

**Comments of
National Consumer Law Center (on behalf of its low income clients)
and
Consumer Action
National Association of Consumer Advocates
to
National Credit Union Administration
on
Advance Notice of Proposed Rulemaking for Part 701
Payday Alternative Loans
NCUA-2012-0031, RIN: 3133-AE08
November 26, 2012**

The National Consumer Law Center, on behalf of its low income clients, Consumer Action and the National Association of Consumer Advocates submit these comments in response to the National Credit Union Administration's (NCUA) request for comments on possible changes to the regulations governing payday alternative loans (PALs).¹

We appreciate NCUA's efforts to promote affordable, responsible lending to consumers who are currently turning to payday lenders to meet their credit needs. Many credit unions are leaders in offering affordable small dollar loans, and we applaud NCUA for encouraging more credit unions to do so.

We are alarmed, however, at the prospect that NCUA may be considering permitting higher fees or shorter terms for payday alternative loans. Such changes would only turn credit union loans into traditional payday loans and provide a legal ruse for evading the Federal Credit Union Act (FCUA) usury cap.

Instead, we urge NCUA to amend the PAL rule to encourage longer term installment loans. The cost of the loan should primarily be covered by the interest charge, not the "application" fee. In particular:

- **Application fees should not be increased.** Too many fees are already permitted on PAL loans, resulting in annual rates far above FCUA limits.
- NCUA should limit FCUs to **one fee per year** to be faithful to the purpose of an application fee and to limit rollovers and encourage longer-term loans.
- The **minimum term should not be decreased but rather should be increased** to 90 days or one month per \$100 borrowed.
- The **maximum term should be increased to one year.**
- The \$1,000 maximum loan amount should not be increased.
- **No more than one loan** should be permitted at a time.

Beyond the PAL rules, the most important measure that NCUA can take to rein in high cost lending and promote the development of affordable small loans is to get credit unions out of

¹ Organizational descriptions are attached as Exhibit A. These comments were written by Lauren Saunders, Managing Attorney of NCLC's Washington, DC office.

the business of overdraft fee loans. Overdraft fee loans are a form of predatory lending worse in many cases than payday loans. Instead, NCUA should encourage FCUs to offer reasonably-priced, amortizing overdraft lines of credit.

We also urge NCUA to crack down on federal credit unions that are blatantly evading the FCUA interest caps by making payday loans at true rates up to 300% or even higher. Two FCUs that we identified in our 2011 comments – **Kinecta Federal Credit Union and Tri-Rivers Federal Credit Union** – are still directly offering triple digit payday loans, and at least one new FCU, **Louisiana Federal Credit Union**, has joined them. FCU partnerships with payday lending credit union service organizations (CUSOs) appear to be down, but **about ten FCUs still offer triple-digit loans through CUSOs.**² Credit unions that are not offering affordable small dollar loans today will have little reason to do so under the PAL rules if they can charge high fees with no limits under existing FCUA rules.

I. PAL Amendments Should Encourage Longer Term, More Affordable Loans, Not Shorter Term, Unaffordable Evasions of the FCUA Interest Rate Cap.

A. The Goal is Making Ends Meet, Not Making Loans under the PAL Regulations

At the outset, we have some concerns about the way that NCUA has phrased the question for these comments:

The NCUA Board (Board) is currently reviewing its regulation governing payday-alternative loans (PAL or PAL loans), formerly known as short-term, small amount loans. The Board intends to improve the regulation to encourage more federal credit unions (FCUs) to offer PAL loans and believes it may be necessary to amend the regulation.³

The goal should not be more loans under the PAL regulations. Rather, the goal should be helping members make ends meet. The best approach is savings and budgeting, not credit. Credit is not an answer to insufficient income.

To the extent that credit does play a role in helping members weather income gaps, the goal is more affordable small dollar loans, which may not necessarily be loans under the PAL regulations. Many FCUs have long made affordable loans under the regular 18% FCUA cap. We highlighted many of these in our 2010 report, *Stopping the Payday Loan Trap: Alternatives that Work and Ones that Don't*.⁴

NCUA observes that 372 FCUs reported offering PAL loans as of September 30, 2011. If NCUA measures success only by the number of loans that take advantage of the higher 28% interest rate cap, then it is missing many affordable small dollar loans offered by credit unions.

² Clackamas FCU (Oregon), Pacific Crest FCU (Washington), Cyprus Credit Union (Utah), People's Community Federal Credit Union (Washington), and five in Florida: Buckeye Community FCU, Martin FCU, Orlando FCU, Railroad & Industrial FCI and Tallahassee FCU.

³ 77 Fed. Reg. 59346 (Sept. 27, 2012).

⁴ The report is available at http://www.nclc.org/images/pdf/high_cost_small_loans/payday_loans/report-stopping-payday-trap.pdf.

More fundamentally, tinkering with the PAL rules to make those loans *less* affordable, with higher fees and shorter balloon payments, is moving in the wrong direction. NCUA should instead fix flaws in the PAL rules that encourage shorter term loans and multiplying fees. Fixing those flaws will achieve the ultimate goal of more affordable loans.

B. Application Fees Should Not Be Increased Unless Fees Are Limited To One Per Year.

The current PAL rules permit credit unions to charge a \$20 application fee on top of 28% APR interest. Loans can be as short as 30 days, and credit unions can extend up to six loans – and charge six \$20 fees – to the same borrower in a year (but no more than three over six months).

A 30-day, \$200 loan with 28% APR interest and a \$20 application fee taken off the top yields a **true APR with fees of 148%**. The \$20 fee far exceeds the \$4.67 in interest generated. The PAL rule permits as much as \$120 in fees per year, far more than justified by application costs. Permitting even higher application fees would merely provide a vehicle for padding the 28% APR interest rate cap.

