At the end of the transaction, a copy of all agreed to documents and terms and conditions should be transmitted via email to a borrower who completes an online loan, and via paper for borrowers who complete a transaction in a storefront location. If the borrower has access to a smartphone, computer or tablet, then they should have the option to opt-in to receive electronic disclosures. Electronic disclosures should be machine readable (to ensure access of people with disabilities) and retainable, i.e., able to be printed, saved, or emailed.

We believe that in addition to disclosure in English, lenders should be required to provide disclosures in a language other than English if the loan was marketed in a language other than English. Borrowers who request disclosures in a language other than English should be accommodated when loans are marketed in English.

Repeated Withdrawal Attempts

AARP supports the limitations on a lender's ability to repeatedly attempt to withdraw payments from a consumer's bank account and requiring lenders to notify consumers before attempting to withdraw payments. The CFPB found that lenders often attempt to obtain payments more than once in a given day, triggering repeated overdraft charges. Notification to consumers in advance would curtail this practice.

Borrow History Checks

AARP supports requiring lenders to check borrowing histories and loan information with respect to covered loans. This requirement would ensure that lenders have comprehensive information about a consumer's current and recent borrowing history with other lenders. This would help prevent lenders from circumventing the repeat borrowing limitations for covered loans.

Recordkeeping

AARP supports requiring lenders to keep certain records on their loans. By requiring lenders to keep loan records, it will help foster compliance with the new regulations.

Conclusion

AARP appreciates the opportunity to comment on proposals to better protect consumers from abusive loan products and predatory lending practices of nonbank entities, as provided in the Dodd-Frank Wall Street Reform and Consumer Protection Act. We look forward to working with the Bureau as you continue to strengthen protections for all consumers.

If you have any questions, please contact Cristina Martin-Firvida in our Government Affairs Department at 202-434-6194.

Sincerely,

A handwritten signature in black ink, appearing to read "David Certner", with a long horizontal flourish extending to the right.

David Certner
Legislative Counsel and Legislative Policy Director
Government Affairs