NATIONAL COUNCIL OF THE UNITED STATES
SOCIETY OF ST. VINCENT DE PAUL, INC.

August 26, 2016

Richard Cordray
Director
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552
Submitted Electronically

Re: Docket No. CFPB-2016-0025

Dear Director Cordray:

On behalf of the National Council of the United States Society of St. Vincent de Paul, Inc. (the Society), I write to urge that the Consumer Financial Protection Bureau (the Bureau) adopt even stronger standards than the ones currently being proposed under Docket No. CFPB-2016-0025 for Payday, Vehicle Title, and Certain High-Cost Installment Loans. Below you will find our specific recommendations.

Though the Society, based on direct experience in assisting the working poor, believes stronger standards are warranted, it nonetheless applauds the Bureau for promulgating these standards and moving forward to adopt them. The standards and requirements of the final rule will clearly be of great benefit in protecting the working poor from the abusive practices followed by certain predatory lenders operating in the field of payday, vehicle title, and high-cost installment loans.

We Vincentians, as members of the Society of St. Vincent de Paul are called, number about 100,000 and work in about 4,400 communities across the country on a daily basis with the poor and the marginalized, providing direct charitable assistance in various forms, such as food, clothing, and short-term, interim financial aid for rent, utilities, emergency car and home repairs, unexpected medical crises, gas money, and other similar type needs. In 2015, our Vincentians made about two million visits to people in need and provided $1.2 billion in cash and in-kind assistance.

A Real-Life Story from a Vincentian Helping a Payday Loan Victim

"Couple in *[location omitted]* fell behind in rent payments due to increased medical expenses related to long-term illness. They have insurance but fell behind paying the "co-pay" for her MD visits & hospital visits. They borrowed from two lending institutions for the co-pay money, then from a third to pay the loans' interest. They state they had nowhere else to go. They currently owe $550/month in interest. When they borrowed $1,000, payments of $185 every other week for 6 months were set up. They will end up paying $2,220."

Working poor individuals often come to our attention seeking help in extricating themselves from the financial morass created by the debt trap of predatory lending as they try to find a better financial footing for themselves and their needy families. It is painful to see individuals in such straits being taken advantage of; it is also unjust, immoral, and diametrically opposed to basic business ethics of honesty and clarity and our Catholic principles of fair dealings with and respect for our fellow man.

As Vincentians, we visit our friends in need in their homes, where we hear their painful stories at length and learn to appreciate the difficulties they face. We also meet them at our clothing and thrift stores, food pantries, and other centers where aid and support is given. We often help them develop budgets, and, in so doing, learn first-hand the havoc wreaked upon them from the abusive practices of the predatory lending industry. We see them perplexed and stymied by the terms and conditions of loans that once seemed likely to bring deliverance from the crisis at hand but now are only heavier burdens in their already complicated struggle to survive. Thankfully, in the states with usury laws which are effectively enforced to prohibit high-cost loans, we are not inundated with these stories as we are in states that allow these loans. However, in those other states, sadly the vast majority of the country, we witness these predatory loans undermining our Vincentian work providing direct aid and moving people in need toward financial stability.

It is from this very personal perspective that we offer our comments on the proposed rule. While we are not technical experts in the nuances and subtleties of the lending industry, we do know what is right and fair, and we know what hurts the working poor as they try to survive in a difficult economy.

Therefore, we have developed key recommendations for the Bureau to consider as it adopts a final rule. These recommendations arise from our experience as Vincentians working shoulder-to-shoulder with the working poor on their real, practical problems navigating the financial world. The recommendations are also based on our review of analyses, recommendations, and principles for fair lending prepared by other groups, such as the Center for Responsible Lending and the Faith for Just Lending coalition for which the Society is an endorsing organization.