A 148% APR loan that can be renewed six times per year is not an affordable loan. The fact that the fee is not considered a finance charge and is technically excludable from APR that must be disclosed under Regulation Z is immaterial to the borrower; the cost is the same as a straightforward 148% APR loan.

Permitting repeat application fees throughout the year also encourages credit unions to make shorter, less affordable loans. With shorter loans, the credit union can offer more loans per year and the fees can multiply, leading to a cycle of debt. Though the PAL rules technically prohibit rollovers, it is not clear that the borrower cannot pay off one loan and immediately take out another. The rules do not require a full pay cycle to pass before a new loan.

NCUA warns FCUs that any application fee that is not counted as part of the APR (and thus is excluded when determining whether the credit union is under the 28% PAL usury cap) must comply with Regulation Z. Under Regulation Z, an application fee may be excluded from the finance charge for disclosure purposes only if it is a charge to recover the costs associated with processing applications for credit and if it is charged to all applicants, not just those who are approved.⁵ The fee may cover the costs of services such as credit reports, credit investigations, and appraisals.⁶

But Regulation Z does little to curb excessive fees because NCUA has done a poor job of policing that rule or stopping APR manipulations designed to evade the FCUA interest rate cap. As described below, NCUA has for years permitted Kinecta Federal Credit Union to continue making payday loans after it bought Nix Check Cashing, with “application fees” of \$31.95

⁵ 12 C.F.R. § 1026.4(c)(1); Official Staff Commentary § 1026.4(c)(1)-1.

⁶ Official Staff Commentary § 1026.4(c)(1)-1.

charged every two weeks resulting in a true APR of 223%. Without clear limits on the size and number of application fees, Regulation Z is unlikely to serve as a deterrent to excessive fees.

Indeed, it is notable that the request for comment does *not* ask for information on the actual costs of processing a PAL application – factors that would justify a higher fee under Regulation Z – or about the types of loans that have greater underwriting costs. Rather, the Board proposes to increase the application fee primarily for the purpose of encouraging more loans. Yet the primary obstacle to PAL lending that NCUA identifies -- fear of high default rates⁷ – is a cost that may *not* legally be covered by an application fee.

The Board acknowledges that application fees cannot be used to cover loan losses, but it nonetheless seems to be encouraging credit unions to use the higher fees for that purpose. The Board even asks about the trade-off between rates and fees:

The Board understands that some credit unions prefer not to charge a higher interest rate on PAL loans, but must do so to offset the higher degree of risk associated with these loans. The Board invites comment on if a higher application fee cap alone would encourage more credit unions to make PAL loans or if credit unions would prefer any application fee increase to be linked with a lower permissible interest rate.⁸

This question is especially ironic because the regular FCUA rules already permit application fees over \$20 at the lower 18% interest rate. If the primary obstacle to more small dollar loans is the application costs, then credit unions are free to offer them outside the PAL rules.

Notably, among the better payday loan alternatives identified in our 2010 report, *Stopping the Payday Loan Debt Trap*, many had no application or annual fee at all. Most of the others charged fees in the range of \$20 to \$40 *total* per year.⁹

We do not oppose application fees in this range, but *only* if the credit union is limited to one fee per year. After the first loan, another application fee is not justified. Even if the credit union could justify repeat fees from a cost perspective, multiple fees are harmful to consumers and result in high-cost lending.

In addition, if NCUA permits application fees above \$20, they should only be permitted only for larger, longer term loans that need more underwriting. A \$300 loan does not need a \$40 application fee and neither does a 30-day loan. Sanctioning disproportionate fees on smaller or short term loans merely moves credit unions into the payday loan business.

C. PAL Loans Should Have Amortizing Payments Over at Least 90 days or One Month per \$100 Borrowed.

⁷ The Board states that the purpose of the PAL rule is to “help FCUs afford to make PAL loans, which tend to have higher rates of default than mainstream loan products” 77 Fed. Reg. at 59347.

⁸ *Id.*

⁹ See *Stopping the Payday Loan Trap*, Appendix A-1 at 30-34.

In order to prevent fees from multiplying, and to ensure that payments are affordable, NCUA should require that PAL loans have amortizing payments over at least 90 days, or at least one month per \$100 borrowed. Longer term loans should be required even if the application fee is not increased, and a longer term should absolutely be a condition of a higher fee.

The Board's request for comments describes the purpose of the PAL rule as helping members to break the debt cycle:

While some payday loan borrowers use these loans sparingly, many find themselves in a cycle of having their loans "roll over" repeatedly, and they incur more high fees as a result. These borrowers are often unable to break free of this unhealthy dependence on payday loans.¹⁰

Yet the Board offers no evidence that PAL loans actually help borrowers to break that cycle of repeat use and multiplying fees.

Our informal conversations with credit unions have revealed that even low cost, 30-day loans with no fees often lead to a cycle of debt. A borrower who must repay the entire loan in 30 days has a big gap in the next month's income. If the loan has no fees, then at least it does not impose high additional costs on the borrower, but it does lead to a cycle of dependency.

Theoretically, the current PAL rule requires at least two payments, so that the loan "amortizes."¹¹ But for a borrower who is paid semi-monthly or biweekly, two consecutive payments that require repayment of the entire loan plus fees and interest in a single month are not a lot easier to handle. The only way to break the cycle of dependency is to lower the payment so that it does not leave a huge gap in the borrower's income during the next pay period. And the only way to do that is to stretch the loan out over several pay periods.

