Kathleen L. Kraninger, Director
The Bureau of Consumer Financial Protection
1700 G Street NW,
Washington, DC 20552

RE: CFPB Docket No. CFPB-2019-0006 – Comments in Response to Proposed Rulemaking: Rescinding Provisions Regulating Payday, Vehicle Title, and Certain High-Cost Installment Loans Mandatory Underwriting Requirements

Dear Director Kraninger,

On behalf of the Hispanic Bar Association of the District of Columbia (HBA-DC), we write in response to the Consumer Financial Protection Bureau's (CFPB's) Notice of Proposed Rulemaking (NPRM) rescinding the 2017 Final Rule requiring payday loan companies and similar businesses to make an ability-to-repay determination with respect to a borrower's ability to repay a loan. HBA-DC urges immediate withdrawal of this NPRM because it seeks to repeal important safeguards for consumers of payday, vehicle title, and other high-cost installment loans. The ability-to-repay underwriting requirements that the Bureau adopted for these products in 2017 sought to curb some of the worst abuses in these industries, and sought to end the cycle of debt that plagues so many consumers, including Hispanics and other communities of color.[1]

Founded in 1977, HBA-DC is a non-profit organization dedicated to the professional development of its membership and to supporting the Hispanic community in the Washington, DC area. HBA-DC is committed to educating the Hispanic community about relevant legal issues. Our members, like all Hispanic borrowers, deserve access to small dollar loans that help build wealth and credit, rather than trapping them in debt cycles, and voters largely agree on these protections.

Requiring payday loan companies to determine a borrower's ability to repay the loan is a common sense rule that would have the biggest negative impact on the worst actors in the lending industry. The 2017 Rule simply imposed a number of *reasonable* underwriting requirements on lenders that make high-cost, often exploitative, consumer loans to ensure that borrowers have an ability to repay their loans,[2] as well as prohibiting abusive repeated withdrawals in seeking repayment and requiring disclosures related to payment transfer attempts.[3]

The 2017 Final Rule was the result of a 5-year rigorous and comprehensive research and engagement process intended to protect consumers, where the CFPB provided over 1,500 pages of documented support that detailed the harms consumers regularly face in the short-term payday and high interest lending industry.[4] The CFPB's rulemaking records included CFPB reports detailing that this type of lending was highly dependent on re-borrowing and brought significant

---

[1] See Payday, Vehicle Title, and Certain High-Cost Installment Loans, 82 Fed. Reg. 54472 (Nov. 17, 2017) ("2017 Rule").
[2] 12 C.F.R. §§ 1041.4 - .6, .10 - .11, .12(b)(1) - (3).
[3] 12 C.F.R. §§ 1041.7 - .9, .12(b)(4) - (5).
[4] 2017 Rule, 82 Fed. Reg. at 54,507-08

harms to lower-income consumers that included loss of transportation and access to banking systems due to high rates of default and aggressive debt collection efforts.[5]

Indeed, the reports found that if these short-term, payday loans were made only to consumers who had the ability to repay in a single installment—without the need to reborrow—lenders would not make more than 90 percent of these loans.[6] Before the 2017 Final Rule was in place, the CFPB found that nearly 1 in 4 payday loans are re-borrowed nine times or more, costing borrowers expensive finance charges on top of the original loan amount.[7] The analysis further showed that profit motive was likely the reason payday lenders were making loans without factoring in the borrower's ability to pay back the loan. In fact, the national average annual percentage rate (APR) of interest associated with a payday loan, stands at nearly 400%, which is more than 20 times the average credit card APR rate.[8] These interest rates and expensive finance charges were a windfall for payday lenders at the expense of vulnerable borrowers. Rescinding the 2017 Final Rule will just re-expose vulnerable Hispanic borrowers to these same predatory practices.

What is more, payday lenders are more commonly found in regions with higher scores on the social vulnerability index, or communities with significant stressors. This is why payday lenders are more prevalent in low-income communities of color where poverty is concentrated and financial literacy is low.[9] One study found a positive correlation between the number of payday lending stores in a given geography and the poverty rate, whereas areas with higher incomes benefited from a negative correlation.[10] According to a report by the Pew Charitable Trusts, 12 percent of African-Americans and 6 percent of Latinos have used a payday loan, when compared to 4 percent of Whites.[11] Inevitably, if the 2017 Final Rule is rescinded, Hispanic and other vulnerable people within some of these communities will have a higher chance of being trapped in a cycle of debt.

