## SMALL BUSINESS ADVISORY REVIEW PANEL FOR POTENTIAL RULEMAKINGS FOR PAYDAY, VEHICLE TITLE, AND SIMILAR LOANS

## DISCUSSION ISSUES FOR SMALL ENTITY REPRESENTATIVES

To help frame the small entity representatives' discussion of issues and cost of credit matters during the upcoming Small Business Review Panel (Panel) meeting, we are providing a list of questions on which the Consumer Financial Protection Bureau (Bureau) seeks your advice, input, and recommendations. As you think about the questions below, it would be helpful to refer to the "Outline of Proposals Under Consideration and Alternatives Considered" (Outline) enclosed with this document.

Please note that the questions are designed to assist you in identifying the type of information you may need in order to participate effectively in the discussion with the Panel and other small entity representatives. We recognize that some of these questions may not apply to you or your business. When a topic is relevant to you, please discuss it based on your own experience or your knowledge of the experience of other small entities in your same line of business. It would also be useful to the discussion to provide specific examples of issues that have arisen in your lending activities.

The Panel would like to understand the potential economic impacts of the particular proposals under consideration by the Bureau which are discussed in the Outline. The Panel's understanding would be enhanced if you can provide a general sense of the type and amount of any costs of complying with existing requirements at the state and local levels, as well as estimates of costs for the proposals under consideration. Some of the questions suggest ways in which you might want to consider these costs as you prepare for the general discussion. The Bureau welcomes any quantitative information you may choose to provide in response to these questions, either during the meeting or afterward, but these questions should not be treated as data requests. While company-specific information would be helpful to the discussion, we understand that you may wish to frame your response in a manner that protects your company's proprietary information, as your responses may be included in a public report.

As you prepare for the discussion please consider the following general issues:

- The potential effects of the proposals and alternatives on your company's systems, operations, staff resources, and compliance costs.
- The amount of time you would need to make changes to your systems or operations, train your staff, or take other actions you believe would be required in order to comply with the proposals under consideration.
- The number or percentage of transactions conducted by your company that may be impacted by the proposals under consideration.
- The potential costs and benefits for your company.
- Based on any direct knowledge or experience you may have, how your or other small companies' anticipated compliance costs may differ from those of larger companies, and the characteristics of small companies compared with larger companies that may contribute to these differences.

## I. COVERAGE AND SCOPE

The Bureau is considering proposals that would impose new regulations for two categories of loans. The first category would generally cover consumer credit products with a contractual duration of 45 days or less. The second category would cover consumer credit products with a contractual duration of longer than 45 days if:

- The credit product has an all-in annualized percentage rate in excess of 36 percent (using an annualized total cost of credit measure that would include interest, fees, and the cost of ancillary products, such as the military annual percentage rate under 32 CFR 232); and
- The lender holds either: (1) access to repayment through a consumer's account or paycheck (including a post-dated check, an automated clearing house (ACH) authorization, a remotely created check (RCC) authorization, an authorization to debit a prepaid card account, a right of setoff or to sweep funds from a consumer's account(s), and other methods of collecting payment from a consumer's checking, savings, or prepaid account; or a payroll deduction); or (2) a non-purchase money security interest in the consumer's vehicle (which would include vehicle registration loans and title pawn loans).

Here and in the Outline the two categories of loans are referred to as "covered short-term loans" and "covered longer-term loans," respectively, and the two categories are referred to collectively as "covered loans." The proposals under consideration would also exclude from coverage traditional pawn loans, credit cards, real estate secured loans, and student loans. The Bureau is also not considering proposals related to deposit account overdraft services as part of this rulemaking. Most of the proposals under consideration focus on how lenders underwrite the covered loans and in some cases would limit reborrowing within specified time periods. The proposals also focus on how lenders exercise their access to repayment through a consumer's account.

To get a better sense of how the proposals under consideration might affect you, it would be helpful to get a sense of your current business model and credit product mix.

