May 14, 2019

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

Dear Ms. Kraninger,

With this letter, Inclusiv respectfully submits it comments regarding the Bureau's proposed rule to rescind key provisions in the Payday, Vehicle Title, and Certain High-Cost Installment Loans. We are deeply concerned with the proposed rule and its elimination of the requirement that lenders making high-cost payday loans should be obligated to test a borrower's ability to repay. Maintaining the ability to repay requirement will go a long way to reduce the abusive practice of rollovers [in which borrowers are charged repeatedly for the same debt with no reduction of principal]. This requirement will both set up borrowers for success with a path for future financial opportunity and prevent losses inevitably incurred by responsible lenders when borrowers are overloaded by unreasonable debt burdens.

In addition to our opposition of this rescission, we disagree with the conclusion that "a significant economic impact" would not occur by eliminating the ability to repay rules given the costs that our member institutions will incur. Furthermore, we believe a small business review panel should be mandated as part of the rulemaking process.

Inclusiv is a national network of over 270 credit unions – member owned, regulated financial cooperatives – with a mission of helping low- and moderate-income people and communities achieve financial independence through credit unions by providing access to safe and affordable financial products and community development services. Expanding access to financially vulnerable or formerly excluded individuals – that is, those who may have no other alternative than predatory lenders – is at the heart of what Inclusiv credit unions do.

Initial Rule and Process

Numerous studies have documented the economic harm that payday lending industry has wreaked upon people and communities across the country. Typical payday loan fees and interest charges combine to more than 400% APR, with online lenders charging even higher rates. These usurious fees undermine the ability of CDFI credit unions and other responsible

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lenders to extend credit to build financial health and opportunity for moderate income borrowers. Inclusiv is on record supporting the Bureau's original rule curbing predatory lending practices and supporting the CFPB in using its rulemaking and enforcement powers to eliminate abusive payday lending.

The Payday Lending Rule was designed to shield consumers from the worst abuses of payday lenders. It did not set rate caps or dictate pricing. The rule simply required a lender assess whether that borrower could be successful repaying that loan. When the Bureau engaged in the process to develop the rule, there were several Inclusiv members that attended the Small Business Review hearing, the hearing that is required to determine the costs associated with the rule.

We disagree with the decision to proceed with the proposed changes to the Payday, Vehicle Title, and Certain High-Cost Installment Loans rule without a Small Business Review hearing. The rationale provided by the Bureau was that the rule "if adopted, would not have a significant economic impact on a substantial number of small entities." In this letter, we demonstrate the cost of operating in the absence of an ability to pay rule through examples from the Deep South in states where there are few curbs on predatory payday lending. Weakening the financial position of consumers in our communities undermines the ability of responsible financial institutions to deliver affordable credit and the ability of existing borrowers to make payments on loans for their homes, vehicle and other critical consumer needs. Given that our members are member owners, there is additionally a broader cost incurred by all cooperative owners in the absence of this rule.

Payday Lending Damages Consumers and Undermines Efforts by Mission-Driven Lenders

The payday lending lobby contends they are merely meeting a credit gap delivering services where other financial service providers are not. This is not the case. Credit unions have been meeting the credit needs of consumers of modest means for more than a century. Community development credit unions have a mission of promoting financial inclusion and reaching out to serve underserved consumers with responsible credit and the tools to build financial health. Underwriting borrowers to succeed with financial products is the very foundation on which credit unions operate and is core part of the examination process of the safety and soundness of a credit union. Payday lenders have no such oversight.

Through an analysis conducted by Inclusiv of 97 CDCU loan portfolios, we estimate that CDCUs issued $8 billion in consumer loans to people with low or no credit scores in 2017 – people who would typically be denied credit at other institutions. The average consumer loan size at a community development credit union is less than $2500 and carry interest rates below 18%. Not only do our members meet the credit gaps, they pair their offerings with financial

counseling and coaching. In our own experience, we have found that 6 in 10 coaching clients in our financial coaching program improve their score, with an average increase of 38 points.

CDCUs have shown that small dollar lending is not only the core of their business model but it can provide returns. CDCUs, that is those credit unions specifically targeting their services to low and moderate income Americans, outperform their peers in every asset category. Inclusiv's annual analysis of financial performance patterns and trends shows CDCUs consistently outperforming peer institutions in loan deployment, loan performance and return on average assets. The model already exists for credit unions to meet these market gaps responsibly within the current regulatory framework.

Not only are they not meeting a credit gap, payday lenders pose a great threat to our mission, weakening the financial position of consumers, reducing financial opportunity for consumers and closing off responsible lending opportunities.

Financial coaching programs operated through credit unions have seen firsthand how consumers caught in payday lending traps end up repaying that debt many times over (in fees and charges) without ever chipping away at principal. A client of the Pathways to Financial Empowerment coaching program in Louisiana was facing a number of challenges related to four payday loans: including an overdrawn checking account, constantly paying non-sufficient fund fees, mounting debt from other credit lines and unable cover the principal amount on the payday loans. The credit union helped the client to access a credit union loan, creating a budget and a plan for paying down the debt. After many months and hard work, she has paid down nearly all of her debt, repaid her outstanding credit union loan in full and boosted her credit score by 24 points.

A recent analysis of one Inclusiv credit union in Alabama, showed that payday lending is threatening a small portion of their own members. Reviewing files from their 10,000+ debit card holders, an estimated 3% appeared to be regularly making payments to known payday lenders. These 308 members made more than $399,000 payments in just one 4 month period. Moreover, a very small amount (25) of that credit union's debit card holders were paying predatory lenders more than $1,000 a month. These payments can jeopardize that borrower's ability to repay on other productive loans they may have with the credit union such as a home or a vehicle to get to work.

Through their structures as cooperatives, credit unions' institutional financial interests are aligned with the financial interests of our members. Our financial gains come when our members become stronger and more financially capable and able to access larger and more productive credit. That is not the case with payday lenders and why rules like requiring lenders to determine a borrower's ability to repay are so critical.

With technology, the ability to automate responsible underwriting are already reducing

burdens and transaction costs for these loans. The very measured initial proposal to require a determination of a borrower's ability to repay is a reasonable expectation for any lender expecting to build a long-term mutually successful lending model.

Please reconsider this proposed change. Thank you for your time and consideration of this letter.

Sincerely,

Cathie Mahon
President and CEO
Inclusiv

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