CENTER FOR SURVIVOR AGENCY & JUSTICE

May 14, 2019
Director Kathleen Kraninger
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552

Re: Center for Survivor Agency and Justice (CSAJ) comments on proposed rulemaking on payday, vehicle title, and certain high-cost installment loans.

Docket number: CFPB-2019-0006 or RIN 3170-AA80

Dear Director Kraninger,

The Center for Survivor Agency and Justice files this comment in response to the Consumer Financial Protection Bureau's (CFPB) proposed rule on payday, vehicle title, and certain high cost installment loans. It is disappointing, given that just under 3 years ago, in October 2016, we wrote in support of the CFPB's proposed rule curtailing the harms of unaffordable loans. Just under 3 years ago, the CFPB was attempting to strengthen its rules to ensure that it eliminated the debt trap, which is particularly important for **survivors of domestic and sexual violence** who are at substantial risk of harm. CSAJ is strongly opposed to the proposed rule that would undo several vital provisions.

The Center for Survivor Agency and Justice (CSAJ) is a national organization that addresses the critical link between domestic violence and economic security.[1] CSAJ's Consumer Rights for Domestic and Sexual Violence Survivors Initiative enhances economic justice for survivors by building the capacity of and building partnerships between the anti-violence and consumer rights fields, and our Racial and Economic Equity for Survivors Project addresses the systemic economic barriers facing survivors of color, including LatinX people, immigrants, and survivors who are marginalized by their intersecting identities. We submit these comments that echo and build on those of our partners: national and state domestic and sexual violence, racial equity, and anti-poverty organizations and experts who have critical insight into the unique and detrimental effects of payday loans on survivors of domestic and sexual violence.

[1] For more details on our mission and work, go to: www.csaj.org

Domestic Violence and Sexual Assault Survivors are Targets of the Predatory Lending Industry

Domestic violence[2] and sexual assault[3] financially devastate survivors in an "economic ripple effect" across the lifespan, placing survivors in greater need of short-term lending strategies.[4] In fact, 99% of survivors of domestic violence report economic abuse by their partner, with 38% of abusive partners stealing money and assets, 71% building debt, and 78% sabotaging survivors' employment.[5] This is even more concerning for low-income women, who are two times more likely to experience domestic violence and who, as financially vulnerable individuals, are **primary targets** of the predatory lending industry. Survivors marginalized by race, ethnicity, citizenship and other factors experience disproportionately high rates of both poverty, domestic and sexual violence[6] [7] and are more likely to live in communities that are targeted by payday lenders.[8] Abusive partners use economic coercion to undermine survivors' ability to maintain economic stability and to create dependence on the abusive partner, thereby making it harder for survivors to escape from future violence. For survivors, abuse can create a financial trap, which serves as a barrier to long-term safety.

Predatory lending practices compound this financial trap, further limiting survivors' economic options and exposing them to increased risk of physical violence for years to come.

> *Like countless other survivors of domestic violence, Jane[9], a St. Louis, MO native, left an abusive relationship and experienced financial challenges, stemming from years of economic abuse. Because her safety net was depleted as a result of the abuse, she regularly took out payday loans in order to pay creditors and to keep her utilities on, despite the astronomical interest rates offered by the payday lenders. Jane was desperate*

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[2] "Domestic violence" and "intimate partner violence" are often interchangeable, but for these comments we use domestic violence for its cultural familiarity. Domestic violence is defined as "a pattern of violent acts and their political framework, the pattern of social, institutional, and interpersonal controls, that usurp a survivor's capacity to determine her destiny" (Stark, 2009).

[3] While research on sexual violence and the specific utilization of payday loans (and their impact) is nascent, there is a clear connection between sexual assault and economic instability. In fact, the National Alliance to End Sexual Assault reported, "Fifty percent of sexual violence victims report that they had to quit or were forced to leave their jobs in the year following their assaults due to the severity of their reactions (source)." Thus, our research refers primarily to survivors of domestic violence, but we acknowledge the potential unique economic impacts of payday loans facing survivors of sexual violence (outside of intimate partner relationships).