1. What types of credit products—whether closed-end or open-end—do you offer that would be covered short-term loans, covered longer-term loans (both with and without balloon payments), or non-covered loans (including pawn loans)? Please describe the credit products' basic terms (size, pricing, length, repayment structure, etc.).
2. Roughly what percentage of your business (in loans or revenue) comes from products that would be covered short-term loans, covered longer-term loans (both with and without balloon payments), or non-covered loans?
3. Roughly what percentage of your business (in loans or revenue) involves access to repayment through a consumer's account?
4. Roughly what percentage of your business (in loans or revenue) involves vehicle title lending (i.e., taking a non-purchase money security interest in a consumer's vehicle)?
5. Do you offer covered loans to online consumers, through brick-and-mortar locations, or other channels? What percentage of your business comes through each channel?
6. What percentage of your consumers either had difficulty repaying or did not repay their loans? What percentage of these loans do you generally charge off?

7. What percentage of your business comes from repeat borrowers? How often do these consumers generally reborrow?[1]

## II. ABILITY-TO-REPAY REQUIREMENTS FOR COVERED SHORT-TERM AND LONGER-TERM LOANS

For both covered short-term loans and covered longer-term loans, the Bureau is considering proposals to require lenders to make a good-faith, reasonable determination that a consumer has the ability to repay the loan according to its terms without reborrowing or defaulting while still meeting her major financial obligations and living expenses. While the Outline includes separate discussions of the proposals under consideration for ability-to-repay requirements that would apply to covered short-term loans and covered longer-term loans, the following section consolidates the discussion. Please consult the Outline for additional important details on the ability-to-repay requirements for different types of loans.

As part of the reasonable determination of ability to repay, the proposals under consideration would require the lender to obtain and verify information about the consumer's (1) income, (2) major financial obligations, and (3) borrowing history as follows:

- To verify the amount and timing of a consumer's income, the lender would be required to use bank statements, benefits statements, or paystubs.
- To verify the amount and timing of a consumer's major financial obligations, the proposals would require lenders to use third-party records or other appropriate methods of verification to ascertain the consumer's (1) housing payments, (2) required payments under debt obligations, (3) child support obligations, and (4) other legally required payments.
- To verify borrowing history, a lender would be required to review its records to ascertain the consumer's recent borrowing history on covered loans with that particular lender and its affiliates (including whether there is a current delinquency or there were any recent defaults on such loans). The Bureau is also considering requiring lenders to ascertain a consumer's recent borrowing history with other lenders (including whether there were any recent defaults on such loans). Lenders would have to check at least one commercially available reporting system meeting specified criteria to obtain such information. Lenders would be required to report the use of covered loans to all such commercially available reporting systems.

Specifically, the lender would be required to determine whether, given the amount and timing of the consumer's income and major financial obligations, the consumer will have enough remaining income to be able to repay the loan while still paying her major financial obligations and necessary living expenses (such as food and transportation). For all covered short-term loans and for covered longer-term loans with balloon payments, the lender would need to make this determination for the loan term and for an additional 60 days after the loan's contractual duration (the underwriting period).

For open-end credit products, the lender would be required to assume that a consumer fully utilizes the credit upon origination and makes only minimum payments until the end of the contract period, at which point the consumer must make a single payment in the amount of the remaining balance. The Bureau is also considering a proposal to require the lender to assume

[1] The term "reborrowing" is defined the same as in Section I of the Outline (i.e., to include reborrowing as well as rollovers, renewals, or refinancings).

full repayment on the line of credit by the end date specified in the contract or in six months if no date is specified.

### *Current Practices*

1. Do you currently underwrite loans that you extend? If so, please describe your process.
    a. What types of information do you gather and assess in making your underwriting decisions? Do you analyze major financial obligations or other living expenses, and if so, how? Do you analyze residual income?
    b. If you assess borrowing history, income, or other factors, how far back in time do you look? Do you verify this information through third-party records? If so, what types of third-party records and how do you obtain them?
    c. Do you automate any or all of your underwriting? If so, did you develop the system to do so in-house, hire a vendor to develop the system, or use a third-party commercially available product?
    d. Does your underwriting consider only the individual consumer's income and expenses, or does it also consider the consumer's household income and expenses if the consumer lives in a multi-person household?
2. What costs (fixed and variable) do you incur in performing any underwriting? Are ongoing costs passed on to the consumer?
3. What is the percentage of consumers who are deemed ineligible as a result of your current underwriting process? What are the most common reasons that consumers are rejected? How are rejections documented?
4. If a consumer reborrows from you, do you separately underwrite the new loan? If so, please describe that process and how it may differ from the initial underwriting process.
5. Do you currently check a consumer's loan history with other lenders before making a loan? If so, do you use a reporting system? If not, how do you check? Please describe the costs or burdens you incur in doing so.
6. Do you also report your loans to a reporting system? If so, how many reporting systems do you report to? What are the incremental costs and burdens associated with reporting to multiple reporting systems?

