Charisse Ma Lebron
Payday Campaign Organizer
California Reinvestment Coalition
474 Valencia Street, Suite 110
San Francisco, CA 94103

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Delivered VIA EMAIL
Robert E. Feldman
Executive Secretary
Attention: Comments
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429-9990

Re: *CRC Comments on FDIC Guidance on Affordable Small-Dollar Credit Products*

Dear Mr. Feldman:

The California Reinvestment Coalition (CRC) submits this timely comment letter on the proposed Federal Deposit Insurance Corporation Guidance on Small-Dollar Credit Products. CRC commends the FDIC for addressing this important issue, as these products are in high demand and few such affordable small-dollar credit products are currently available to the consumers who need them most. Therefore, fringe financial services and products characterized with excessive fees have instead filled the void. CRC hopes that the Guidance will successfully encourage banks to offer affordable small-dollar loans, thereby, enabling Californians to build and maintain assets, and particularly serve the low-and moderate-income and communities of color.

The California Reinvestment Coalition is a nonprofit membership organization of more than two hundred forty nonprofit organizations and public agencies across the state of California. We work to increase low to moderate-income communities' access to credit for affordable housing and community economic development, investments, and standard financial services. CRC increases this access through policy analysis, research, advocacy, and outreach in order to pressure banks to have a more substantial and meaningful investment in low-income communities and communities of color. We negotiate with banks to offer better deposit products, alternative banking products, reasonable mortgage rates, and financial services to small businesses and low-income communities. CRC employs the same tactics to go after fringe financial services, such as Check-cashing and Payday Lending. Over the last few years, CRC has focused its attention on fighting such predatory financial practices in California and the nation.

Background: The Need for Agency Guidance

The Payday industry continues to grow exponentially with nearly 25,000 outlets nationwide, 5,626 of which are in the state of California. Hundreds of Payday Lenders line the streets in low- and moderate-income communities and communities of color. CRC's "The Financial Divide: An Uneven Playing Field" revealed that an estimated 1.5 million Californian Households utilize payday loans nine to thirteen times annually, costing Californians $757 million in fees in 2005. Many borrowers use the loans for basic necessities such as food, healthcare, and money for rent; contrary to the assertion of Payday lender advocates that their average user has a Porsche that broke down, which needs repairs. Such an assertion is highly unlikely, as CRC's research concluded that over two-thirds of payday lending customers earn less than $30,000 annually.

Payday lenders are preying on the most vulnerable Californian. The most effective means to end predatory payday lending is with new legislation that not only caps the interest rates lenders can charge, but also regulates payday lending operations to ensure compliance with laws that protect consumers against predatory practices. Short of such legislation, increased market competition from multiple banks offering affordable small-dollar loans would compete with payday loans and would diminish the demand for usurious payday loans.

Affordability and Pricing

The Guidelines appropriately encourage interest rates and fees that not only are affordable for consumers, but also reflect the associated risks of the respective small-dollar product. The encouraged interest rate of 36% APR or less for small-dollar loans is a fair proposal, which also is in accordance with the rate recently set by Congress for loans extended to military personnel and their dependents with the passage of the Talent-Nelson Amendment. However, this rate is still double the cap of federally chartered credit unions at 18%. Therefore, we encourage banks to offer small-dollar loans at 36% APR at a maximum rate with no fees, but if at a much lower interest rate it would be permissible to have low fees assessed to not only reflect the associated risks, but also cover the bank's administrative fees.

Amortizing Payments

The most problematic aspect of payday loans offered by fringe financial services are payments that include such excessive fees that they result in multiple renewals, thus resulting in the failure of reducing the outstanding balance of the loan. CRC supports the recommendation that banks offer small-dollar loans with payment programs that result in a consistent reduction of the principal owed.

