October 7, 2016

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

Re:  Payday, Vehicle Title, and Certain High-Cost Installment Loans
Docket No. CFPB-2016-0025
RIN 3170-AA40

Dear Ms. Jackson:

The Joint Religious Legislative Coalition (JRLC) submits the following comments on the proposed consumer protection regulations on consumer loans, to be codified as 12 CFR 1041.

Background

The Joint Religious Legislative Coalition is made up of Minnesotans from many faith traditions. Our sponsors are the Minnesota Council of Churches, the Minnesota Catholic Conference, the Jewish Community Relations Council of Minnesota and the Dakotas and the Islamic Center of Minnesota. 48% of Minnesotans identify themselves as having a religious faith that is connected to the JRLC – approximately 2.4 million people.

All of our faith traditions warn of the dangers of predatory lending and of the need to protect the poor and vulnerable. The term usury may be used in a legal sense - exceeding the maximum interest rate allowable by law. Or it can be used in a moral sense – taking advantage of others’ desperation. If laws and rules fail to address exploitive and abusive lending practices, loans that are technically legal are often morally usurious and predatory.

Usury laws echo the sacred texts and the wisdom of the Abrahamic faith traditions. The Bible declares, “If you lend money to one of my people among you who is needy, do not treat it like a business deal; charge no interest.” Exodus 22:25. The Qur’an also takes a principled stand against predatory lending, stating that charging interest is sinful according to Allah, as it is the responsibility of financial professionals to help people get out of debt as soon as possible, rather than deepening and profiting from their debt. Surah 2:275-281. The Catholic Church teaches that “usury is a scourge that is also a
reality in our time and that has a stranglehold on many people’s lives. Although the quest for equitable profit is acceptable in economic and financial activity, recourse to usury is to be morally condemned.” Compendium of the Social Doctrine of the Church, paragraph 341.

Our congregations and members see the devastating impact of certain payday lending practices in our places of worship and in our communities. The current law fosters harmful serial borrowing and creates a cycle of debt that drains assets from people who are already financially vulnerable. This cycle needs to stop.

The Proposed CFPB Rules

The proposed rules create numerous protections for economically vulnerable consumers and are a significant step in addressing the dangers of payday lending. The CFPB appropriately found that it is an abusive practice to lend money to borrowers who do not have the ability to repay. This abuse, coupled with others, traps many borrowers in a cycle of debt. Most report that they did not understand the real terms and costs of the loans when they borrowed the funds.

The JRLC strongly supports regulation of these practices and commends the Bureau for its work. In particular, the provisions requiring vendors to verify that a loan is affordable to the borrower will make a real and meaningful change in the lives of consumers. However, other provisions of the proposed rule undermine this requirement – specifically, the requirement that six payday loans can be issued before an assessment of whether a consumer can afford a loan and the numerous gaps in assessing whether a consumer truly has the reasonable ability to pay.

We urge adoption of a final rule providing consumer protections from this devastating practice and make recommendations for changes to the proposed rules to address the realities faced by economically vulnerable consumers.

Recommendations for the Final Rules

Based on our experiences working with struggling and financially vulnerable Minnesotans, the Joint Religious Legislative Coalition makes the following recommendations for changes in the final rule.

1. Obligation to make affordable loans.

The proposed rule allows a lender to make up to six payday loans (“step-down” loans) before it is required to make an affordable loan. This creates a huge exception to the protections being created. The inevitable consequence of issuing unaffordable loans is clear – the trapping of consumers in a downward spiral of debt. The final rule should
eliminate the exemption for these short-term loans and require that ALL loans be affordable.

2. Reasonable ability to pay.

The final rules should make it an unfair and abusive practice for a lender to make a covered loan unless it can establish the borrower realistically has the ability to repay the loan and fees while meeting basic living expenses and existing major financial obligations. Although the proposed rules move toward this goal, several changes would make the requirements far more effective.

- The rules should set out a specific measure to be used when determining a consumer’s basic living expenses. The proposed language, allowing a lender to use “any method that reliably predicts basic living expenses,” makes the reasonably ability to pay requirement a subjective assessment, rather than an objective measure. Further, allowing the lender – who makes significant profit from loans that cannot be repaid – to determine how to assess ability to repay invites abuse.

- When determining reasonable ability to pay, “major financial obligations” are considered. These include expenses like housing and child support. However, other fixed, recurring expenses also should be considered when assessing major financial obligations. The rules should be revised to include alimony payments, childcare commitments and health insurance premiums. These expenses are major financial obligations for borrowers and directly impact whether a borrower can afford to repay a loan.

3. Presumption of Unaffordability

The proposed rules should be amended to provide that any existing delinquency on a current loan, regardless of length, triggers a presumption of unaffordability for any additional loans.

4. Repeated Debit Attempts

The proposed rules allow a lender to continue to attempt to withdraw funds from a consumer’s account (three attempts) after being informed there are insufficient funds. This practice creates significant banking fees for consumers whose accounts are at or near a zero balance. The rules should be amended to require lenders to obtain written authorization for each debit attempt after the initial attempt to obtain payment.
5. Conditional Exception for Covered Longer-Term Loans

Under the proposed rules, when making a longer term loan (up to six months in duration), a lender must check for outstanding loans from that lender or an affiliate. The final rule should require providers to check for outstanding loans from all lenders, not simply the lender considering making an additional loan. Assessment of a consumer’s ability to repay a loan requires consideration of all outstanding loans, not simply those by this single lender.

6. Consumer Protections

- Significant numbers of borrowers are not native English speakers. In order to assure consumers understand the terms and conditions of any transaction, all notices and disclosures should be required to be in the language in which the loan transaction was negotiated. This will prevent situations in which a transaction is discussed in broad terms in the consumer’s native language, but the actual terms are provided in English, preventing the borrower from reviewing and understanding the terms and conditions of the transaction.
- The true costs of loans should be provided to potential borrowers, including the upfront costs as well as a clear statement of fees and penalties. Ideally, these would be translated into a standardized APR, allowing meaningful assessment of the transaction.
- Finally, the rules should expressly recognize that individual state laws may provide stronger protections for consumers. The CFPB states in its supporting narrative that the rule will be a floor for consumer protection, allowing states to adopt interest rate caps or other protections. This should be expressly stated in the final rule.

The Joint Religious Legislative Coalition urges the Consumer Financial Protection Bureau to adopt the proposed rules with the changes noted above. The rules will mark a significant step toward protecting economically vulnerable Americans.

Respectfully submitted,

Anne F. Krisnik
Executive Director
Joint Religious Legislative Coalition