### *Potential Impacts of Proposals Under Consideration*

#### A. Verification of Income

1. If you do not currently verify a consumer's income, what additional costs or burdens would you incur based on the proposal under consideration, both initially (in designing and implementing systems) and on a continuing basis?
2. If you would incur additional costs or burdens in verifying the amount and timing of a consumer's income, how would that affect your business? Would you adjust pricing, credit product mix, or other practices in response?
3. If you make loans online, how would you comply with this requirement? Would it be feasible for you to obtain scanned or photocopied documents? What would be the costs of doing so?

#### B. Verification of Major Financial Obligations

1. If you do not currently verify a consumer's major financial obligations (i.e., housing payments, payments on debt obligations, child support obligations, and other legally required payments), what additional costs or burdens would you incur to do so, both

initially (in designing and implementing systems) and on a continuing basis? Please discuss revenue impacts in addition to cost burdens.
    a. What methods would you elect to use (e.g., credit report, bank statements, copies of bills, cancelled checks)? How much time do you estimate the verification would take per transaction? What are the hourly wages of the staff that would do this work?
2. If you would incur additional costs or burdens in verifying a consumer's major financial obligations, how would that affect your business? Would you adjust pricing, credit product mix, or other practices in response?
3. Are there any particular major financial obligations that would be especially difficult to verify? If so, please describe why.
4. If you make loans online, how would you comply with this requirement? Would it be feasible for you to obtain scanned or photocopied documents? What would the costs be of doing so?
5. Are you aware of any third-party products (such as a specialty credit report) currently available that you could potentially use to verify a consumer's major financial obligations? If so, what are the costs or burdens associated with using that third-party product? Do you report your loans to such a third-party?
6. If the Bureau included additional categories of obligations to include in the verification requirement, such as utility payments and regular medical payments, what additional costs or burdens would you incur, both initially (in designing and implementing systems) and on a continuing basis, to verify these expenses?

### C. Consideration of Borrowing History

1. If a final rule were to adopt the requirement to consider and verify the consumer's recent borrowing history on covered loans with the same lender, affiliates, and other lenders (including the requirement to check a commercially available reporting system and report use of covered loans to commercially available reporting systems), what specific actions would you need to take initially to comply with the requirement (in developing and implementing systems) and on a continuing basis? What do you expect the costs of those actions to be? How would those costs and burdens compare to the costs of implementing existing state or local regulatory requirements?
2. If the Bureau were to adopt the requirement that lenders check a consumer's borrowing history with the lender, its affiliates, or any other lenders, what would you expect to be the respective burdens for checking, for example, one year versus 18 months versus two years of borrowing history?

### D. Reasonable Determination of Ability to Repay

1. If the ability-to-repay requirement described above were adopted in a final rule, what are the types and costs of specific actions that you would need to take both initially (in designing and implementing systems) and on a continuing basis to comply with the requirement?
    a. Would you anticipate using an automated model or models to comply with such a requirement, or would you more likely use manual processes?
    b. If you used an automated model, what other inputs would you consider in addition to the required criteria? How would you weigh those inputs compared with the information the rule would require you to obtain and verify?

2. If the ability-to-repay requirement described above were adopted in a final rule, what types of impacts would this have on your business? What marginal burdens and costs would such a final rule add to your existing underwriting processes?
   a. How would these impacts differ if you were required to consider only the individual consumer's income, major financial obligations, and living expenses rather than to consider the consumer's aggregate household income, major financial obligations, and living expenses?
3. How do you anticipate accounting for consumers' living expenses—such as food—that under the proposal would not have to be itemized and verified, to ensure that consumers have enough residual income to make the covered loan payments while still paying other living expenses as they come due?

## III. LIMITATIONS ON SEQUENCES OF COVERED SHORT-TERM LOANS AND COVERED LONGER-TERM LOANS WITH BALLOON PAYMENTS

For covered short-term loans and covered longer-term loans with balloon payments, the proposals under consideration would impose a presumption of inability to repay for multiple loans in a sequence. (A covered short-term loan or covered longer-term loan with a balloon payment is part of a sequence if it is made within 60 days of the consumer's having an outstanding covered short-term loan or covered longer-term loan with a balloon payment.)