[4] Shoener, S. & Sussman, E. (2013). The Economic Ripple Effect of IPV: Building Partnerships for Systemic Change. Source: https://csaj.org/library/view/economic-ripple-effect-of-ipv-building-partnerships-for-systemic-change

[5] Postmus et al., 2011; Adams et al., 2008

[6] Institute for Women's Policy Research, 2015

[7] **Breiding, et al.,** Prevalence and Characteristics of Sexual Violence, Stalking, and Intimate Partner Violence Victimization — National Intimate Partner and Sexual Violence Survey, United States, 2011

[8] King et al., 2005

[9] Not her real name

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> *for cash, as she was unable to repay the loans, and she was afraid for her safety. Fortunately, she found a local domestic violence program offering access to a non-profit run collaborative bank, and was able to pay back the predatory loans with a no-interest loan.* ***Prior to accessing the bank, Jane had been teetering on the edge of eviction and bankruptcy.***

Imagine the pain and hardship for a survivor of domestic violence who has struggled against fear and financial devastation to leave an abusive relationship only to find herself lured into the trap of predatory lending. When looking to flee abuse or create a new life for themselves and their children, survivors are burdened by the financial decimation of their former relationships, and many look to payday lenders as a financial bridge to safety. Safety is expensive. Survivors wrestle with the costs of transportation, childcare, relocation, legal fees, employment disruption, safety costs (changing locks, getting new documents, etc.), and managing the debt created by their abusive partner. And, because payday lenders are generally outside of the traditional banking and credit system, survivors often feel safer using payday lenders as it minimizes the likelihood that their abusive partner will be alerted to their attempt to access money. While the payday lenders appear friendly and helpful, once survivors fall prey the payday lending debt trap, payday lenders can take control over bank accounts, garnish wages, take away cars, and use harassment and threats to maintain control over the survivor. **Indeed, this payday debt trap mirrors the coercive control and economic abuse perpetrated by the abusive partner the survivor worked so hard to escape.** Punishing survivors' attempts to bridge their economic insecurity by taking away other assets or continuing harassment in new ways is deplorable. We cannot effectively address domestic violence if we legitimize abusive payday lending systems.

This debt trap is even more economically dangerous for survivors marginalized by race, ethnicity, citizenship, and other factors who live in communities with high concentrations of payday lenders and who (for reasons related to historical exclusionary and predatory financial practices) often do not have access to reasonable banking alternatives to get out of high-interest refinanced debt.

The core principle of CFPB's 2017 rule – requiring lenders to ensure that a loan is affordable via an ability-to-repay standard so that a survivor would not have to re-borrow or default on other expenses-- is the right approach. This is critically important to stopping the harms of this predatory business model, and we strongly support the 2017 approach. This basic principle must be applied to every loan – with no exceptions and no room for future evasion. For Jane, the survivor from Missouri, offering access to payday loans without checking her ability to pay placed her at dangerous risk of eviction and bankruptcy and turned her "short term" debt into unaffordable long-term debt. We urge the CFPB to require an ability-to-repay determination on every loan, with no exceptions.

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Reducing Credit Access and Competition

In its proposed rule, the CFPB claims that the 2017 regulations will limit consumers' access to credit and reduce competition for lending options in states that have determined it is in their citizens' interests to have access to high-interest, short term lending options, subject to state-law limitations. The 2017 regulations were done under CFPB authority, granted by the Dodd-Frank Act, to prevent abusive, deceptive, or unfair practices. The payday lending industry does not adhere to the same lending standards as traditional creditors. That lack of adherence to underwriting practices is what makes the payday lending industry profitable.

As the CFPB notes in its own proposed rule, it has encouraged depository institutions to come up with more credit options to help consumers make ends meet. The need for alternatives (safer lending options with traditional lending institutions, low-cost personal loans, and/or community development credit unions) is key when considering **that it is the very lack of regulation that keeps predatory lenders in business.** A 2013 CFPB study found that 75% of payday loans annually go to borrowers with 11 or more payday loans.[10] The lack of regulation means that the existing business model stays in place: borrowers will need to keep taking out additional payday loans to pay off the previous payday loans. Payday lenders have a vested interest in remaining predatory: more loans, higher interest, greater fees, better profit.

Regulations will not limit consumers' access to credit. Regulations will limit consumers' access to ***unsafe and predatory*** credit. Lenders that cannot comply with the most basic consumer protections should not be allowed to profit off vulnerable consumers.

We thank you for the opportunity to comment. The link between domestic violence and economic security is inextricable. The payday lending institution is an abusive system that perpetuates economic and physical insecurity. We therefore request that you do not finalize the proposed rule. The 2017 Final Rule should be implemented without any changes. Please contact Erika Sussman, Executive Director of CSAJ, at Erika@csaj.org with any comments or questions you may have regarding this comment.

Sincerely,

Erika Sussman

Erika Sussman, J.D., LLM
Founder & Executive Director
Center for Survivor Agency and Justice

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[10] Payday Loans and Deposit Advance Products: A White Paper of Initial Data Findings (Washington, DC: CFPB, April 2013), http://files.consumerfinance.gov/f/201304_cfpb_payday-dap-whitepaper.pdf.