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Jennifer Johnson, Esq.
Director of Public Policy

Good Guys Answer the Call:

Providing Safe, Affordable, and Profitable Small Loans as the Regulatory Landscape Evolves

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On October 5, 2017, more than a year after the release of its proposed Rule, the Consumer Financial Protection Bureau (the Bureau) issued its long-awaited Final Rule regulating small dollar lending.[1] The Rule marks an important step toward ensuring that small dollar loan products do not pose an unreasonable risk of harm to consumers. This current Rule is limited largely to products with loan terms of 45 days or less, and the Rule will take effect in 2019.[2] The Bureau continues to monitor and evaluate longer term installment loans and will issue regulations on those products at a later date.[3]

Predatory small loans date back more than a century in the United States. In the early 1900's, "salary lenders" sold small loans that carried annual percentage rates ranging from 120 percent to 500 percent. Recognizing the adverse impact of triple-digit interest rates, an early Uniform Small Loan Law and subsequent state laws attempted to set reasonable rates – around 4 percent per month. Gradually, as the broader financial services market pressed for deregulation in the 1970s and 80s, the small loan industry followed. Then, in the 1990s there was an active push from the small loan industry to codify the business model. States began authorizing much higher interest rates for a certain group of non-bank small dollar lenders.

As high cost loan products saturated the marketplace, proponents argued that the very high cost was directly related to the "high-risk customer base" they served. However, in practice, the structure of these products actually creates a very safe risk for high cost lenders. The structure of these products always includes the following:

- Triple-digit APR – typically 300 percent and above
- Access to the borrower's bank account
- Balloon repayment structure with a very quick due date (less than 90 days)

Because loan terms require a single balloon payment via ACH authorization, lenders are guaranteed repayment of their loan plus interest upon the borrower's payday and every payday thereafter. This is clearly a safe bet for lenders, and it is, more often than not, an unaffordable proposition for borrowers.

High cost lenders' target market for these products has always been the working poor, that portion of the workforce that, employment notwithstanding, falls below the poverty line, or the working-but-struggling population. The balloon repayment structure often creates deficits in the borrower's monthly budget, and borrowers often do not have enough money left to pay for rent, food, or other bills after paying off the loan. This leads to repeat borrowing, as borrowers must take another high-cost loan to fill the deficit. The effect is long-term indebtedness at triple-digit interest rates.

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1 https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201710_cfpb_final-rule_payday-loans-rule.pdf

2 The Rule takes effect 21 months after publication in the Federal Register; except for § 1041.11 (Registered Information System), which is effective 60 days after publication in the Federal Register.

3 In a joint 2016 Comment Letter to the CFPB (included as an appendix herein) regarding its Proposed Rule, Southern Bancorp, Inc., Southern Bancorp Bank, and Southern Bancorp Community Partners noted that, in anticipation of CFPB regulation, many states had begun codifying various predatory installment loan products to include payment via the ACH deposit account debit. The Bureau notes that it is "conducting further study to consider how the market for longer-term loans is evolving and the best ways to address concerns about existing and potential practices."

From the very first repayment, predatory small dollar loans trap working class individuals and families in a cycle of debt, threatening their ability to save, threatening their overall financial well-being, and, too often, causing a series of negative financial events like bankruptcy, repossession, overdraft fees, and other unnecessary financial hardships.

The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 created the Consumer Financial Protection Bureau and provided it with the authority[4] to regulate small dollar, high-cost lenders.[5] As a lender serving customers in Arkansas and Mississippi, Southern[6] is particularly concerned with the impact of these high-cost products on the communities that we serve. Today, Mississippi families are stripped of more than $500 million annually by payday and car-title loans.[7] Since 2009, the departure of these companies from the state of Arkansas has restored some $25 million annually into the household budgets of Arkansas families.[8] We commend the Bureau's attempt to create safeguards for hard working Americans.

What financial institutions are covered by the Rule?