Moreover, it is not clear that credit unions understand that loans under the PAL rule must have more than one payment. NCUA should update the rule to make that requirement explicit.

Under no circumstances should NCUA sanction PAL loans with terms of less than 30 days. A shorter loan is a payday loan, plain and simple.

Rather, NCUA should increase the minimum term to 90 days. The recommended term of at least 90 days or one month for every \$100 borrowed is consistent with the FDIC's Small Dollar Loan Guidelines. The FDIC explained:

"We encourage institutions to utilize a reasonable time frame for the repayment of closed-end credit, e.g., at least 90 days. This should enable borrowers to repay the debt without incurring the cost of multiple renewals."¹²

¹⁰ 77 Fed. Reg. at 59347.

¹¹ Among the requirements for PAL loans are that "The Federal credit union fully amortizes the loan" 12 C.F.R. 701.21(c)(7)(iii)(A)(5).

¹² FDIC, Affordable Small Dollar Loan Guidelines at n.6 *available at* <http://www.fdic.gov/news/news/press/2007/pr07052a.html>.

More than theory justifies this recommendations. A 90-day amortizing installment loan requires payments that are very comparable to the payments that payday borrowers are able to come up with today. A \$300 loan, 90-day loan at 28% with a \$20 application fee would require payments every 14 days of about \$51. That is very close to the \$45 due for a payday loan at \$15 per \$100 (and less than the \$60 due to lenders who charge \$20 per \$100). Payday borrowers make those payments all the time – but do so without making any progress on the principal. Consequently, requiring a longer term will result in loans that have payments that payday borrowers can actually meet, while paying off their loans in a reasonable period of time and not falling behind the next pay cycle.

A longer term also has the benefit for the credit union of generating more interest revenue. The credit union is thus less dependent on the application fee and repeat loans.

For the same reasons, we support raising the maximum term to one year. On a \$1,000 loan, a full year is a more appropriate term for an affordable loan.

PAL loans should not be longer than a year, however. The 28% rate is fairly high, and members should not be in debt over the long term at that rate.

For similar reasons, we have qualms about raising the loan amount above \$1,000. A loan of that size, with monthly payments, already generates \$158.12 year in interest charges. Loans in larger amounts should be made at the traditional 18% rate cap.

D. Other Questions For Comment

Our responses to the Board's other questions for comment are as follows.

Should the Board increase the permissible PAL loan interest rate, which is currently set at 28% (based on 1000 basis points above the maximum interest rate established by the Board for non-PAL loans)?

We do not object to a rate up to 36% for a loan no larger than \$1,000 and no longer than one year, *provided that no fees are permitted*. A small loan with a straightforward interest rate with no fees is in many ways more affordable than one with a lump sum fee.

Should the Board allow FCUs to make more than one PAL loan at a time to a borrower?

Absolutely not. Making multiple loans is only an underhanded method of increasing the permissible loan size and number of fees.

Should the Board eliminate or decrease the one-month minimum length of membership requirement?

We believe that the one-month minimum membership requirement is appropriate. Small dollar loans should be a service to credit union members, but consumers should not be induced to join a credit union for the sole purpose of getting a small dollar loan.

II. NCUA Should Wean Credit Unions Off of Overdraft Loans and into Reasonably-Priced Lines Of Credit

The most important thing that NCUA can do to save credit union members from a cycle of unaffordable debt is to stop FCUs from making overdraft-fee loans. Compared to payday loans, overdraft-fee loans are an even more expensive and uncontrollable form of short term credit. Indeed, the fear of overdraft fees is what drives some borrowers to payday lenders (and out of credit union accounts).

Consumers who want to access credit should do so consciously, by using a credit product. They should not be lured into opting into programs that permit overdraft fees to be triggered inadvertently and to pile up into exorbitant, quadruple digit loans.

NCUA should adopt rules regarding fee-based overdraft programs. Compliance with the Regulation E opt-in rules is not sufficient to protect consumers from programs designed to increase overdraft fees. Too many credit unions and banks have induced consumers to opt in to fee-based overdraft programs that do not operate as members understand and that lead to exorbitantly priced credit.

As we detailed in our recent comments to the Consumer Financial Protection Bureau,¹³ NCUA should:

- Prohibit overdraft fees on ATM and debit card transactions;
- Ensure that overdraft fees are reasonable and proportional by (1) requiring that fees bear some relationship to the amount of credit extended or the cost of covering the overdraft, (2) limiting the number of fees a credit union can charge before offering a more suitable alternative, and (3) banning sustained overdraft fees;
- Declare the re-ordering of transactions from largest to smallest—a practice designed to maximize overdraft fees—an unfair trade practice.

Addressing widespread features of credit-union fee-based overdraft programs that drive some credit union members to payday lenders will do more to help those consumers than encouraging more PAL loans.

Instead, NCUA should encourage credit unions to offer access to reasonably priced, amortizing overdraft lines of credit instead of fee-based overdraft programs. A line of credit can

¹³ The comments are available at: <http://www.responsiblelending.org/overdraft-loans/policy-legislation/regulators/Overdraft-Comment-by-CRL-CFA-and-NCLC-Docket-No-CFPB-2012-0007.pdf>.

help a member to avoid the overdraft fees that drive some consumers to take out payday loans, and can also fulfill the member's small dollar credit needs.

Credit unions may claim that the typical member who uses fee-based overdraft programs does not qualify for an overdraft line of credit because of poor or thin credit histories. However, credit unions are already offering these customers a hidden line of credit through their fee-based overdraft programs. Credit unions could offer the same amount of credit at less predatory prices by developing a small but visible line of credit that fits this population.