- If a consumer had taken out one previous covered short-term loan or covered longer-term loan with a balloon payment in a sequence, the proposals under consideration would impose a rebuttable presumption that the consumer lacks the ability to repay a second covered short-term loan or covered longer-term loan with a balloon payment. To rebut this presumption, the lender would need to conduct a new ability-to-repay determination and verify a change in the consumer's circumstances between the first and second loan (such as a pay raise).
- If a consumer had taken out two previous covered short-term loans or covered longer-term loans with a balloon payment in a sequence, the same rebuttable presumption would apply, and the lender would have to conduct a new ability-to-repay determination and verify that additional changed circumstances arose between the second and third loans in order to rebut the presumption.
- If a consumer had taken out three previous covered short-term loans or covered longer-term loans with a balloon payment in a sequence, there would be a conclusive presumption that the consumer lacks the ability to repay a new covered short-term loan or covered longer-term loan with a balloon payment, and the lender could not make the fourth loan. During a 60-day cooling-off period after the consumer repays the third loan, the lender would be prohibited from making another covered short-term loan or covered longer-term loan with a balloon payment to the consumer.

1. If a final rule adopts the limitations on sequences of covered short-term loans and covered longer-term loans with balloon payments described above, what are the types and costs of specific actions that you would need to take both initially (developing and implementing systems) and on a continuing basis to comply with the requirement? Please discuss revenue impacts in addition to cost burdens.
2. How would you expect to verify changed circumstances for consumers who are seeking additional loans in a sequence?
3. If these limitations would cause you to incur additional costs or burdens, how would that affect your business? Would you adjust pricing, credit product mix, or other practices in response?

## IV. LIMITATIONS ON REBORROWING OF COVERED LONGER-TERM LOANS

The Bureau is considering a proposal that would require lenders to presume that a consumer lacks the ability to repay a covered longer-term loan with similar repayment terms under certain circumstances. The presumption would be triggered if:

- The consumer was, at the time of the refinancing, delinquent or had recently been delinquent on a payment under the loan being refinanced;
- The consumer stated or otherwise indicated that she was unable to make a scheduled payment under the loan being refinanced or that the loan being refinanced was causing financial distress;
- The refinancing provides for the consumer to skip (or pay a lesser amount than) a payment that otherwise would have been due under the loan being refinanced, unless the refinancing provides for a substantial amount of cash out to the consumer; or
- The loan being refinanced is in default.

The lender could rebut the presumption with verified evidence of changed circumstances indicating that the consumer has the ability to repay a loan with similar repayment terms as the previous loan. However, without verified evidence of changed consumer circumstances, the lender could only extend a new covered loan if the new loan had smaller payments within the consumer's ability to repay.

1. What are the types and costs of specific actions that you would need to take both initially (developing and implementing systems) and on a continuing basis to comply with the requirement? Please discuss revenue impacts in addition to cost burdens.
2. If these limitations would cause you to incur additional costs or burdens, how would that affect your business? Would you adjust pricing, credit product mix, or other practices in response?

## V. ALTERNATIVE REQUIREMENTS FOR COVERED SHORT-TERM LOANS

The Bureau is considering whether to propose allowing lenders the option to satisfy alternative requirements on certain short-term covered loans that are structured to taper off the consumer's indebtedness. For a covered short-term loan that otherwise would be subject to the full set of ability-to-repay requirements, lenders would be able to extend an alternative loan without determining the consumer's ability to repay provided that the lender applies the following screening requirements:

- The lender verifies the consumer's income;
- The lender verifies the consumer's borrowing history and also reports use of covered loans to commercially available reporting systems;
- The consumer does not currently have a covered loan outstanding with any lender;
- The consumer takes out no more than three such alternative loans in a sequence (with a sequence including any loan taken out within 60 days having a prior loan outstanding) and has not completed a three-loan sequence of such loans from any lender within the past 60 days;
- After repayment of the third loan in a sequence, the lender or its affiliate extends no additional credit, whether or not a covered loan, to the consumer for a period of 60 days;

- The loan would not result in the consumer's receiving more than six covered short-term loans from any lender in a rolling 12-month period; and
- Following completion of the contractual loan term, the consumer will not have been in debt on covered short-term loans for more than 90 days in the aggregate during a rolling 12-month period.