The Bureau's Rule provides that "all lenders who regularly extend credit are subject to the CFPB's requirements for any loan they make that is covered by the rule. This includes banks, credit unions, nonbanks, and their service providers. Lenders are required to comply regardless of whether they operate online or out of storefronts and regardless of the types of state licenses they may hold."

Which loans are covered under the Rule?[9]

Payday loans – Payday loans are typically small dollar balloon-payment loans ($300 - $500) that are repaid via ACH debit from the borrower's bank account. Payment terms are set according to the borrower's pay schedule. Thus, the typical payday loan has a one-week, two-week, or thirty-day term. Payday loans carry triple-digit interest rates, starting at 300% APR and higher, and most borrowers renew payday loans 7 times or more in a year.

Auto-Title loans – These are small dollar balloon-payment loans with short repayment terms (often 30 days). For these loans, lenders require the borrower's automobile title to be pledged as collateral. Failure to repay the loan often results in seizure of the borrower's automobile. Lenders often seize and sell a defaulted borrower's vehicle to satisfy loan repayment.

4 12 U.S.C. § 5514(a)(1).

5 CFPB is specifically not authorized to set interest rates.

6 Southern is used to collectively reference Southern Bancorp, Inc., Southern Bancorp Bank, and Southern Bancorp Community Partners

7 http://www.responsiblelending.org/sites/default/files/nodes/files/research-publication/crl_statebystate_fee_drain_may2016_0.pdf

8 Arkansas Supreme Court upheld the state's constitutional 17% maximum annual percentage rate. As a result, predatory lenders left the state by 2009. See http://www.responsiblelending.org/payday-lending/research-analysis/rr012exec-Financial_Quicksand-1106.pdf for an estimate of the wealth drain caused by predatory loans prior to 2009.

9 Some other deposit advance products, and longer-term loans with balloon payments are also covered under the Rule.

The Rule sets forth strong consumer protections in three main areas:

Implementation of Underwriting Standards – The current model of predatory small dollar loans includes no underwriting standards. To access these loans, borrowers need only show proof of 1) an income stream that is deposited into, 2) a bank account, 3) to which the borrower has granted the lender ACH authorization access. The Bureau's Rule creates an underwriting standard to reasonably determine a borrower's ability to repay the loan. This underwriting standard is referred to as the "full-payment test." Lenders will now be required to review borrowers' stated living expenses and outstanding debt obligations and make a determination as to whether borrowers can "repay the loan payments and still meet basic living expenses and major financial obligations both during the loan and for 30 days after the highest payment on the loan."

The Bureau exempts certain loans from the full payment test: loans with a principal amount of $500 or less and loans with a repayment structure that includes 1/3 principal-reduction for subsequent loans.

Database – Borrowers may now have **only one outstanding loan at a time**. One of the benefits of the Reporting Information System is to monitor the number of loans a borrower has outstanding. The Rule also imposes **a mandatory 30 day cooling off period after a borrower takes out three successive loans**, and the RIS will be used to monitor compliance with the cooling off mechanism. Unfortunately, this cooling off period is much shorter than the 90-day period recommended by consumer advocates, and it represents a missed opportunity to provide borrowers reasonable time to recover financially.

Under the terms of a two-week payday loan, it is conceivable that a borrower could take 12 loans or more in a 12-month period. Below is a likely cycle of repeat borrowing:

Week 1 – Payday loan
Week 3 – Payday loan
Week 6 – Payday loan
30-day – cool off (total 10 weeks)
Repeat

In Mississippi, where Southern serves a number of customers, loans with *one-week balloon terms* are permitted. Under that scenario, the 7-week cycle of borrowing and cooling off could be repeated much more often.