Hispanic borrowers and other vulnerable populations deserve to have access to small dollar loans that are affordable, while simultaneously helping them build credit and wealth opportunities. The 2017 Final Rule keeps good actors in the market, ensuring that a fair and more equitable loan

---

[5] Astrada, Scott and Yana Miles, *Payday Lending Rule: Myths and Facts*, Center for Responsible Lending, (April 2018), https://www.responsiblelending.org/sites/default/files/nodes/files/research-publication/crl-payday-cra-mythsapr2018_0.pdf; Press Release, CFPB, CFPB Finalizes Rule to Stop Payday Debt Traps (Oct. 5, 2017), https://www.consumerfinance.gov/about-us/newsroom/cfpb-finalizes-rule-stop-payday-debt-traps/.

[6] Consumer Financial Protection Bureau, Notice of Proposed Rulemaking*, Payday, Vehicle Title, and Certain High-Cost Installment Loans*, 84 Fed. Reg. 4252, (proposed Feb. 14, 2019), https://www.federalregister.gov/documents/2019/02/14/2019-01906/payday-vehicle-title-and-certain-high-cost-installment-loans.

[7] Consumer Financial Protection Bureau, *CFPB Finalizes Rules to Stop Payday Debt Traps*, (Oct. 5, 2017), https://www.consumerfinance.gov/about-us/newsroom/cfpb-finalizes-rule-stop-payday-debt-traps/.

[8] Leonhardt, Megan, *Trump Administration Rolls Back Payday Loan Protections, Which Could Affect Millions of Young People*, CNBC, (Feb. 6, 2019), https://www.cnbc.com/2019/02/06/trump-administration-rolls-back-payday-loan-protections.html.

[9] Frankel, Lindsay, *Who Do Payday Loans Target and Why?,* opploans, (Dec. 4, 2018), https://www.opploans.com/payday-news/who-do-payday-loans-target-and-why/.

[10] *Id.*

[11] The Pew Charitable Trusts, *Payday Lending in America: Who Borrows, Where They Borrow, and Why*, (July 2012), https://www.pewtrusts.org/~/media/legacy/uploadedfiles/pcs_assets/2012/pewpaydaylendingreportpdf.pdf.

marketplace for consumers exists. Polls show that Hispanic voters overwhelmingly support protecting consumers as well. A 2017 poll by UnidosUS showed that approximately four in five Hispanic voters believe that financial companies like payday lenders would be more likely to take advantage of consumers if fewer rules existed, and that financial companies should be held accountable with tougher consumer protections in place.[12] Notably, a 2018 poll conducted by Americans for Financial Reform and the Center for Responsible Lending showed that an overwhelming majority of Americans across the political spectrum support regulating payday lenders to protect consumer welfare.[13]

The 2017 Final Rule was a well-reasoned, painstakingly researched, and measured approach to regulating payday and vehicle title loans. The Bureau's current proposal, by contrast, undercuts protections that consumers need and want from exploitative lending practices. For the reasons included here, HBA-DC strongly opposes this proposed reopening of the 2017 Final Rule and urges you to immediately withdraw this NPRM.

Please do not hesitate to reach out to me at president@hbadc.org if you have any questions with respect to this comment. Thank you for your attention to this issue.

Sincerely,

Leila J. Levi
President
Hispanic Bar Association of DC

---

[12] UnidosUS, *Poll: Latinos Overwhelmingly Support Protecting Consumers*, (2017), https://www.unidosus.org/issues/economy/articles/poll-consumer-protections-financial-reform-060617.

[13] Americans for Financial Reform, *AFR/CRL Poll Shows Wide Discontent with Mulvaney Path at CFPB*, (July 31, 2018), https://ourfinancialsecurity.org/2018/07/afrcrl-poll-new-survey-reveals-discontent-with-mulvaney-path-at-cfpb/.