

MEMORANDUM

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CFR Sections Affected: 12 CFR 1041
Docket No.: CFPB-2016-0025 RIN: 3170-AA40

DATE OF EX PARTE COMMUNICATION: March 9, 2017

SUBJECT: Meeting with Americans for Financial Reform (AFR) “Stop the Debt Trap” coalition to discuss the Notice of Proposed Rulemaking on Payday, Vehicle, Title, and Certain High-Cost Installment Loans

PARTICIPANTS: Jose Alcott, Americans for Financial Reform
Lisa Donner, Americans for Financial Reform
Gynnie Robnett, Americans for Financial Reform
Joe Valenti, Center for American Progress
Mike Calhoun, Center for Responsible Lending
Diane Standaert, Center for Responsible Lending
Michael Best, Consumer Federation of America
Stephen Reeves, Cooperative Baptist Fellowship
Emmanuel Nieves, Corporation for Enterprise Development
Rob Randhava, The Leadership Conference on Civil and Human Rights
Rev. Dr. Cassandra Gould, Missouri Faith Voices
Lauren Saunders, National Consumer Law Center
Lindsay Daniels, National Council of La Raza
Katie Boswell, People’s Action Institute
Ed Mierzwinski, U.S. Public Interest Research Group (U.S. PIRG)

CFPB Staff: Director Richard Cordray
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David Silberman
Michael Silver
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Katherine Welbeck

* Did not attend March 9 meeting; recipient of attached March 13 email only

MEMO PREPARED BY: Brenda Muñiz, Community Affairs, CFPB

On March 9, 2017, CFPB staff identified above met with representatives from Americans for Financial Reform; Center for American Progress; Center for Responsible Lending; Consumer Federation of America; Cooperative Baptist Fellowship; Corporation for Enterprise Development; The Leadership Conference on Civil and Human Rights; Missouri Faith Voices; National Consumer Law Center; National Council of La Raza; People's Action Institute; and U.S. PIRG to discuss the Bureau's Notice of Proposed Rulemaking on Payday, Vehicle, Title, and Certain High-Cost Installment Loans. A summary of the meeting and a follow-up email communication are attached.

ATTACHMENTS:

Readout of meeting with AFR "Stop the Debt Trap" coalition regarding proposed payday rule, March 9, 2017.

Follow-up email from Lauren Saunders, NCLC, regarding longer-term loans, March 13, 2017.

**Readout of Meeting with AFR “Stop the Debt Trap” Coalition re: Proposed Payday Rule
One Constitution Square, 12th Floor, Conference Room 1201
Thursday, March 9, 2017, 3:00 PM -4:00 PM**

External participants: Lisa Donner, José Alcoff, Gynnie Robnett (Americans for Financial Reform); Joe Valenti (Center for American Progress); Mike Calhoun, Courtney Robinson, Diane Standhaert (Center for Responsible Lending); Michael Best (Consumer Federation of America); Stephen Reeves (Cooperative Baptist Fellowship); Emmanuel Nieves (Corporation for Enterprise Development); Rev. Dr. Cassandra Gould (Missouri Faith Voices); Lindsay Daniels (National Council of La Raza); Katie Boswell (People’s Action Institute); Rob Randhava (The Leadership Conference on Civil and Human Rights); Ed Mierzwinski (U.S. PIRG)

CFPB staff participants: Front Office: Director Cordray; External Affairs: Zixta Martinez; Office of Community Affairs: Keo Chea, Brenda Muniz, Alicia Criado, Katherine Welbeck; Research, Markets, and Regulations: David Silberman, Eleanor Blume, Mark Morelli, Michael Silver, Laura Udis; Enforcement: Greg Nodler and Karen Meyers

Top Takeaways: *Director Cordray, Community Affairs, Regulations, Markets, and Enforcement met with AFR to provide an overview of their coalition’s state-level work to address problems in the small dollar lending market.*