Accordingly, the Society of St. Vincent DePaul makes the following recommendation to strengthen the Bureau's proposal to regulate payday, vehicle title, and certain high-cost installment loans:

- The final rule should continue to use the "ability to repay" (ATR) principle for underwriting decisions about these loans. Importantly, there should not be exceptions to this principle for certain types of loans, as there currently are in the proposed rule. Even a single unaffordable loan can create a cascade of financial consequences for the borrower, as we have witnessed in trying to help the working poor budget and set their finances on sound footing.

  For example, the provision (we would call it a "loophole") that allows six unaffordable payday loans at annual rates of 300 percent should be eliminated. We are deeply concerned that the proposed rule thus gives payday lenders a free pass for these clearly abusive loans by allowing them to make six of these loans before any ability to repay requirement kicks in.

- The proposed provisions that specify that the "ability to repay" test include a calculation that determines that a borrower will have sufficient money remaining to pay daily living expenses, including rent, after making his loan payments should not be altered. It is critically important. Without such a component, the loan simply makes the problem worse.

- The waiting period between loans should not be set at 30 days, as it is in the proposed rule, but at 60 days at least. If loans need to be continually renewed, it indicates an underlying problem with the borrower's finances that the flipping of loans will not correct but indeed only exacerbate.

- The restriction on successive loans over 45 days (or "flipping") should be strengthened by requiring that the borrower first must have paid off 75 percent of the prior loan, and that such loans should not be refinanced more than once. Again, this will help protect the borrower from being forever trapped in a debt cycle.

- Total indebtedness on all short-term loans should be limited to 90 days per year. Because short-term loans have been exempted from some state interest rate caps based on lenders' claims that they are intended for very short terms, this is particularly important to ensure that a deceptive work-around does not emerge in those states and thus defeat the stated purpose of the exemption.

- The final rule should cover all loans that give lenders extraordinary leverage to extract repayment, such as in cases where wages can be garnished, personal bank accounts accessed, and cars re-possessed. Moreover, it should not be restricted to only those loans where the leverage is taken shortly after the loan. This type of leverage overwhelmingly and unjustly favors the lender and can create extreme distress and critical practical problems for the working poor as they struggle to balance their competing financial needs. It also incentivizes lax underwriting and thus is counter-productive to the ability to repay test, which is rightly the cornerstone of the proposed rule.

  In short, we believe the rule should cover all loans with an all-in cost over 36 percent, including both interest and fees. For true progress to be made, the rule must be structured so that creative, unscrupulous lenders cannot simply re-title the loans (i.e., as Flex Loans) and re-shuffle certain terms and conditions to avoid compliance. We have seen this happen too often in state legislative efforts to regulate the industry.

- The final rule should include strong enforcement provisions, especially via state attorneys general who should be empowered specifically to prosecute lenders who violate the provisions of the final rule and important state consumer protections such as rate caps. We understand this shared enforcement authority is allowed by the enabling Dodd-Frank Wall Street Reform and Consumer Protection Act. State attorneys general are particularly well situated to enforce these provisions. They already have power to prosecute state usury and consumer law violations. Because they are local, they will be in an excellent position to notice and react to abusive and deceptive lending practices in the payday, vehicle title, and high-interest consumer loans industry as the evidence will be immediately in their face. Moreover, social justice-minded groups like St. Vincent de Paul will find it easier and faster to call problems of this kind to the attention of state attorneys general. The working poor and sound public policy thus will be best served by strong enforcement mechanisms at the state and federal level, aided and abetted by persons and organizations concerned with ensuring fairness and justice in lending practices.

- Lastly, we endorse vigorous reporting requirements to track the activities of the payday, vehicle title, and high-interest consumer loan industry to ensure that it is complying with the new regulations and to identify other lending issues in this field which may need attention in order to protect the working poor.

We thank you for the opportunity to submit these recommendations and offer our views. We are most pleased that the Bureau is moving to adopt such regulations and trust that a final rule can be promulgated and adopted very soon. This is an issue that should have long ago been addressed.

Do not hesitate to contact us with any questions or concerns.

Sincerely,

Sheila K Gilbert

Sheila K. Gilbert
President
National Council of the United States
Society of St. Vincent de Paul, Inc.