Limit on Account Debits – Predatory lenders require access to a borrower's bank account, and repayment is made via ACH draft. In short order, these repayment debits create a deficit, and lenders often continue to push ACH debits which result in expensive Insufficient Funds fees and overdraft charges for borrowers. In some instances, as the debits continue, financial institutions can actually close the accounts. The Bureau's Rule limits the number of ACH drafts to two per written authorization. After two unsuccessful ACH drafts, lenders must receive a new written authorization from the borrower to debit the borrower's bank accounts via ACH draft. The process repeats with every two unsuccessful back-to-back debits.

Loans Exempted from the Rule

Terms that disguise the true indebtedness incurred and ignore less costly and available alternatives to borrowers lie at the heart of predatory small loan practices. Many responsible financial institutions (community banks, credit unions, and other responsible lenders) offer small loan products with modest application fees, affordable annual percentage rates (often 36 percent or less) and reasonable repayment terms (typically six months to one year). In 2010, the National Credit Union Administration (NCUA) set forth standards for its member institutions to offer a payday alternative loan (PAL) product.[10] NCUA PAL loans are exempt from the CFPB's Rule. In addition, the Rule exempts certain salary advances, as well as loans made by a lender making 2,500 or fewer covered loans per year and where these loans result in no greater than 10 percent of its revenue.

What does this mean for consumer protections for working Americans?

Within an hour of the release of the CFPB Rule on Small Dollar loans, the Office of the Comptroller of the Currency rescinded its "Guidance on Supervisory Concerns and Expectations Regarding Deposit Advance Products" (DAP guidance), opening the door to bank payday loans. Deposit Advance Products are bank loans that are repaid at the customer's next direct deposit. The fees associated with DAPs were similar to payday loans, and DAPs typically carried APRs of 300% or more. In the 1990s, banks by-and-large ceded this market to non-bank small dollar lenders.

It is unclear whether this rescission will be the catalyst to launch the return of bank payday loans. To be sure there is an opportunity to make significant revenue on DAP products – an important one for any business. However, the Comptroller's statement included a warning that might give banks pause: "banks should be guided by prudent underwriting and risk management as well as fair and inclusive treatment of customers….. All credit products should be underwritten based on reasonable policies and practices, including guidelines governing the amounts borrowed, frequency of borrowing, and repayment requirements."[11] In addition, banks would have to keep their DAP lending below CFPB's threshold of 2,500 loans in one year or less than 10 percent of its revenue from DAPs to avoid triggering CFPB full payment test or principal-payoff loan structure.

In the time that this analysis went to print, Bureau Director Richard Cordray announced his resignation, leaving the future of this Rule and other consumer protections promulgated by the Bureau uncertain. Regardless of what happens with this Rule or the future of the Bureau, one thing is clear: If acknowledging the harm of these products was "Step 1", proving safe, affordable small loan products to consumers is surely "Step 2".

10 https://www.ncua.gov/Legal/Documents/Regulatory%20Alerts/RA2010-13.pdf

11 https://www.occ.gov/news-issuances/news-releases/2017/nr-occ-2017-118.html

Safe small dollar loans at work.

Navigating the ocean of small loan products can be a challenge for consumers. Increasingly, lenders and employers are exploring ways to provide their employees with affordable small loans, as a company benefit, and it is paying off. Employer-based small loans provide employees with the capital they need via an easy application process, easy payroll deduction payment feature, and, in return, employers see increased employer stability.

We have reviewed a few employer-based loans that are both responsible and profitable:

Business and Community Lenders of Texas Community Loan Center[12] offers an employer-based small loan benefit. Program Manager Cruz Correa says, "Loans of up to $1,000 are available to employees of enrolled employers at terms of up to 12 months, with an interest rate capped at 18%. Payments are made via automatic payroll deduction and are reported to credit bureaus so as to help boost the credit score of borrowers and provide better credit options for the future." The program has been affordable for customers and profitable for lenders.

Sunrise Banks TruConnect[13] is an employer-based loan available to some 2500 employers across the country. Through its benefits network with PlanSource, TruConnect loans are available to more than 3.5 million employees. Loan amounts range from $1,000 to $3,000 over 12-month repayment period at an annual percentage rate of 24.99.

