CSBS

SINCE 1902

CONFERENCE OF STATE BANK SUPERVISORS

May 15, 2019

Comment Intake
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552

Re: Proposed Rulemaking: Payday, Vehicle Title, and Certain High-Cost Installment Loans
         Docket No. CFPB-2019-0006
         RIN 3170-AA80

Dear Sir or Madame:

The Conference of State Bank Supervisors ("CSBS" or "state regulators") appreciate the opportunity to comment on the Consumer Financial Protection Bureau's ("CFPB" or "Bureau") proposed rulemaking for Payday, Vehicle Title, and Certain High-Cost Installment Loans (RIN 3170-AA80). State regulators previously commented[1] on the Bureau's initial proposed rulemaking (RIN 3170-AA40) and were pleased that (1) commentary within the Final Rule issued in 2017 explicitly notes that the Rule operates as a floor and not a ceiling for consumer protections, thus enabling States to adopt and enforce stricter regulatory measures (such as limits on usury rates or other protections) as appropriate to protect consumers[2] and (2) the Final Rule includes a *di minimis* exemption for depository small-dollar lending, as requested by state regulators.

Within the commentary for the re-proposed Rule, the Bureau explains their determination that the evidence underlying the identification of the unfair and abusive practice in the Mandatory Underwriting Provisions of the 2017 Final Rule is not sufficiently robust to support a UDAAP finding. Based on this determination, the Bureau has decided to rescind the Mandatory Underwriting Provisions of the 2017 Final Rule. The removal of these provisions makes it even more important that financial institutions offering covered products understand that states govern the requirements for acceptable features of small-dollar loans offered to their consumers and can enforce state level authority to protect their consumers. State regulators ask that commentary within the rule clearly acknowledge the authority of states to enforce stricter standards, in line with the inclusion of this commentary in the 2017 Final Rule.

In comments on the Bureau's initial proposed rulemaking, state regulators supported a *de minimis* exemption for accommodation-style small-dollar lending by depository institutions because banks should be able to serve as a source of small-dollar lending in the communities they serve and more competition in the market at a lower cost could be a positive for consumers. The Bureau's Final Rule recognized the difference between accommodation loans and other small-dollar loans made as a primary line of business

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[1] CSBS Comment Letter Re: Proposed Rulemaking: Payday, Vehicle Title, and Certain High-Cost Installment Loans, Docket No. CFPB-2016-0025, Available here.
[2] 12 CFR Part 1041. Rule Summary available here. Page 1.

and provided this carve out in the 2017 Final Rule[3]. The Bureau also provided conditional exemptions for alternative loans that satisfy certain requirements[4], and exempted eight other types of loans (including certain overdraft services and overdraft lines of credit) that can be structured as small-dollar loans.

State regulators remain concerned about the ability of lenders to use the internet to reach borrowers in states where payday lending is restricted. The Bureau's 2017 Rule would not have prevented illegal payday lending, but its implementation would have instituted nationwide compliance requirements backed up by the Bureau's examination authority. The use of the Bureau's examination resources to search for instances of noncompliance could have been helpful to state regulators in their efforts to monitor for usurious, unlicensed, or otherwise illegal lending activity. Regardless of how the substance of the Bureau's rules may evolve, CSBS encourages the Bureau to work in partnership with the states to monitor for noncompliance with consumer protection laws.

Sincerely,

John W. Ryan
President & CEO

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[3] 1041.3(f)
[4] 1041.3(e)