NCUA should also consider opening up the PAL rules to open-end lines of credit in order to enable credit unions to charge 28% interest on small dollar overdraft lines of credit to less credit worthy members. As with the closed end loans, however, only a single modest participation fee should be charged each year.

III. NCUA Should Crack Down on FCUs that Evade the 18% or 28% Rate Cap

NCUA also needs to ensure that credit unions are complying with the letter and spirit of *current* laws and are not offering predatory loans. We congratulate NCUA for the progress made on this front. But a small number of FCUs continue to blatantly flout the 18% usury cap, and a few others continue to allow CUSOs to use their names to make triple-digit loans. Those credit unions are the exception, and they tarnish the reputation of the credit union industry and the large number of credit unions that make only affordable loans.

At least three federal credit unions are directly making triple digit loans. For several years now, **Kinecta Federal Credit Union** has been offering unvarnished payday loans through locations within its Nix Check Cashing subsidiary. Kinecta charges a \$31.95 application fee for each of its standard \$400, 14-day loans on top of 15% APR interest.¹⁴ The application fee is charged each time, even for repeat borrowers. With fees included, the **true APR is 223%**. Clearly, the credit union is collecting most of its revenue through the "application" fee, not the \$2.30 interest generated over 14 days.

Kinecta may have come up with creative accounting to claim that the fee covers only application costs, as required by Regulation Z. But it is highly unlikely that Kinecta spends \$31.95 on the few costs that Regulation Z allows the application fee to include, while covering loan losses, account maintenance, cost of funds, collection costs, overhead, advertising, and all other costs with \$2.30 in interest. It also seems unlikely that Kinecta charges the "application fee" to borrowers whom it turns down. (And if it never turns down borrowers, then it clearly does not have an underwriting process that the fee covers.)

As we pointed out in our 2011 comments, another FCU, **Tri-Rivers Federal Credit Union**, is also offering payday loans at a cost of \$8.75 or \$11 per \$100, depending on the term of the loan (10 to 31 days), an annual rate of **160% to 401%**. No APR is disclosed on the

¹⁴ See <http://nixcheckcashing.com/payday.html> (visited 11/20/12), attached as Exhibit B.

website.¹⁵ Tri-Rivers does not pretend that these fees are application fees, and the fees vary with the amount of the loan. Thus, Tri-Rivers appears to be violating both the FCUA interest cap and the Regulation Z APR disclosure requirements.

We have recently discovered that another FCU, **Louisiana Federal Credit Union**, is directly making triple digit loans. Louisiana's PayDay Loans are structured similarly to Kinecta's, with a \$15 application fee and 15% APR interest for a \$100 to \$300 loan of 4 to 37 days. A 14-day, \$300 loan would have a true APR of 145%. The loans are due on the next payday and the same "application" fee is charged on subsequent loans – even if the next loan is just two weeks later.

A few other FCUs make triple-digit loans available to their members but do not make the loans directly. Instead, they apparently take a broker's or finder's fee on payday loans made by third-party credit union service organizations (CUSOs). Sometimes these loans are offered on the credit union's website with a link to the CUSO site. Although the loan is made by the CUSO, the FCU's name is associated with the loan.

NCUA has made progress in eliminating FCU payday loans through CUSOs, but a few still remain and some new FCUs have joined up with payday lending CUSOs. Assuming that we have found them all – and there may well be others – **we count ten FCUs that allow their names to be used in connection with CUSO payday loans**, down from 23 in 2010.

At least four FCUs (as well as some state credit unions) still offer payday loans through **CU on Payday**:

- Clackamas FCU (Oregon)¹⁶
- Pacific Crest FCU (Washington)¹⁷
- Cyprus Credit Union (Utah) (advertised on the FCU website)¹⁸
- People's Community Federal Credit Union (Washington)¹⁹

The loans cost \$12 per \$100 and triple-digit APRs are accurately disclosed on the website. For example, the CU on Payday website discloses an accurate APR of 292% for a 15-day \$300 loan.

Five FCUs, all in Florida, offer 214% to 287% loans to their members through the CUSO, **XtraCash LLC**, a subsidiary of Mazuma Credit Union:²⁰

- Buckeye Community Federal Credit Union²¹
- Martin Federal Credit Union²²

¹⁵ See <http://www.mtfcu.com/GoodMoney.htm> (visited 9/24/11), attached as Exhibit C. It is unclear if Tri-Rivers, like Kinecta, claims that the fees are properly excludable from the APR, but any such claim would be a sham.

¹⁶ See <http://clackamas.cuonpayday.com/> (visited 11/26/12), attached as Exhibit D.

¹⁷ See <http://pacificcrest.cuonpayday.com/> (visited 11/26/12), attached as Exhibit E.

¹⁸ See <https://cypruscu.com/e-services/payday/> (visited 11/26/12), attached as Exhibit F.

¹⁹ See <http://pccu.cuonpayday.com/Privacy.php> (visited 11/26/12), attached as Exhibit G.

²⁰ See <https://getextracashnow.com/> (visited 11/26/12), attached as Exhibit H. The rates for loans made in Florida are available at http://www.xtracashllc.com/florida_fees.html, attached as Exhibit I.

²¹ See <https://getextracashnow.com/bccu/Default.aspx> (visited 11/26/12), attached as Exhibit J.

- Orlando Federal Credit Union²³
- Railroad & Industrial Federal Credit Union²⁴
- Tallahassee Federal Credit Union²⁵

XtraCash also offers loans to members of a few state credit unions.

Though CUSO loans are not made directly by the FCU, FCUs should not be profiting from loans that would be illegal for them to make directly. They should also not permit their names to be used in connection with triple digit predatory loans.