In addition to employer-based small loans, Community Development Financial Institutions are also experimenting with a number of small loan products offered directly to consumers.

In February 2016, **Southern Bancorp Bank** rolled out its Employee Opportunity Loan (EOL), a small-dollar employee payroll loan, and made it available to over 300 full time Southern staff. The EOL is fully automated and provides cash immediately (deposited in the employee's bank account) based on pre-qualification of an employee's net take-home pay amount. Loan amounts offered are: $250, $500 or $1,000, depending on the employee's salary. Loan payments are debited automatically from the employee's paycheck on a bi-monthly basis for one year at an all-in APR of 16.99%. Loan terms also allow for early payoff with no penalty. Loan terms include requiring completion of a free online financial management course, which is offered in-house.

Since 2006, **Oportun**[14], a California-based Community Development Financial Institution has provided more than 1.3 million small loans in California, Illinois, Nevada, Texas, New Mexico, Missouri, and Utah. Oportun utilizes advanced data analytics and technology to provide responsible, affordable loans. Internal underwriting standards calculate each loan applicant's ability to repay, approves loan amounts the company believes can be paid back, and sets loan amounts and terms to fit an individual's budget.

The foregoing products are but a sampling of lenders who succeed in achieving the delicate balance of providing affordable small loans to low and moderate income individuals while still making a profit. These loans can easily be offered as an employee benefit in-house or via a third-party Community Development Financial Institutions lender. Policy makers confronted with the harmful effects of predatory small dollar loans in communities across the nation might do well to consider supporting and encouraging safe, responsible loan products that meet workers' occasional need for capital without lasting adverse effects.

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12 http://www.bcloftexas.org/community/loan-centers

13 https://trueconnectloan.com/

14 https://www.oportun.com/

Select Small Dollar Lenders

AT A GLANCE

BCL of Texas Community Loan Center	
Loan Size	$400 - $1,000
APR	18%
Loan Term	12 months
Payment Mechanism	Payroll deduction or bank account debit.
Employee benefit loan. No prepayment penalty.	

Sunrise Banks TruConnect	
Loan Size	$1,000 - $3,000
APR	24.99%
Loan Term	12 months
Payment Mechanism	Payroll deduction.
Employer based loan. No prepayment penalty.	

Southern Bancorp Employment Opportunity Loan	
Loan Size	$250 - $1,000 based on employee salary
APR	16.99%
Loan Term	12 months
Payment Mechanism	Payroll deduction.
Offered in-house to Southern employees. No prepayment penalty.	

Oportun	
Loan Size	$300 - $8,000
APR	Varies based on underwriting standards.
Loan Term	7 - 35 months
Payment Mechanism	In person, online, telephone, mail.
No prepayment penalty.	

Southern Bancorp Community Partners

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Appendix

2016 Comment Letter to CFPB from Southern Bancorp, Inc., Southern Bancorp Bank, and Southern Bancorp Community Partners

Southern Bancorp
Building communities. Changing lives.

October 6, 2016

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

RE: CFPB-2016-0025, RIN 3170-AA40
Comment from CEOs of Southern Bancorp, Inc.; Southern Bancorp Bank; and Southern Bancorp Community Partners (all Certified CDFIs)

Dear Ms. Jackson,

As the Chief Executive Officers of Southern Bancorp's family of three CDFIs, Southern Bancorp, Inc.; Southern Bancorp Bank; and Southern Bancorp Community Partners (collectively "Southern"), we are respectfully submitting our comments and joining the Community Development Bankers Association (CDBA) in voicing our concerns over the proposed Rule and its potential impact on our lending abilities within the economically distressed communities we serve.

