NEBRASKA
APPLESEED
STAND UP FOR JUSTICE

RIN 3064-ZA04

January 22, 2019

comments@fdic.gov
Robert E. Feldman, Executive Secretary
Attention: Comments
Federal Deposit Insurance Corporation
550 17th St NW
Washington, D.C. 20429

RE: Comment on FDIC Request for Information on Small-Dollar Lending RIN 3064-ZA04

Dear Mr. Feldman,

We appreciate the opportunity to comment on the FDIC's request for information on small-dollar lending. Nebraska Appleseed strongly encourage the FDIC to make it possible for supervised financial institutions to offer affordable small installment loans while preventing harmful deposit advance loans and the use of dangerous rent-a-charter deals with payday lenders.

Nebraska Appleseed is a non-profit public interest law and policy organization in Lincoln, Nebraska that fights for justice and opportunity for all Nebraskans. For several years, Nebraska Appleseed has worked to curb the predatory practices of payday lenders in our state and create a safer financial marketplace for low-income borrowers. Unfortunately, current state law allows lenders to issue payday loans that carry an average annual percentage rate of over 400%.[1] Part of the reason consumers borrow at these exorbitant rates is the lack of readily available, low-cost alternatives from banks in Nebraska.

The FDIC's latest National Survey of Unbanked and Underbanked Households found that 19% of American families are both banked and also turning to alternative financial products, including harmful high-cost payday and auto title loans.[2] Consumers spend more than $30 billion

[1] Nebraska Department of Banking and Finance, 2018 Report to Legislature on Delayed Deposit Services Licensees, available at https://ndbf.nebraska.gov/sites/ndbf.nebraska.gov/files/industries/Delayed%20Deposit%20Services%20Report%2045-931.pdf
[2] FDIC, 2017 FDIC National Survey of Unbanked and Underbanked Households (October 2018) https://www.fdic.gov/householdsurvey/

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in fees and interest each year for high-cost, non-bank small loans.[3] In Nebraska, consumers spend upwards of $27 million each year on payday loan transaction fees and penalties.[4] If consumers in Nebraska are able to access small-dollar loans from their banks at prices six times lower than payday loans, low-and-moderate income Nebraskans stand to save more than $20 million each year.

The individual experiences of payday loan borrowers in Nebraska illustrate the need for safe, affordable loans offered by banks. One Nebraska payday loan borrower took out a $425 loan to pay the copays on epilepsy medication. As is the norm for payday borrowers, he ended up repeat-borrowing six times, ultimately paying more in fees than principal he borrowed. Another borrower took out a $500 loan to purchase tires for her car. Unable to pay the loan back, she borrowed another loan to pay for the first. The cycle continued, and unexpected medical expenses compounded the problem. She estimated she spent close to $10,000 trying to pay back the original loan over several years. Yet another borrower took out a payday loan after she was laid off at work. One payday loan to cover expenses between jobs caught her in the debt cycle and she spent six years and about $5,000 trying to get out.

These stories are not unique to Nebraska. Many other borrowers in many other states have similar experiences of getting caught in a cycle of debt when they turn to payday lending to cover a short-term financial need. According to the Pew Charitable Trusts, approximately 12 million people take out payday loans each year.[5] Moreover, those who turn to payday loans are predominantly lower-income people and families who are living paycheck to paycheck. The average annual income of a payday loan borrower is around $30,000.[6] The payday lending model targets low-income communities with unaffordable loan products that trap millions of borrowers in a cycle of debt.