IV. NCUA Should Publicize More Data From FCUs that Offer PAL and Other Small Dollar Loans.

Credit unions that currently offer small loans use different combinations of rates, fees, repayment periods and terms. Some are 30 days, some are 6 months. Some have two payments, some have many more. NCUA has stated that 372 credit unions are offering loans under the PAL rules, but it has offered no details about the structure of those loans or the members' experiences with them. NCUA also has not discussed small dollar loan programs outside of the PAL rules. Not all credit union loans are the same, even if they have the same APR.

NCUA should take this opportunity to learn which loan structures and other features work for both consumers and credit unions. If certain types of loans prove to have high default rates, lead to repeat lending, or trigger overdraft fees, bank account closures or other side effects, NCUA should consider amending the PAL rule to restrict those products. Conversely, NCUA should promote the products that prove sustainable for both credit unions and consumers.

NCUA should collect and analyze data including:

- The terms of the loans;
- The amount of any fee, the timing of the fee, and the payment schedule;²⁶
- The number of loans made;
- The median and range of the amount borrowed;
- The timing and frequency of subsequent loans to the same borrower;
- Underwriting criteria, including typical credit score and other requirements;
- Default rates;
- Incidence of overdraft fees and account closures among borrowers and how that incidence compares to similar members who do not take out small loans.

NCUA should then aggregate this data and publish a report summarizing it. In particular, this data would be useful to learn if different loan structures lead to more affordable loans with fewer

²² See <https://getxtracashnow.com/mfcu/Default.aspx> (visited 11/26/12), attached as Exhibit K.

²³ See <https://getxtracashnow.com/ofcu/Default.aspx> (visited 11/26/12), attached as Exhibit L.

²⁴ See <https://getxtracashnow.com/rifcu/Default.aspx> (visited 11/26/12), attached as Exhibit M.

²⁵ See <https://getxtracashnow.com/tfcu/Default.aspx> (visited 11/26/12), attached as Exhibit N.

²⁶ In our *Stopping the Payday Loan Trap* report, we struggled to calculate an accurate fee-inclusive APR for some credit union loans without these details.

adverse consequences, and whether credit unions are able to offer longer term loans without excessive defaults.

NCUA should publicize the successful programs already in existence that offer responsible small dollar loans to this population. More detail on those programs could do more to encourage others like them than tweaking the PAL rules.

IV. CONCLUSION

Credit unions have been at the forefront of financial institutions that offer affordable, small dollar loans to their members. The higher interest rate permitted under the PAL rules may make it easier for FCUs to offer sustainable and affordable loans, but the current rules permit too many unaffordable loans. NCUA should ensure that any changes to the PAL rules encourage only affordable loans that do not put members into a cycle of debt with multiplying fees. NCUA should also rein in the abuses of overdraft fee programs and should stop credit unions from offering triple-digit payday loans.

Thank you for this opportunity to comment. Please feel free to contact us if you have any questions.

Exhibit A: Descriptions of Commenters

Since 1969, the nonprofit **National Consumer Law Center® (NCLC®)** has used its expertise in consumer law and energy policy to work for consumer justice and economic security for low-income and other disadvantaged people, including older adults, in the United States. NCLC's expertise includes policy analysis and advocacy; consumer law and energy publications; litigation; expert witness services, and training and advice for advocates. NCLC works with nonprofit and legal services organizations, private attorneys, policymakers, and federal and state government and courts across the nation to stop exploitive practices, help financially stressed families build and retain wealth, and advance economic fairness.

Consumer Action has been a champion of underrepresented consumers nationwide since 1971. A nonprofit 501(c)3 organization, Consumer Action focuses on financial education that empowers low to moderate income and limited-English-speaking consumers to financially prosper. It also advocates for consumers in the media and before lawmakers to advance consumer rights and promote industry-wide change. By providing financial education materials in multiple languages, a free national hotline and regular financial product surveys, Consumer Action helps consumers assert their rights in the marketplace and make financially savvy choices. More than 8,000 community and grassroots organizations benefit annually from its extensive outreach programs, training materials, and support.

The **National Association of Consumer Advocates (NACA)** is a non-profit corporation whose members are private and public sector attorneys, legal services attorneys, law professors, and law students, whose primary focus involves the protection and representation of consumers. NACA's mission is to promote justice for all consumers.

Exhibit B

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MY NIX FINANCIAL

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Short Term Loans

paydaytoday®
CASH ADVANCE
\$400 for \$34.25!¹
Nix Check Cashing now Nix Financial

Kinecta Federal Credit Union offers payday cash advance at its Nix Financial locations²

Get \$400 cash in hand - for \$34.25! Plus... get free Kinecta Membership and \$5³ on us! (new qualified borrowers)

Get more for less with paydaytoday® at Nix!

Here's what you need to get your first paydaytoday® Cash Advance

1) Qualified borrowers can receive up to \$400. \$34.25 example is based on a \$400 loan for 14 days, including \$31.95 application fee and \$2.30 interest. Application fee \$31.95 plus 15% Annual Percentage Rate (APR). Application fee is due at the time member applies for the loan and interest must be paid in advance. See teller for more details.

2) The paydaytoday® product is provided by Kinecta Federal Credit Union available at Nix Financial locations.

3) Minimum \$5 share savings account deposit required (paid by Kinecta for new paydaytoday® borrowers). If necessary, \$10 Consumers' Cooperative Society of Santa Monica, Inc. fee will be covered by Kinecta Federal Credit Union (equivalent to free membership). Continued membership in the Santa Monica Co-Op will be subject to an annual membership renewal fee of \$10. However, no annual fee is required to maintain membership in Kinecta.