Additionally, the loan would need to include the following structural limitations:

- The amount financed does not exceed $500;
- The loan has a contractual duration of 45 days or less with no more than one finance charge for this period;
- The consumer does not provide a security interest in a vehicle as collateral for the loan; and
- The loan is structured to taper off the consumer from indebtedness on such loans.

Additionally, the Bureau is considering whether to require lenders to provide a disclosure to consumers explaining the operation of the alternative requirements for covered short-term loans.

1. If these alternative requirements were adopted in the final rule, would you offer a significant number of these loans? What types of impacts would this have on your business? Would you be more inclined to make loans subject to the ability-to-repay requirements, loans subject to these alternative requirements, or a mixture of both?
2. What costs would you incur in making loans that comply with the alternative requirements? How do those costs compare to the costs you would incur in making loans that comply with the ability-to-repay requirement? How do the costs of satisfying the alternative requirements compare to the costs of complying with applicable state and local regulatory requirements? Please discuss revenue impacts in addition to cost burdens.
3. What specific impacts would the loans-per-year limit, the limit on total days of indebtedness, and the prohibition on multiple loans at a time have on your business? Please discuss revenue impacts in addition to cost burdens.
4. If a final rule adopts the ability-to-repay requirement and limitations on sequences of covered short-term loans, but the final rule does *not* adopt the alternative requirements described immediately above, what types of impacts would this have on your business? Please discuss revenue impacts in addition to cost burdens.
5. What specific impacts do you anticipate from the proposal under consideration that lenders disclose information about the alternative requirements?

#### ***Additional Structural Protections***

As noted above, one of the conditions for a loan to be eligible for the alternative requirements is that the covered short-term loan has a feature that tapers off the consumer's indebtedness on such loans. One such feature that the Bureau is considering is to require a sequence of these covered short-term loans to reduce the principal owed over time so that the loan would be completely repaid within three loans. For example, if the first loan in a sequence had a principal of $300, the second loan could be for no more than $200, and the third loan could be no more than $100. As an alternative to this requirement, the Bureau is considering whether these excluded covered short-term loans should include a requirement that lenders provide a no-cost extension of the loan—an "off-ramp"—if a consumer is unable to repay the third loan according to its terms. The Bureau is also considering whether to propose additional features aimed at preventing lender practices that discourage off-ramp usage such as notification of the consumer's rights to the off-ramp and a prohibition on collection before the off-ramp is made available.

1. What percentage of your consumers who take out covered short-term loans reduce the principal of their loans over the course of a loan sequence? Do you have any policies or practices to require or encourage consumers to reduce the principal their loan sequences?
2. What are your current practices, policies, and procedures for when consumers have difficulty making their required payments?
    a. Do you offer extended payment plans (EPPs)? If so, are they required under state law or do you offer them voluntarily, such as in accordance with industry best practices?
    b. If you offer EPPs, do you charge additional interest or fees? How do these EPPs differ from the proposals under consideration?
    c. What percentage of consumers use an EPP? What percentage of consumers are eligible for an EPP? What percentage of consumers repay through the EPP?
    d. If a consumer uses an EPP, does that impact whether you extend further loans to that consumer? Do you impose a cooling-off period after the EPP?
    e. What type of notice, if any, do you give your consumers about the EPP? Please describe the form, content, and timing of the notice.
3. If either of these additional structural protections were required for loans subject to the alternative requirements, what types of impacts would this have on your business? How would these impacts change if the proposal allowed four loans per sequence rather than three? How would these impacts change if the proposal required an off-ramp for each loan in the sequence rather than only the final loan in the sequence?
4. How would an off-ramp with six payments, rather than four, impact your business?
5. If the Bureau were to propose additional features aimed at preventing lender practices that discourage off-ramp usage, what would be the specific impacts of such proposals on your business?

## VI. ALTERNATIVE REQUIREMENTS FOR CERTAIN LONGER-TERM LOANS

### A. NCUA Short-Term, Small Amount Loan

Under the proposals being considered, a lender could extend a covered longer-term loan without making a full ability-to-repay determination if the loan shares the following features with NCUA's Payday Alternative Loan program:

- <u>Screening requirements</u>: The lender applies minimum underwriting standards and verifies the consumer's income.
- <u>Structural protections</u>:
    - The loan has a principal of not less than $200 and not more than $1,000;
    - The loan has a maximum term of six months;
    - The lender charges no more than 28 percent annualized interest rate and an application fee, reflecting the actual costs of processing the application, of no more than $20; and
    - The lender fully amortizes the loan over no fewer than two payments.