Because of the size and scope of the payday loan problem nationwide, federal regulators, including the FDIC, should be making every effort to encourage banks and credit unions to provide safe, small installment loans directly to customers. Instead of losing their customers to payday lenders, banks could play a significant role in helping low and moderate income clients with short term financial needs. Banks can profitably offer safer loans for a fraction of the cost of payday, auto title, pawn, rent-to-own or other high-cost credit that underbanked consumers use today.[7]

Typical Cost to Borrow $400 for 3 months, by Lender			
New Bank Loans	**Pawn Loans**	**Auto Title Loans**	**Payday Loans (NE)**
$48-60	$240	$300	$424

[3] Center for Financial Services Innovation, *2014 Underserved Market Size: Financial Health Opportunity in Dollars and Cents* (December 2015), http://www.cfsinnovation.com/Document-Library/2014-Underserved-Market-Size-Financial-Health-Oppo.

[4] Nebraska Department of Banking and Finance 2018 Annual Report, Appendix E. Available at https://ndbf.nebraska.gov/sites/ndbf.nebraska.gov/files/reports/2018%20Annual%20Report.pdf

[5] Pew Charitable Trusts, FDIC Requests Comments on Small Loans from Banks, December 12, 2018

[6] Id.

[7] Albuquerque Journal, "Editorial: Technology Leads the Way to Fair, Small-Dollar, Short-Term Loans" (September, 2018) https://www.abqjournal.com/1227262/technology-leads-way-to-fair-smalldollar-shortterm-loans.html

With clarity from regulators- such as the final October 2017 CFPB rule and May 2018 OCC Bulletin- banks can challenge predatory lenders by offering fair products of their own.[8] If banks offer safe, affordable loans to their customers, millions of underbanked consumers stand to switch to using these lower-cost options and save billions of dollars each year.[9]

The FDIC should provide supervised banks with similar clarity and encourage all small loans to have reasonable safeguards including affordable payments, appropriate terms, and fair prices:

- **Fair Prices:** Charging $36 for a three-month, $300 loan, as US Bank has begun doing, is fair. That pricing would save underbanked consumers hundreds of dollars per year.
- **Affordable payments**: In addition to conducting automated underwriting, loans should have an affordability safeguard that limits payments to five percent of a borrower's paycheck.
- **Enough time to repay**: Borrowers need more than two weeks to repay. The final CFPB payday loan rule wisely included additional restrictions for loans due back in less than 45 days.
- **Credit Building:** Successful repayment should be reported to credit bureaus so borrowers can improve their credit scores and qualify for mainstream products like auto loans and mortgages.
- **No overdraft:** Payments on small loans from banks should never trigger overdraft fees. Harmful overdraft fees drive struggling consumers out of the banking system.
- **Prevent return of high-cost, balloon-payment Deposit Advances:** The FDIC should not allow banks to return to making "Deposit Advance" loans that are due back on the customer's next payday. Deposit Advance featured unaffordable balloon payments and excessive prices with APRs of 200-300%.
- **Prevent rent-a-charter deals with payday lenders:** The FDIC should strongly discourage supervised institutions from partnering with high-cost non-bank lenders to evade state-level consumer protections. These arrangements let payday lenders avoid state laws by having a bank originate loans, while payday lenders rely on their ability to collect unaffordable payments from borrowers' checking accounts at APRs of 300-500 percent.

With clear guidance and strong consumer safeguards from the FDIC, Nebraska Appleseed is hopeful that consumers who are being taken advantage of outside the banking system today can gain access to much better, bank-issued small installment loans. Collectively, this could lead to borrowers nationwide saving billions of dollars each year. In Nebraska alone, it could lead to over $20 million staying in communities each year rather than flowing to payday lenders.

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[8] St Louis Post Dispatch, "Editorial: Finally Banks and Other Lenders are Challenging Predatory Lenders" (September, 2018) https://www.stltoday.com/opinion/editorial/editorial-finally-banks-and-others-are-challenging-payday-lenders/article_fa29143b-8d73-57b3-af47-723fa7871bb7.html

[9] The Pew Charitable Trusts, Standards Needed for Safe Small Installment Loans From Banks, Credit Unions (February 2018) https://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2018/02/standards-needed-for-safe-small-installment-loans-from-banks-credit-unions

Signed,

Ken Smith
Staff Attorney – Economic Justice Program
Nebraska Appleseed