Deposits at Kinecta Federal Credit Union are Federally Insured by NCUA.

Exhibit C



TRI-RIVERS

FEDERAL CREDIT UNION

It's **me247**
Credit Union

Login ▶

GoodMoney for Life

What will I need for a GoodMoney Payday Loan?

- 2 Forms of ID (Driver's License, Military ID, Social Security Card, etc.)
- Current Pay Stub
- Current Checking Account Statement
- Your Checkbook
- Current Telephone Bill (must be in your name, residential or mobile phone)
- Completed GoodMoney Payday Loan Application

How much can I borrow?

- First time borrowers can receive \$100.00 to \$300.00
- Repeat borrowers can receive \$50.00 to \$500.00, or 75% of your NET monthly income not to exceed either \$300 or \$500.

When will my loan be due?

Your loan will be due on your next payday. This will be no less than 10 days and no longer than 31 days.

How much will my fees be?

- \$8.75 per \$100.00 borrowed will be charged for loans 10-20 days in length.
- \$11.00 per \$100.00 borrowed will be charged for loans 21-31 days in length.

Can I rollover or extend my loan?

Yes, the loan can be "rolled over" or extended one time, after payment of applicable fees.

Can I repay my loan early or make partial payments?

Yes, you can make a partial payment at any time before your loan matures or you can repay the entire balance early with no penalty. There is no partial or full refund of loan fees for early repayment.

Can someone make a payment for me?

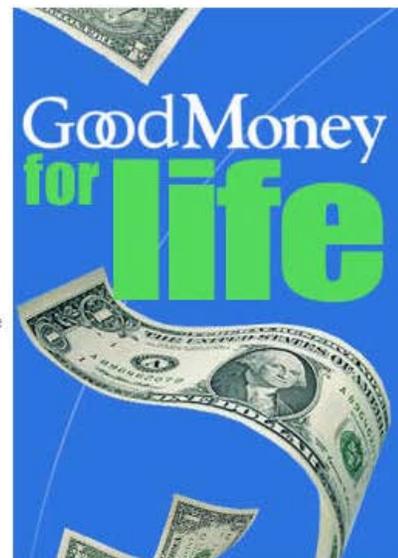
No, you must make your payment in person.

Can I pay at the drive-through window, another TRFCU branch or at a Credit Union Service Center?

No, your loan must be paid at the teller line of the Montgomery branch.

What if I can't repay my loan as scheduled?

Come by TRFCU and see our loan representative to discuss your situation. We will work with you as much as possible.





Payday loans for cash flow problems



Clackamas Credit Union is not the lender

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- Holiday Schedule

Thank you for choosing CU on Payday

Many times an urgent need arises that's beyond your budget, CU on Payday offers fast, confidential payday advances.

There are no credit checks and you will find the fees are lower than other payday lenders - only \$12.00 per \$100 for credit union members with active checking account.

Get your loan approved in minutes

Do You Have...

Yes	No	
<input checked="" type="radio"/>	<input type="radio"/>	Gross income of at least \$1,000 per month.
<input checked="" type="radio"/>	<input type="radio"/>	Checking account active for a minimum of 90 days.
<input checked="" type="radio"/>	<input type="radio"/>	Payroll deposited to your checking account regularly.
<input checked="" type="radio"/>	<input type="radio"/>	Continuous employment for the last six (6) months.
<input checked="" type="radio"/>	<input type="radio"/>	Minimum 18 years of age.

Credit Union Members:

New Borrowers

Returning Borrowers



SSL



Payday loans are provided by CU on Payday and the credit union is not the lender.

CU on Payday offers a short-term loan option that provides cash needed to meet an immediate short-term cash flow need.

clackamas.cuonpayday.com

Exhibit E



Payday loans for cash flow problems



Pacific Crest Federal Credit Union is not the lender

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Credit Union Members:

New Borrowers

Returning Borrowers



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SSL



pacificcrest.cuonpayday.com

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Exhibit F

Ask A Question: [Rates](#) | [Branch & ATM Locator](#) | [Fraud Alerts](#) | 801-260-7600



Member Number

[First Time Using Home Banking](#)
[Online Banking FAQs](#)
[Online Banking User Guide](#)

PERSONAL BUSINESS VISA MORTGAGES YOUTH ACCOUNTS FINANCIAL TOOLS E-SERVICES ABOUT US

[Home](#) | [E Services](#) | Payday

CU on Payday

Click here to apply for a Payday Loan Alternative

A Payday Loan Alternative!
CU on Payday will allow you to receive a payday loan at considerably lower rates and fees than conventional payday lenders. If you are experiencing a financial emergency or just need a little extra cash this month, we have a simple online solution.

Payday loans are serviced by CU on Payday, a payday loan alternative created by Credit Unions. Cyprus provides this link as a convenience only and is not responsible for the availability, content, goods, services or the security of this site.

Because we care, we want to be sure you understand that a short-term loan is designed to provide the cash required to meet an immediate need. Frequent and repeated use could mean that a long-term loan may better suit your needs.

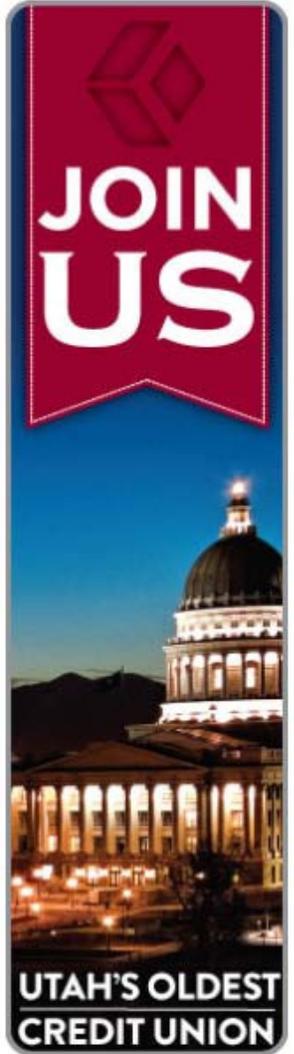
That's why we've provided access to free and confidential financial counseling and education through [Fair Credit Counseling](#).

