



STATE OF OKLAHOMA  
DEPARTMENT OF CONSUMER CREDIT

August 3, 2011

Re: CFPB Docket No. CFPB-HQ-2011-2  
Comment letter concerning the definition of larger participants in certain consumer financial products and services markets

Dear Sir or Madam:

Thank you for the opportunity to comment on the definition of larger participants in certain consumer financial products and services markets. The Oklahoma Department of Consumer Credit ("Department") is the licensing and regulatory agency for certain state licensed, non-depository financial institutions in the State of Oklahoma. Financial institutions licensed and regulated by the Department include installment loan companies, payday loan companies, mortgage brokers, mortgage loan originators, pawnshops, consumer leasing companies and rental purchase dealers. The Department welcomes this occasion to discuss consumer financial markets in which it has vast regulatory experience.

**I. Consideration of markets to include in the initial rule**

The Department believes the Bureau of Consumer Financial Protection ("CFPB") should address markets in which effective state regulation is difficult to achieve and/or markets where abusive practices are more prevalent than in other markets. The primary market in which effective state regulation is difficult to achieve and where abusive practices are prevalent is consumer financial products offered exclusively via the Internet, regardless of the type of consumer financial product that is involved.

Consumer financial products offered exclusively via the Internet are frequently offered in multiple states. Entities offering consumer financial products exclusively via the Internet are often unlicensed by various states and frequently violate state law requirements and restrictions regarding disclosures, finance charges and fees where such entities are unlicensed.

Effective state regulation is difficult to achieve in this area because most entities offering consumer financial products exclusively via the Internet are located in another state or country and some even claim affiliation with federally recognized Indian tribes. State regulation of consumer financial products offered exclusively via the Internet can raise complicated jurisdiction issues such as potential sovereign immunity claims from entities claiming to be affiliated with Indian tribes and whether attempted state regulation of an entity located in another state and operating via the Internet violates the Commerce Clause of the United States Constitution. Because of the difficulty in achieving effective state regulation of this market and

the prevalence of abusive practices in this market, the Department believes this market should be addressed by the CFPB in an initial rule.

Another market that should be addressed in an initial rule by the CFPB is the debt settlement market. Some states, like Oklahoma, do not have state laws to license and regulate debt settlement providers. Furthermore, abusive practices are common in the debt settlement market. A typical complaint usually consists of an upfront, unearned fee being paid to a debt settlement provider for negotiation with the consumer's creditors to lower a consumer's balances with creditors. Often, the debt settlement provider fails to negotiate with a consumer's creditors as promised, which leaves the consumer in an even worse financial condition after spending scarce funds to contract with the debt settlement provider.

Although not all debt settlement providers are involved in abusive practices, such activity is a pattern with many debt settlement providers. Because abusive practices are more prevalent in the debt settlement market as opposed to other markets, the debt settlement market is an additional market that should be addressed by the CFPB in an initial rule.

## **II. Criteria and thresholds to define a larger participant**

The Department believes a larger participant in a particular market addressed in any initial rule should be defined based on a single, absolute threshold. Additionally, the CFPB should utilize the same criteria and threshold for every market.

The primary consideration in determining a larger participant in a particular market should be the number of states in which a market participant conducts business. The Department believes that market participants conducting business in a single state should not be subject to CFPB supervision, regardless of the type of consumer financial product offered by the market participant and regardless of the method of transacting business utilized by the market participant.

The Department believes that current state regulation provides sufficient supervision of market participants operating intrastate. Jurisdiction and enforcement, whether administratively or through the court system, is not an issue for state regulators concerning intrastate market participants. Additionally, market participants operating solely in Oklahoma consistently follow consumer laws and routinely address compliance issues in a timely manner. Furthermore, the Department is willing to address any necessary state legislative changes required to share information with the CFPB on intrastate market participants if any such need arises.

## **III. Data to be utilized in measuring criteria**

The CFPB should utilize licensing and registration records from state licensing and regulatory agencies to determine the number of states in which a particular market participant conducts business. The CFPB could also require market participants to submit information to the CFPB in a report format that indicates the number of states in which a particular market participant conducts business.

#### **IV. Measurement dates and supervision**

The size of a market participant should be measured based on relevant criteria from the previous calendar year. The CFPB should determine whether a particular market participant satisfies the criteria for a larger market participant based on information received annually. For example, the CFPB could establish an annual deadline date for collecting and/or requiring the submission of information used to make a determination of whether a market participant qualifies as a larger market participant. After reviewing and analyzing information, the CFPB would then notify a market participant when the participant becomes subject to CFPB supervision as a larger market participant.

Once a market participant is subject to CFPB supervision for meeting an applicable threshold, the market participant should be subject to CFPB supervision for a minimum period of three (3) calendar years. A minimum CFPB supervision period of three (3) calendar years provides stability to market participants for management and planning purposes. Furthermore, a minimum CFPB supervision period of three (3) calendar years allows the CFPB a sufficient period of time to supervise the larger market participant through examinations and reporting requirements.

Thank you for considering the Department's comments. Our Department looks forward to a cooperative working relationship with the CFPB.

Sincerely,

Scott Lesher  
Administrator

cc: U.S. Senator Tom Coburn  
U.S. Senator James M. Inhofe  
U.S. Representative John Sullivan  
U.S. Representative Dan Boren  
U.S. Representative Frank Lucas  
U.S. Representative Tom Cole  
U.S. Representative James Lankford  
Neil Milner, President, Conference of State Bank Supervisors