As a mission-driven family of Community Development Financial Institutions founded to encourage and promote economic development in rural and underserved communities, Southern works to stabilize and revitalize low-income communities in Arkansas and Mississippi by providing innovative, responsible and responsive financial services that are critical to a community's economic development and an individual's economic security. Today, with holdings of nearly $1.2B in assets, Southern is one of the largest community development banks in the United States, serving some of the nation's most impoverished markets, and consequently, operating in many of the communities in which predatory payday lenders operate.

As the Bureau is aware, predatory small dollar loans trap working class individuals and families in a cycle of debt which directly threatens their ability to save and their overall financial well-being. These products typically precipitate a cascade of negative financial events for people, and he chain of events is almost always composed of the same toxic formula: triple digit interest rates (often advertised as fees) combined with an unrealistic repayment term (guaranteed via ACH draft) that results in persistent financial shortfalls for the household budget that all too often necessitates repeat borrowing, a.k.a. the debt cycle. In many cases, people can lose their jobs, their automobiles, and even their bank accounts.

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While we appreciate the Bureau's concern and attempt to create consumer safeguards and industry accountability, we respectfully request your consideration of the following comments and concerns to the Final Rule:

- By **exempting loans with APRs at or below 36%,** the Rule establishes this arbitrary, double-digit APR as safe for consumers, when in reality, it could negatively impact the development of responsible alternatives.

- The proposed **Rule does not undermine state laws that provide stronger APR protections yet creates loopholes that may do so in the future**. The state Constitution of Arkansas provides a maximum loan APR of 17%. We are pleased that the proposed Rule will not directly undermine this state law; however, we caution that certain loopholes (outlined more fully below) could place Arkansas's very strong protections in danger.

- **Auto-title loans are prohibited from the short-term loan exemption.** The loss of a vehicle can have a devastating impact on family members' ability to attend school, get to medical appointments, work, etc. The Bureau's acknowledgement of this risk is key.

- The Rule permits **only one "covered short-term (45 days or less) loan" outstanding at a time** per borrower. The provision acknowledges the problem that, as defective predatory financial products take impact on borrower incomes, borrowers take multiple, simultaneous loans.

While the Bureau's effort is commendable, we would like to draw your attention to the significant loopholes that remain in the proposed Rule that would provide no protections for consumers, particularly those in one of our own states, Mississippi.

In its 2016 legislative session, Mississippi lawmakers approved a new small dollar installment loan meant to avoid coverage by the CFPB. SB 2409 legalizes long-term, high-cost debt trap loans that are nearly impossible for borrowers to repay.

Senate Bill 2409 creates a new installment loan product for loans up to$2,500. The fee structure includes:

- Origination Fee of $5 or 1% of loan – whichever is greater
- Handling fee of 25% per month.
- Default fees:
    - 10% of outstanding payments
    - Attorney fees for collection purposes
    - Court Costs

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    - Any fees associated with repossession, storage, preparation and sale of collateral
- Terms
    - 4-6 months on loans less than $500
    - 6-12 months on loans $500-$2,500
- Allows for use of personal property as collateral (pricing is same for secured / unsecured loan)

The CFPB's proposed Rule, released June 2, 2016, does NOT appear to cover the new Mississippi product.

We respectfully ask the Bureau to consider the following:

- **The Proposed Rule Legitimizes the 400% APR Predatory Small Dollar Loan Scheme** – As the Bureau is well aware, the payday and car-title schemes are harmful to consumers for three primary reasons: 1) the loans carry usurious Annual Percentage Rates (often masked as fees), 2) the loan term is unreasonably short, and 3) the payment is guaranteed via post-dated live check or ACH authorization to debit the borrower's account (more often the latter). Conversely, these are NOT reasons people report using these products. Research consistently shows that people are using these products because: 1) they are never turned down, 2) the process is fast, and 3) the transaction is private (meaning the purpose of the loan is never considered by the lender).

  Under the Proposed Rule, two (2) cycles of repeat borrowing (with 1/3) principal reduction are permitted. While these products are convenient and abundant, their impact on the working poor and middle class is profound. Numerous studies have shown that a *single loan* can and often does spiral a borrower or family into a financial crisis much more ruinous than the initial shortfall that led them to the lender.