The Bureau is also considering proposing additional conditions for these loans, namely:

- Screening requirements:
  - The lender verifies borrowing history and also reports use of the loan to all applicable commercially available reporting systems;
  - The consumer has no other covered loan outstanding; and
  - The loan would result in the consumer's having no more than two such loans during a rolling six-month period.
- Structural protections: The loan has a minimum term of more than 45 days.

The proposals under consideration would also prohibit a lender that holds a deposit account in the consumer's name from fully sweeping the account to a negative balance in order to collect on the loan in the event of delinquency and from closing the account in the event of delinquency.

1. What percentage of your loans currently meet the criteria—other than the proposed additional conditions—for the alternative requirements?
2. If this alternative were adopted in the final rule, would you offer a significant number of these loans? What types of impacts would this have on your business? Would you be more inclined to make loans subject to the ability-to-repay requirements, loans subject to these alternative requirements, or a mixture of both?
3. What costs would you incur in making loans that comply with these criteria? How do those costs compare to the costs you would incur in making loans that comply with the ability-to-repay requirements described above in Section II? How do these costs compare to the costs you would incur in making loans with the criteria described in Section VI.B below?
4. If a final rule adopts the ability-to-repay requirements, but the final rule does *not* adopt the alternative requirements described immediately above, what types of impacts would this have on your business? Please discuss revenue impacts in addition to cost burdens.

### B. Loans with Periodic Payments Below a 5 Percent Payment-to-Income Ratio

Under the proposals being considered, a lender could extend a covered loan without making a full ability-to-repay determination provided that the lender applies the following screening requirements:

- The lender verifies the consumer's income;
- The lender verifies borrowing history and also reports use of the loan to all applicable commercially available reporting systems;
- The consumer has no other covered loan outstanding and has not defaulted on a covered loan within the past 12 months; and
- The loan would result in the consumer's being in debt on no more than two such loans within a rolling 12-month period.

The loan would also need to include the following structural limitations:

- The periodic payment due on the loan is no more than 5 percent of the consumer's expected gross income during this same period;
- The loan is a closed-end loan repayable in at least two substantially equal payments over no fewer than 45 days;
- The loan has a maximum duration of no more than six months; and
- The lender charges no fees for prepayment of the loan.

1. What percentage of your loans currently meet the criteria listed above?
2. If this alternative were adopted in the final rule, would you offer a significant number of these loans? What types of impacts would this have on your business? Would you be more inclined to make loans subject to the ability-to-repay requirements, loans subject to these alternative requirements, or a mixture of both?
3. What costs would you incur in making loans that comply with the criteria above and how do those costs compare to the costs you would incur in making loans subject to the full ability-to-repay requirement? How do these costs compare to the costs you would incur in making loans with the criteria described in Section V above or loans with the criteria described in Section VI.A above?
4. If a final rule adopts the ability-to-repay requirements, but the final rule does *not* adopt the alternative requirements for covered longer-term loans described immediately above, what types of impacts would this have on your business? Please discuss revenue impacts in addition to cost burdens.

## VII. PAYMENT COLLECTION PRACTICES LIMITATIONS FOR ALL COVERED LOANS

### A. Notice to consumers prior to attempting to collect payment from an account

The Bureau is considering a proposal that would require lenders to provide a written notice to consumers prior to each attempt to collect payment from a consumer's account, including each attempt to re-present a failed payment. This requirement would apply to all methods of collecting payments from consumers' checking, savings, or prepaid accounts, including, but not necessarily limited to, ACH entries, post-dated signature checks, RCCs, and payments run through the debit networks. Under the proposal being considered, lenders would be required to provide the notice at least three business days in advance of each payment attempt, either electronically or through the mail. For notices provided through the mail, an additional three business days would be required for delivery. The Bureau is also considering requiring that the notice be provided no more than seven days before a payment is due. The notice would be required to contain the following information: (1) the exact amount and date of the upcoming payment attempt; (2) the payment channel through which the attempt will be made; (3) a break-down of the application of payment amount to principal, interest, and other fees and charges; (4) the loan balance remaining if the payment attempt succeeds; (5) the name, address, and toll-free phone number that the consumer can use to reach the lender; and (6) for payment attempts made by signature check or RCC, the check number associated with the payment attempt.