Capacity to Repay and Streamlined, Risk-Based Underwriting

CRC believes that the lenders underwriting these small-dollar loans should conduct a comprehensive assessment of the borrower's ability to repay loans given at a higher interest rate in a reasonable, yet accommodating term of repayment. Although the assessment of capacity to repay needs to be accurate, the small-dollar loan application process should be equally accessible and expedient as the Guidelines suggest since institutions have the advantage of a pre-established relationship with the consumers who now rely on payday lenders for short-term, high cost credit. CRC supports the assertion that customers with little or no credit history can still be conveniently and expediently be approved for an affordable small-dollar loan that they can repay.

Additional Safety Features

CRC supports the other safe features of small loans included in the Guidelines, such as an affordable installment repayment schedule, no prepayment penalties, and the use of technology to efficiently and expediently extend credit and make payments convenient for consumers.

CRC strongly urges the Agency to ensure that the savings component proposed in the Guidelines be adopted, as successful asset-building for the underserved is the only way to transition these same customers away from their reliance on high-cost credit. Furthermore, CRC commends the Agency's hope that over time, these same underserved customers will be able to improve their credit histories and qualify for other more significant asset-building loans, such as home mortgages and small business loans as outlined in the Guidelines.

In addition to the features described in the FDIC Guidelines, the success of these affordable small-dollar loan products also depends much on the appropriate amount and extent of resources used for the advertisement and attractive branding of such products to the appropriate customer base. Lastly, publicizing the accessibility and relevant disclosures must be in place in order to build consumer confidence in these products.

However, CRC also recognizes that disclosure can only go so far. In an aggressive sales environment, consumers need greater education. Therefore, CRC also strongly endorses the Agency's suggestion that financial institutions work with nonprofit agencies and organizations to provide financial education training on budget management, savings, and fiscal responsibility.

Ultimately, CRC recognizes that disclosure and consumer education cannot defeat predatory lending practices. Continued FDIC guidance must be sufficiently robust enough to discourage misleading sales tactics and abusive small-dollar loan products. Furthermore, consistent regulatory guidance must be accompanied with stern enforcement action for lenders who inappropriately target vulnerable consumers with high-cost credit products.

CRA & Fair Lending in the Guidance

CRC was pleased that the FDIC incorporated the Community Reinvestment Act (CRA) into the proposed guidance. CRA mandates lenders to meet the credit needs of consumers in a safe and sound manner. The Guidance must, therefore, strenuously stipulate that issuing short-term, high-cost small-dollar loan products in an unsafe and unsound manner violates CRA.

Lenders who extend a line of credit to fringe financial institutions, such as payday outlets, must be penalized via lower ratings on their CRA exams, because by default they are supporting the practice of making high-cost, usurious loans to consumers, rather than offering affordable small-dollar loans to meet their needs. The CRA regulation includes a provision that penalizes lenders for discriminatory and abusive loans. Therefore, the Agency must ensure that lenders are serving all communities and not targeting minorities, single parents, military personnel, elderly, or low-income borrowers with usurious small-dollar loan products. Such lenders engaging in destructive and predatory loans must be given a lower rating on their CRA exams.

In Conclusion

CRC remains concerned that high-cost small dollar loan products are commonplace for low- and moderate-income borrowers, and that there are too few reasonable and affordable small-dollar loan products available as alternatives. Although CRC's mission is to increase fair and equal access to credit, capital, and standard financial services, we also believe that this must be done in a manner that is responsible and affordable for all the parties involved. CRC remains optimistic that these FDIC Guidelines will hold financial institutions accountable to all consumers.

CRC sincerely appreciates the FDIC's efforts to meet the needs of low- and moderate-income customers, the under-banked, and customers with little or no credit history with the development and adoption of affordable small-dollar loan products. We are confident that this can be accomplished with our continued vigilant efforts to ensure that banks meet their CRA obligations by offering much needed affordable alternative small-dollar loans, rather than supporting fringe financial services and products.

Thank you for the opportunity to comment on this proposal. If you have any questions about our recommendations, please feel free to contact me at (415) 864-3980.

Respectfully,

Charisse Ma Lebron
Payday Campaign Organizer
California Reinvestment Coalition