Eligibility:

- Must have an established Cyprus checking account for the past 90 days with regular payroll deposits and an active Cyprus checking account for the past 30 days.
- Gross income of at least \$1,000 per month.
- Continuous employment for the last six months.
- 18 years or older.

Benefits:

- Funds are deposited in your Cyprus account within 10-20 minutes of approval.



- There are no credit checks and you will find the fees are lower than other payday lenders - only \$12 per \$100 for credit union members.
- First time borrowers can receive a maximum. \$300. Avoid costly NSF fees or late payment charges from other vendors when you don't have the funds to pay your bills.
- CU on Payday was created by a credit union to allow credit unions across the country to offer their members a true alternative to conventional payday lenders, and to provide a service no longer available through traditional financial institutions.

Questions / Answers

Q: What is a payday loan?

A: A Payday loan provides you with a short-term cash advance until your next payday. CU on Payday allows you to cover small, unexpected, expenses and to avoid costly bounced-check fees or late payment penalties and other less desirable short-term credit options. You will need to be employed, have a permanent address, and an active Cyprus checking account.

Q: Where do I go for a CU on Payday Loan?

A: You can begin the application process by going to cypruscu.com and click on the personal tab. Or you can apply for a loan at any Cyprus Branch.

Q: How much can I borrow and how much does it cost?

A: Our fees are lower than traditional payday lender. Within the allowed amount, you qualify for a particular advance amount based on your current income. The maximum loan amount is \$700.

Q: What can I use a loan for?

A: You can use a CU on Payday loan for anything you like such as car bills, phone bills, etc.

Q: How long does it take to get my cash?

A: Applications received Monday-Friday between 9 am and 5 pm (MST) will be processed within 30 minutes. Upon approval and your acceptance of the loan funds will be deposited immediately into your account.

Q: How do I get the money and how do I repay?

A: When you apply for a payday loan, you authorize CU on Payday to directly deposit the funds into your Cyprus checking account upon approval. You also authorize CU on Payday to automatically withdraw the amount of the advance, with the appropriate fee, on your next payday.

Q: How do I determine my due date?

A: All loans are due on your next payday, unless your next payday is three or less business days from today, the loan due date will be the payday following your next payday. If your next payday is four business days or more from today, this will be your loan due date.

Q: Can I request more than one advance at a time?

A: Your payday advances with CU on Payday may not exceed the allowable loan amount for your state. Once your previous advance payment has been received, you may then request another

advance.

Q: When can I apply for another loan?

A: You may apply for another loan once payment has been received on your previous loan.

Example: If your loan was due on a Monday, you may apply for a new loan on Thursday.

Q: What if I have a poor credit history?

A: Unlike many other loans, we do not require that you have good credit or, for that matter, any credit history at all.

Q: Is my payday loan secure and confidential?

A: Security and confidentiality is a top priority. We transact all our loans on our secure SSL server, utilizing the industry's highest standard. Your information is completely confidential and protected by our company Privacy Policy.

Q: What happens if I don't have the funds necessary to repay you on my due date?

A: Please contact CU on Payday immediately to make arrangements for payment. If sufficient funds are not available in your account on the due date to cover the debit entry, you agree to pay CU on Payday a NSF fee of \$20.00.

Q: Can I get an extension on my payday loan?

A: Yes, you must contact CU on Payday two business days prior to the due date to facilitate an extension. You will be required to pay the loan fee on the due date of the loan. You may extend the loan up to three times. Your loan can not be extended beyond 12 weeks of the loan date. We recommend making an additional payment to reduce the principal balance.

Q: Can I rescind (cancel) this loan?

A: You have the right to rescind (cancel) this loan by returning the amount of the loan by the close of business on the next business day following the date of this loan. We will not charge you for canceling the loan.

Sample Fees

Loan Amount	+ Participation Fee	= Total Due
\$300	+ \$36.00	= \$336.00
\$500	+ \$60.00	= \$560.00
\$700	+ \$84.00	= \$784.00

[Click here to apply for a Payday Loan Alternative](#)

Contact CU on Payday

Toll-Free: 1.877.507.6070

Fax: 1.877.507.6071

Current Rates

Auto Loans	As low as 2.99%*
Mortgages	As low as 2.625%
VISA	As low as 8.9%
Home Equity	As low as 2.99%
Try Our Mortgage Rate Tracker!	

Useful Links

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- [Community Recreation Association](#)
- [Foreclosed Properties](#)
- [Cyprus Owned Vehicles](#)
- [Debt Protection](#)

News & Information

- [View This Quarter's Newsletter](#)
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We do business in accordance with the Federal Fair Housing Law and the Equal Credit Opportunity Act



Federally insured by the National Credit Union Administration



ABOUT SSL CERTIFICATES

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Exhibit G



*Payday loans for
unpredictable situations*



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Important Notices



Your privacy is important to us at CU on Payday

PRIVACY DISCLOSURE

(FOR ALL SHORT TERM LOAN CUSTOMERS)

Protecting your privacy is important to CU on Payday and our employees. We want you to understand what information we collect and how we use it. In order to provide our customers with short term loans as effectively and conveniently as possible, we use a technology to manage and maintain customer information. The following policy serves as a standard for all CU on Payday employees for collect on, use, retention, and security of nonpublic personal information related to our short term loan programs.