  Consider the following example of a typical Mississippi borrower where the median annual **household income** is $39,680[1] and the typical small dollar loan costs $21.95 per $100 borrowed or 527% APR:

[1] Bureau of Labor Statistics Consumer Expenditure Survey.
Source for Monthly Household expenditures, adjusted for income based on $61792 mean: http://www.bls.gov/cex/2015/combined/region.pdf
Source for Income and Taxes: ADP tax calculator, Federal Deductions: 1; MS State deductions: 0

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$500 Loan at 527% APR and Full Repayment Option

Income and Taxes	$ 25,000	$ 35,000	$ 45,000	$ 55,000
Income per month	$ 2,083.00	$ 2,916.69	$ 3,750.00	$ 4,583.33
Federal income tax	$ 195.31	$ 320.31	$ 455.73	$ 664.06
State income tax(MS)	$ 82.00	$ 124.00	$ 165.00	$ 207.00
Social Security	$ 129.17	$ 128.83	$ 232.50	$ 284.17
Medicare	$ 30.21	$ 42.29	$ 54.38	$ 66.46
Income after tax	$ 1,646.64	$ 2,249.24	$ 2,842.39	$ 3,361.64
Loan payment due	$ 609.75	$ 609.75	$ 609.75	$ 609.75
Income remaining after payment	$ 1,036.89	$ 1,639.49	$ 2,232.64	$ 2,751.89
Monthly Household Expenditures				
Food	$ 222.96	$ 312.14	$ 400.16	$ 490.51
Housing	$ 556.91	$ 779.67	$ 1,002.44	$ 1,225.20
Utilities	$ 133.31	$ 186.63	$ 239.96	$ 293.28
Transport.	$ 323.60	$ 453.04	$ 582.48	$ 711.92
Healthcare	$ 143.76	$ 201.27	$ 258.77	$ 316.28
Total Essential Expenditures	$ 1,380.54	$ 1,932.75	$ 2,483.81	$ 3,037.19
Money from paycheck remaining (deficit)	$ (343.65)	$ (293.26)	$ (251.17)	$ (285.30)

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$500 Loan at 527% APR Under 1/3 Principal Reduction Proposal

Income and Taxes	$ 25,000	$ 35,000	$ 45,000	$ 55,000
Income per month	$ 2,083.00	$ 2,916.69	$ 3,750.00	$ 4,583.33
Federal income tax	$ 195.31	$ 320.31	$ 455.73	$ 664.06
State income tax(MS)	$ 82.00	$ 124.00	$ 165.00	$ 207.00
Social Security	$ 129.17	$ 128.83	$ 232.50	$ 284.17
Medicare	$ 30.21	$ 42.29	$ 54.38	$ 66.46
Income after tax	$ 1,646.64	$ 2,249.24	$ 2,842.39	$ 3,361.64
loan payment due (interest plus 1/3 principal)[2]	$ 342.00	$ 342.00	$ 342.00	$ 342.00
Income remaining after 1/3 principal payment/fees	$ 1,304.64	$ 1,907.24	$ 2,500.39	$ 3,019.64
Monthly Household Expenditures				
Food	$ 222.96	$ 312.14	$ 400.16	$ 490.51
Housing	$ 556.91	$ 779.67	$ 1,002.44	$ 1,225.20
Utilities	$ 133.31	$ 186.63	$ 239.96	$ 293.28
Transport.	$ 323.60	$ 453.04	$ 582.48	$ 711.92
Healthcare	$ 143.76	$ 201.27	$ 258.77	$ 316.28
Total Essential Expenditures	$ 1,380.54	$ 1,932.75	$ 2,483.81	$ 3,037.19
Money from paycheck remaining	$ (75.90)	$ (25.51)	$ 16.58	$ (17.55)

[2] 109.60 = fee on $500 loan (21.95/$100)
166.66 = 1/3 principal payment
65.85 = fee on remaining balance rollover
$342.11 = Total payment 1

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- **The proposed Rule does nothing to address the defective nature of these products; it places no consumer safeguards in effect and should be reconsidered.** As is illustrated above, the Bureau's provision, though well-intentioned, does not protect consumers. In fact, the proposed Rule sanctions a defective product that **destroys a household's finances *upon its first use***.