1. What methods of communication do you use to contact your consumers concerning payments (e.g., phone, text message, mobile application, email, mail)?
    a. Why do you use these particular methods of communication (e.g., consumer preference, cost)?
    b. Do you communicate with your consumers before a payment is due? If so, when and how? Are any of these communications automated? What kinds of information do you communicate to them?
    c. If you use a third-party payment processor, does that processor communicate with your consumers before a payment is due? If so, when and how?
2. If the presentment notice were adopted in a final rule, what types of impacts would the requirement have on your business?

3. If the presentment notice were adopted in a final rule, what types of actions would you need to take, both initially and on a continuing basis, to comply with the requirement and what are the expected costs of those actions?
4. If you use a third-party payment processor, are there specific compliance challenges that this requirement would create for your business?
5. If you process payments as RCCs, are there specific compliance challenges that this requirement would create for your business?

### B. Limitation on attempts to collect payment from a consumer's account

The Bureau is considering a proposal that would limit the number of times a lender may attempt to collect payment on a covered loan from a consumer's checking, savings, or prepaid card account. The proposals under consideration would prohibit lenders from attempting to collect a payment from a consumer's account after two consecutive payment attempts have failed, unless the lender subsequently obtains from the borrower a renewed authorization to use these payment methods. A presentment would be deemed to have failed if it is returned by the consumer's bank for insufficient funds. The requirement would apply to all methods of collecting payments from a consumer's account, including, but not necessarily limited to, ACH entries, post-dated signature checks, RCCs, and payments run through the debit networks. A failed payment collection attempt made through any payment channel would count toward the limit, such that two consecutive failed attempts made through a single channel or two separate channels would trigger a prohibition on further presentments.

1. What kinds of payment methods do you accept for your loans (cash, post-dated check, ACH, RCC, prepaid card, etc.)?
    a. For each payment method that you accept, what percentage of your payments are processed through that method?
    b. In what situations do you process a payment as an RCC?
    c. In what situations do you allow prepaid card payments? Through which payment network do you process these prepaid card payments?
2. How do you currently process payments for your loans? (Please answer for each type of payment method you accept, other than cash.)
    a. Do you process payments through a third-party payment processor, or directly through a bank? If so, please describe your practices, policies, and procedures for processing payments.
    b. Before using a payment method that involves pulling funds from a consumer's account, do you make efforts to determine whether there are sufficient funds in the account? If so, please describe these efforts. If you use a third-party payment processor, please describe the processor's involvement in any of these efforts.
3. Do you currently attempt to collect from a consumer's account after two consecutive failed attempts? If so, what are the success rates of those attempts?
4. How do you currently process payment returns for your loans? (Please answer for each type of payment method you accept, other than cash.)
    a. Are the returns received from a third-party payment processor, or directly through a bank?
    b. What are your policies for determining *whether* and *when* to present a payment after a return, if at all? Do these policies vary depending on payment method? If so, how and why do they vary?
    c. What systems do you currently have in place to comply with (i) the NACHA limit of two ACH re-presentments after a failed ACH entry or (ii) the NACHA limit on payments that have previously been presented through the check system?

d. What information do you note in a consumer's file if a payment has been returned? How is that information added to the file?
e. Do you try to contact a consumer after a payment is returned? If so, when and how do you try to make contact? If you make contact, what do you communicate to the consumer? Are any of these communications automated?

5. Do you charge a fee to the consumer's account for a returned payment? If so, how much is that fee? If a payment is presented and returned more than once, do you charge a fee for each return? If the limit on payment collection attempts were adopted in a final rule, what types of impacts would the requirement have on your business? If your payment collection attempts resulted in two consecutive failed attempts, do you anticipate that you would seek new authorizations from consumers to collect from their accounts? If so, how would you seek new authorizations and what costs would you expect to incur in doing so?
6. If the limit on payment collection attempts were adopted in a final rule, what types of actions would you need to take, both initially and on a continuing basis, to comply with the requirement and what are the expected costs of those actions? Please discuss revenue impacts in addition to cost burdens.
7. If you use a third-party payment processor, what types of specific compliance challenges would this requirement create for your business?