WHAT INFORMATION WE COLLECT

We may collect nonpublic personal information about you from the following sources:

- Information we receive from you on applications, or other loan forms, such as your name, address, social security number, assets and income.
- Information about your loan transactions with us, such as your payment history and loan balances.
- Information we receive from third parties, such as consumer reporting agencies and other lenders, regarding your creditworthiness and credit history.
- Information we receive from your deposit accounts with Peoples Community CU.
- Minimum 18 years of age.

WHAT INFORMATION WE DISCLOSE

We are permitted by law to disclose nonpublic personal information about you to third parties in certain circumstances. For example, we may disclose nonpublic personal information about your short term loans to consumer reporting agencies and to governmental entities in response to subpoenas. Moreover, we may disclose all of the nonpublic personal information about you that we collect, as described above, to financial service providers that perform services on our behalf, such as marketers and servicers of your short term loan, and to financial institutions with which we have joint marketing arrangements. Such disclosures are made as necessary to effect, administer and enforce the loan you request or authorize. Otherwise, we do not disclose nonpublic personal information about our customers or former customers to anyone, except as permitted by law.

If you become an inactive customer, we will continue to adhere to the privacy policies and practices described in this notice.

OUR SECURITY PROCEDURES

We also take steps to safeguard customer information. We restrict access to nonpublic personal information about you to those of our and our staff employees who need to know that information to provide short term loans to you. We maintain physical, electronic, and procedural safeguards that comply with federal standards to guard your nonpublic personal information.

pccu.cuonpayday.com

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Exhibit H



Please choose your Credit Union below:

- [Buckeye Community Credit Union](#)
- [Central Florida Postal Credit Union](#)
- [Central Kansas Credit Union](#)
- [Calcasieu Teachers & Employees Credit Union](#)
- [Mazuma Credit Union](#)
- [MidAmerican Credit Union](#)
- [Martin Federal Credit Union](#)
- [Midwest Regional Credit Union](#)
- [Orlando Federal Credit Union](#)
- [Railroad & Industrial Federal Credit Union](#)
- [Tallahassee Federal Credit Union](#)

Exhibit I



Partners' FREE Ad Materials 

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Who Is XtraCash?

Why XtraCash?

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FLORIDA FEE SCHEDULE

Advance Amount (amount financed)	Fee Amount (finance charge)	Annual Percentage Rate APR* (assumes 14-day term)	Total Amount (total of payment)
Rate 1 – Direct Deposit into CU checking or savings account AND financial education participation			
\$100.00	\$9.00	234.64%	\$109.00
\$200.00	\$17.00	221.61%	\$217.00
\$300.00	\$25.00	217.26%	\$325.00
\$400.00	\$33.00	215.09%	\$433.00
\$500.00	\$41.00	213.79%	\$541.00
Rate 2 – Direct Deposit into CU checking or savings account			
\$100.00	\$10.00	260.71%	\$110.00
\$200.00	\$19.00	247.68%	\$219.00
\$300.00	\$28.00	243.33%	\$328.00
\$400.00	\$37.00	241.16%	\$437.00
\$500.00	\$46.00	239.86%	\$546.00
Rate 3 – No Direct Deposit into CU checking or savings account			
\$100.00	\$11.00	286.79%	\$111.00
\$200.00	\$21.00	273.75%	\$221.00
\$300.00	\$31.00	269.40%	\$331.00
\$400.00	\$41.00	267.23%	\$441.00
\$500.00	\$51.00	265.93%	\$551.00

Loan amounts available in \$25 increments.

*APR will increase for a term of less than 14 days and will decrease for a term of greater than 14 days. See your agreement for disclosure of APR.

Select a State 

Important Disclosures: Payday advances should be used for short-term financial needs only, not as a long-term financial solution. Members with credit difficulties should seek credit counseling.

Exhibit J

BUCKEYE COMMUNITY
Federal Credit Union **BCFCU**

XtraCASH^{LLC}
A Credit Union owned company

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TERMS AND CONDITIONS

This is a short-term loan designed to help with your immediate short-term cash flow needs. It is not a solution for long-term needs.

[read more](#)

PRIVACY POLICY

Protecting your privacy is important to XtraCash, LLC and our employees. We want you to understand what information we collect and how we use it.

[read more](#)

QUESTION & ANSWER

Q: When will the payment be due?

A: In most states, the loan will be due on your next payday. XtraCash, LLC complies with all federal and individual state laws regarding loan terms, amounts, and costs.

[more q & a](#)

REQUIREMENTS

- You must have a steady, verifiable source of recurring income.
- You must be at least 18 years old.

[more requisites](#)

Twelve steps to **FINANCIAL SUCCESS** 

Returning member? [Login here](#)

GET THE CASH YOU NEED FAST!

First name:

Last name:

E-mail address:

or [Contact us.](#)

[Read the terms & conditions](#)

[View our privacy policy](#)

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CFSA 

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Exhibit K

Non-Members Welcome!



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First name:

Last name:

E-mail address:

or [Contact us.](#)

[Read the terms & conditions](#)

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[read more](#)

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[more q & a](#)

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Exhibit L

Non-Members Welcome!



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Last name:

E-mail address:

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[more q & a](#)

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Exhibit M



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GET THE CASH YOU NEED FAST!

▶ First name:

▶ Last name:

▶ E-mail address:

or [Contact us.](#)

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▶ [read more](#)

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▶ [more q & a](#)

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▶ [more requisites](#)

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Exhibit N



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[more q & a](#)

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