  By placing no restrictions on loans of 45 days or less other than verification that the borrower has no other outstanding small dollar loans, the CFPB is legitimizing the usurious and unsustainable model of predatory lending. Study after study has shown that the single payday loan, with its unmanageable repayment term and exorbitant interest rates is enough to cause ruinous damage to a single borrower or family.

  Whether it is a vehicle with a defective airbag or a skateboard with explosive batteries, any product that "blows up" within 45 days of purchase must contain a design flaw.

- **The Ability to Repay standard may inadvertently capture and jeopardize responsible small dollar loans offered by responsible lenders**. As the CDBA comment letter notes, CDFIs serving customers of modest means often extend loans to accommodate emergency needs of existing customers under $1,000 (and often less than $500). A $500 loan with a $32 application fee, a moderate (10%) interest rate, and a 3-month (90 day) term yields an APR of 36.09%. This affordably priced loan will trigger the proposed ATR regulations, but is a far cry from a payday lender's 400% APR, and the proposed ATR regulations make originating these loans too costly for responsible lenders.

  Possible alternatives would be to exempt from ATR requirements those lenders with less than 20% of their gross loan revenue from small dollar loans or exempt CDFI's altogether from the provision.

- **The Rule anticipates an unrealistic database for verification of outstanding loans, but does not specifically establish one.** Effective database management will require the strictest real-time enforcement followed by periodic independent audits. It is unrealistic to anticipate an initial start-up process of "dumping" all loans into the system. As a result, what appears to be a reasonable check and balance, is not.

- **The proposed Cooling-Off Period between loans is too short.** Even with the proposed regulations, consumers could still end up spending too many days of financial indebtedness to these products. The Cooling-Off Period should be lengthened to 90 days between loans.

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- **The 5% default rate threshold for covered loans with terms between 46 days and 24 months is too low and should be raised.** Southern's Fresh Start loan program for people who have overdrawn their checking accounts and received a charge-off is designed to give people a second chance to maintain a checking account. Southern offers 24-month loans at 0% APR, yet even at no cost to the account holder, this program has a default rate of 17.64%. We understand that our Fresh Start product would not be a "covered loan" under the proposed Rule; however, it illustrates the unlikely chance that any lender – responsible or not – could meet the 5% threshold. If it is the intent of the CFPB to encourage responsible loans, raising the proposed default rate for these covered loans would be appropriate.

- **Rule should include installment loans secured by personal property in its family of "covered loan products."** This will ensure some consumer protections and industry oversight of companies that offer products under CFPB end-run statutes such as Mississippi's SB 2409.

To quote Director Cordray:

> ***"…for those who are trying to move themselves slightly ahead of the curve, rather than forever falling just behind it, the growing accumulation of wealth is less relevant than avoiding the negative effects of using high-cost debt just to make ends meet. The ability to achieve this goal can have dramatic effects on financial stability."***

Again, we at Southern thank the CFPB for the opportunity to provide feedback on its proposed Rule. We look forward to the CFPB's Final Rule which we are certain will ensure Americans have a reasonable chance of establishing a stable budget and establishing savings by avoiding the negative effects of high-cost debt.

Sincerely,

Darrin L. Williams
Chief Executive Officer
Southern Bancorp, Inc.

John Olaimey
Chief Executive Officer
Southern Bancorp Bank

Dominik Mjartan
Chief Executive Officer
Southern Bancorp
Community Partners

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