## VIII. COMPLIANCE MEASURES

### A. Other Regulations

1. Have you been required to make any changes in your lending activities in recent years in response to statutory or regulatory changes at the federal, state, or local level?
2. How did costs break down by legal, training, and compliance expenditures? Please discuss revenue impacts in addition to cost burdens.
3. Did you implement the changes in house or by working with vendors?
4. How do those costs compare to those that you anticipate incurring in connection with the proposals under consideration?

### B. Policies and Procedures

The Bureau is considering a proposal to require lenders to maintain policies and procedures that are reasonably designed to achieve compliance with the proposals under consideration, including the ability-to-repay determination, eligibility for any covered loan subject to alternative requirements, and limitation on using payment authorizations.

1. If a final rule adopts this requirement, what are the types and costs of specific actions necessary, both initially and on a continuing basis, to comply with the requirement?

### C. Record Keeping

The Bureau is considering a proposal to require lenders to retain records for each consumer that document actions taken with respect to a covered loan until 36 months after the last entry on the loan. The consumer loan file would include documentation of the determination of ability-to-repay, verification of the consumer's history of covered loans, consumer eligibility for any loan subject to alternative requirements, and history of payment presentments. These records would also include reports prepared annually for each type of covered loan with data sufficient to monitor loan performance, including information on defaults and reborrowing, including refinancing.

1. If a final rule adopts this requirement, what are the types and costs of specific actions necessary, both initially and on a continuing basis, to comply with the requirement?

## IX. ADDITIONAL FEEDBACK

1. Are there any feasible alternatives to the proposals under consideration that would minimize any significant economic impact on your business while accomplishing the objectives described in the Outline?
2. Are there any federal, state, or local rules that you believe may duplicate, overlap, or conflict with the proposals under consideration?
3. What do you expect would be the effects of these proposals on your decision whether to offer covered short-term versus covered longer-term loans, to offer a mix of both, to offer products subject to the alternative requirements, or to offer non-covered products?
4. How long do you anticipate that you would need to implement the proposals under consideration? Would you be able to effectively implement some proposals more quickly than others? If so, which ones and why?

## X. COST OF CREDIT FOR SMALL BUSINESS BORROWERS

The proposals under consideration would apply to loans primarily for personal, family, or household purposes, and would not apply to loans made primarily for business purposes. Nevertheless, some consumers may take out loans that would be covered by the proposals under consideration and use the proceeds secondarily for business purposes. Moreover, some businesses may take out non-covered loans primarily for business purposes from lenders that also make covered loans. The proposals under consideration may indirectly impact the availability or cost of these non-covered loans if the proposals lead to a general market contraction.

1. Look back at the preceding proposals under consideration.
   a. Which proposals, if any, do you believe may impact the cost of credit for small entities? Why might this occur?
   b. Are there feasible alternatives to any of the proposals that may minimize the impact on the cost of credit for small entities while accomplishing the objectives addressed by the proposals under consideration?
2. Do you extend covered loans that are used secondarily to finance small businesses?
   a. If so, what percentage of your loans fall into that category (i.e., loans made to consumers but used secondarily for business purposes by a small business)? What is the average amount of the credit extended on such loans?
   b. Would the proposals under consideration cause you to increase the rates or fees you charge for such credit? If so, please describe the increase that you anticipate, your basis for anticipating that increase, and any feasible alternatives to the proposals under consideration you would recommend to minimize that increase.
3. Do you extend loans that would not be covered by the proposals under consideration but are used primarily to finance small businesses?
   a. If so, what percentage of your loans falls into that category (i.e., loans made to small businesses for business purposes)? What is the average amount of the credit extended on such loans?

b. Would the proposals under consideration cause you to increase the rates or fees you charge for such non-covered credit? If so, please describe the increase that you anticipate, your basis for anticipating that increase, and any feasible alternatives to the proposals under consideration you would recommend to minimize that increase.

## XI. COST OF CREDIT FOR LENDERS

The proposals under consideration could potentially reduce the revenue of covered lenders. This could, in turn, impact the perceived creditworthiness of these lenders and thus increase their cost of credit.

1. Do you use lines of credit or other finance sources either to fund the loans you extend to consumers or for other business purposes?
    a. Do you anticipate that the proposals under consideration will affect the availability or cost of these funding sources to you? If so, please describe the effects that you anticipate, your basis for anticipating them, and any feasible alternatives to the proposals under consideration you would recommend to minimize the effects.
    b. How long do you anticipate these effects would last?