May 22, 2013

Legislative and Regulatory Activities Division
Office of the Comptroller of the Currency
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Washington, D.C. 20219

Mr. Robert E. Feldman
Executive Secretary
Attention: Comments
Federal Deposit Insurance Corporation
550 17th Street, N.W.
Washington, D.C. 20429

*Re:* Docket ID OCC-2013-0005: Proposed Guidance on Deposit Advance Products
Docket ID FDIC-2013-0043: Proposed Guidance on Deposit Advance Products

Gentlemen:

I write to comment on the items noted above, having reservations about the imposition of proposed guidance as regards consumer access to credit.

Access to credit has been a primary interest of those concerned about economic inequality, especially for poor, minority households. Decades ago this was the catalyst for the Community Reinvestment Act and subsequent attempts to expand opportunities to the poor who were excluded from the financial mainstream. Progress in this respect has been reversed by the Great Recession, which has adversely affected low-income African-American and Hispanic families.

A precipitous drop of income and assets in recent decades has accelerated demand for credit in order to maintain increasingly fragile family finances. For example, between 1979 and 2011, the growth in household income of the bottom quintile of families was negative 0.4 percent and zero for the next lowest quintile.[1] Falling family income followed the decline of good jobs—those paying the median wage of $18.50 in 1979 (in 2011 dollars) coupled with employer-provided health insurance and a company pension—from 37.4 percent in 1979 to 27.7 percent in 2011, a drop of 25.9 percent.[2] Before the Great Recession, such "asset poverty" was extensive: between 1996 and 2001, the average family in the lowest quartile of households claimed assets valued at $0 and for the bottom half only $31. Fully 84.5 percent of families in the bottom third of the in-

[1]Economic Policy Institute, *The State of Working America* (Washington, DC: 2012), downloaded April 5, 2013 from http://stateofworkingamerica.org/charts/real-annual-family- income-growth-by-quintile-1947-79-and-1979-2010.

[2]*Ibid*., http://stateofworkingamerica.org/chart/swa-jobs-figure-5f-good-jobs-share-total.

come distribution claimed such small reserves as to be deemed "asset poor."[3]

During the 2000s, many low-income families went into debt, some spectacularly so. In 2001 the mean net worth of households at or below the 25th percentile was $100, but by 2010, it was *negative* $12,800. During this period, the mean net worth of households between the 25th and 50th percentile dropped from $54,400 to $35,600.[4] Predictably, the financial prospects of lower income families worsened during the Great Recession. In 2009, the average wealth of the lowest quintile of families was *negative* $27,000, while that of the second-lowest quintile was only $5,000.[5]

Understandably, financially constrained families found it difficult to pay routine bills, let alone cover emergencies. Between 2001 and 2010, the number of debtors whose payments were more than 60 days past-due increased; among families at less than the 20th percentile of family income, the percentage of households with bills outstanding more than two months increased from 13.4 to 21.2 during that period, while the percentage of those with outstanding bills and with a net worth less than the 25th percentile of family wealth, increased from 17.8 to 22.2 percent.[6]

Adverse economic circumstances left many lower-income consumers ambivalent about their relationship with banks. The most recent FDIC survey of the unbanked and underbanked revealed that more than one-fifth of households defined as minority, foreign-born, or unemployed are unbanked while those that are underbanked exceed 28 percent.[7] These underbanked families are disproportionate users of deposit advance and similar "alternative" financial products. The proposed guidance would almost certainly eliminate access to deposit advance products for just such families.

These data provide the context for the expanding demand for credit on the part of lower-income consumers. During the past decade a series of innovations have evolved to meet this demand, including deposit advance products offered by banks, payday loans marketed by storefront and online vendors, and overdraft protection. The growth of these products is evidence that they are responding to consumer demand.

Concurrently, research is beginning to demonstrate how credit products have been

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[3]Signe-Mary McKernan, Caroline Ratcliffe, and Katie Vinopal, "Do Assets Help Families Cope with Adverse Events?" (Washington, DC: Urban Institute, November 2009), pp. 2-3.

[4]Federal Reserve, "Changes in U.S. Family Finances from 2007 to 2010," http://www.federalreserve.gov/pubs/ bulletin/2012/pdf/scf12.pdf, page 18.

[5]Economic Policy Institute, "Wealth Skewed towards the Richest of the Rich," Economic Policy Institute, *The State of Working America*, *supra*.

[6]Federal Reserve, "Changes in U.S. Family Finances from 2007 to 2010, http://www.norc.org/PDFs/scf12.pdf, Table 17.

[7]FDIC, "National Survey of Unbanked and Underbanked Households," (Washington, DC: 2012), p. 4.

used by consumers. Independent organizations, such as the FINRA Investor Education Foundation, have just begun to conduct investigations on the relationship between various credit products and the different types of families use them. To date research indicates that low-income families use credit products not only to cover emergencies, but also for cash-flow shortfalls that arise from payment of routine bills as well. These "alternative" credit products have become staples in how poorer, minority households manage their finances.

A fundamental question before federal regulatory agencies is whether they will encourage or suppress innovation in financial products for poorer, minority families. Credit products, such as deposit advance products, can encourage such families to establish relationships with mainstream financial institutions. On the other hand, suppressing innovation in credit products will, in all likelihood, penalize African-American and Hispanic households who have come to depend on them, as well as specific subgroups who are attempting to climb into the middle class: young families, mothers transitioning from welfare to work, and immigrants.

As a final consideration, federal decision-making is increasingly based on evidence. During difficult economic straits for struggling American families, it behooves regulators to develop the best possible data on the impact of their decisions regarding poor households. More research is necessary before proceeding with inadequately conceptualized limitations on deposit advance products. The CFPB "white paper" addresses only protracted usage, not consumer benefit and detriment; as such, it provides an inadequate evidentiary basis for the effective proscription of deposit advance products implicit in the proposed guidance.

Sincerely,

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