- Americans for Financial Reform (AFR) called predatory lending a “systematic abuse of vulnerable people’s vulnerabilities.”
- Missouri Faith Voices said that they continue to hear stories daily about people affected by small dollar lending.
- Several advocates spoke of their efforts to support a robust rule:
 - People’s Action is collecting borrower stories and supporting advocacy efforts among its 56 affiliates in 30 states.
 - NCLR affiliates will be in DC in late March speaking in favor of the Bureau’s efforts to reform the payday market.
 - The Bureau’s proposal will be an agenda topic at Consumer Federation of America’s (CFA) conference in mid-May, which will attract consumer advocates from across the country.
- Throughout the meeting, several participants emphasized the significance of bipartisan support for payday reform across the country. CRL shared examples of bi-partisan legislative efforts to reign in payday lending in South Dakota, Oklahoma, Maryland, Alabama, Missouri, and Florida.
- CRL also reaffirmed the importance of including long-term loans in the rule noting that the market has been moving in the direction of long-term lending since 2011, and it is imperative for the Bureau’s rule to include such loans.
- CAP cautioned against the lack of underwriting for short-term loans and urged the Bureau to address rollover risk to prevent short-term roll-over loans from becoming a gateway for longer-term loans.
- NCLC emphasized that “length can be as dangerous as amount” and that the ability to repay standard should be defined as a consumer’s ability to repay while meeting other household expenses without re-borrowing. They also said that the default rates should be measured by an objective standard rather than by default rates of peer lenders.

From: Lauren Saunders
To: [Chea, Keo \(CFPB\)](#); [Muniz, Brenda \(CFPB\)](#)
Cc: [Silberman, David \(CFPB\)](#); [Morelli, Mark \(CFPB\)](#); [Udis, Laura \(CFPB\)](#); [McGill, Yolanda \(CFPB\)](#); [Blume, Eleanor \(CFPB\)](#); [Hillebrand, Gail \(CFPB\)](#); [Silver, Michael \(CFPB\)](#); [Nodler, Gregory \(CFPB\)](#)
Subject: My points on longer term loans at last weeks payday meeting
Date: Monday, March 13, 2017 6:41:34 PM

Folks,

Thank you for the opportunity to meet with Director Cordray and staff last week to discuss payday loans. Here is a quick summary of the points I made about the proposal for longer term loans and where to find the detail in our comments.

1. The ability to repay standard in §§ 1041.4, 1041.5(b)(1)(i), 1041.8 and 1041.9(b)(1)(i) should explicitly reference ability to repay **“without reborrowing while meeting the consumer’s major financial obligations and living expenses.”** These aspects of the ATR standard are in the discussion but are not clearly set forth in the rule’s overall standard. (See section 5.33 of the [CRL/NCLC/CFA comments](#) at pages 81-82.)

2. Ability to repay should be an **objective standard**, and whether a lender has excessively high default or reborrowing rates should be measured **objectively, not relative to similar high-cost lenders or struggling borrowers**. The comments that suggest that other predatory lenders may be the point of comparison should be removed or edited. (See section 7.2 at pp. 115-18.) Default rates above 10% should receive heightened scrutiny. (Section 7.5 at pp. 123-127.)

3. **A greater range of circumstances should trigger a presumption that reborrowing reflects inability to repay**. Among other circumstances, a 90 day lookback should assess whether the borrower has been late, had a failed payment transfer, expressed inability to pay any key expense, or revoked payment authorization, or whether the credit report shows new delinquencies since the prior loan. (Sections 11.4.2 to 11.4.9 at pp. 205-223; see also 11.3 at 186-89.)

4. A refinance that results in a **smaller payment or a lower APR should not avoid a presumption of inability to repay** unless the refinanced loan reduces the total dollars due on the new loan. Otherwise, the rule will encourage bait and switch from unaffordable shorter loans to stretched out longer ones that will still prove unaffordable due to the high cost over an extended period of time combined with income and expense volatility. (Section 11.5 at 223-228.)

Thanks!

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