October 5, 2016

Monica Jackson
Office of the Executive Secretary
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552
FederalRegisterComments@cfpb.gov

Via Electronic Submission

Re: Docket No. CFPB-2016-0025; RIN 3170-AA40

Dear Ms. Jackson:

The Texas Consumer Finance Association ("TCFA") appreciates the opportunity to provide these comments to the Consumer Financial Protection Bureau's ("CFPB") proposed rules regarding Payday, Vehicle Title, and Certain High-Cost Installment Loans published June 2, 2016 (the "Proposal"). TCFA represents the interests of traditional installment lenders in Texas making loans under subchapter F, chapter 342, Texas Finance Code.

TCFA asserts that traditional installment loans ("TILs") should not be regulated under the Proposal as "covered loans." TCFA is particularly concerned with the Proposal's treatment of vehicle secured loans of more than 45 days with a Total Cost of Credit of greater than 36% as "longer-term covered loans."

Traditional installment lenders have been regulated in Texas since 1963. These regulated lenders are licensed and examined by the Texas Office of Consumer Credit Commissioner, and must file annual reports of activity with the Commissioner. The regulated lenders have a strong history of regulatory compliance and cooperation in Texas. In Texas, a TIL is a fully regulated loan made pursuant to subchapter F, chapter 342, Texas Finance Code. Subchapter F regulates the loan size, loan term, rate of interest, and all fees and amounts that may be received by the lender. *See* TEX. FIN. CODE §§ 342.251 - .260. The loans are typically for a term of 180 days or longer. Texas lenders making TILs do not require access to a customer's bank account or a postdated check as a condition for loan approval; such a practice requires that the lender be registered as a credit services organization (payday lender) in Texas. *See* TEX. FIN. CODE § 393.221.

Texas law allows a regulated lender to take a security interest in a motor vehicle as part of a loan transaction, and a portion of TCFA members do so. Accordingly, these Texas regulated lenders that make vehicle-secured TILs pursuant to subchapter F, chapter 342, Texas Finance Code, will be making what the Proposal defines as a "longer-term covered loan." Texas law distinguishes TILs from other types of loans, such as short-term payday and auto-title loans, which are governed by chapter 393, Texas Finance Code. Unfortunately, the Proposal lumps vehicle-secured TILs in with these other loan products that are structured to avoid Texas usury laws.

All TILs, as defined by Texas Law, should be excluded from the Proposal's coverage. TILs are not a frequent subject of complaints to the CFPB. The vast majority of consumer complaints relate to debt collection, credit reporting, mortgages, bank services, and credit cards. Complaints regarding consumer loans made up only 5% of all complaints in 2015.[1] In addition to installment loans, "Consumer Loans" also include complaints about vehicle loans and leases, pawn loans, title loans and personal lines of credit.

Forcing traditional installment lenders to comply with additional regulations on "covered loans" will increase borrower costs, unnecessarily lengthen the underwriting process, and reduce the availability of a safer credit product. Costs would be added as a result of: (a) the ability to pay verification requirements (Section 1041.5), (b) the extended (three-year) record-keeping requirements (Section 1041.18), (3) the electronic (and special formatting) record-keeping requirements (Sections 1041.16 and 1041.18), and (4) the requirement to obtain two forms of credit reports (Section 1041.9). Texas regulated lenders will be forced to pass along these additional costs to consumers. The one area where Texas regulated lenders can capture this cost is in the amount of its acquisition charge, which is authorized by regulation to be 10% of the loan amount up to a maximum of $100. Currently, market competition causes variation in the amount of acquisition charge that regulated lenders charge. With these added costs, it is more likely the market will experience an overall increase in acquisition charge to cover the additional costs.

The ability to pay verification requirements will also substantially lengthen the underwriting process for borrowers who often need credit in emergency situations. A TIL will no longer be an option for borrowers who need credit in a crunch. For those lenders that can no longer take a security interest in a motor vehicle without being considered a "covered loan," TCFA anticipates such lenders will forgo a secured loan and instead reduce the amount of credit they are willing to loan and to whom they are willing to loan it. To the extent the CFPB desires to maintain the availability of a reasonably priced, safer credit product through TILs, the Proposal is a step in the wrong direction.[2]

Finally, the CFPB's cost-benefit analysis of the Proposal's impact on the short-term lending market does not include analysis of the costs and benefits to the TIL market. Without similar analysis for longer-term covered loans, application of the Proposal to TILs is premature.

---

[1] http://files.consumerfinance.gov/f/201604_cfpb_consumer-response-annual-report-2015.pdf.

[2] The National Hispanic Caucus of State Legislators supports loans that meet the elements of TILs in Texas. *See* NHCSL Resolution 2013-10, available at http://www.nhcsl.org/94/resolution/promoting-safe-and-affordable-lending-practices/. Similarly, the National Black Caucus of State Legislators supports the expansion of TILs as an "affordable means for borrowers to establish and secure small dollar closed end credit while preventing cycle of debt issues" and believes TIL lenders "should be reasonably protected." NBCSL Resolution BED 16-21, available at http://www.nbcsl.org/public-policy/resolutions/item/1649.html.

Before the CFPB applies the Proposal to TILs, it should undertake a review of the TIL industry or collect the same data and research findings it has on the other industries covered by the Proposal.

TCFA strongly urges you to exclude all TILs from the Proposal.

Sincerely,

/s/ Doug Clark

Doug Clark
President, TCFA