Comments to

Consumer Financial Protection Bureau (CFPB) Proposed Rule:

Payday, Vehicle Title, and Certain High-Cost Installment Loans

Docket No. CFPB-2016-0025 or RIN 3170–AA40

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Via on-line web form at www.Regulations.gov

And via Email to FederalRegisterComments@cfpb.gov

Introduction

Veritec Solutions, LLC is pleased to submit our comments in response to input solicited by the Consumer Financial Protection Bureau in the Proposed Rule: Payday, Vehicle Title, and Certain High-Cost Installment Loans, Docket No. CFPB-2016-0025 or RIN 3170–AA40. Our comments are focused on areas of the proposed rule commensurate with our expertise, credentials and experience in the financial sector impacted by the rule. Our comments are based upon expertise gained through our experience in the Payday, Vehicle Title and Installment Loan sector developed through 15 years of managing regulatory database programs across 14 States and engagement with Regulators, Lenders, and Consumers.

Time constraints of the comment period required us to prioritize comments on issues which require resolution to practically achieve consumer protection goals under the rules, areas where relevant information is available that may not have been adequately reviewed and considered by the Bureau, and areas where the Bureau may wish to further consider established best practices in the marketplace. These time constraints did not allow us to address many of the over 600 solicited comments in the proposed rule.

Our comments are organized sequentially from citations in the Proposed Rule document issued on June 2, 2016 and include reference to specific citations from the rule along with the section and page number of each selected citation.

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Outline

Attachments

Attachment 1 - State of South Carolina Deferred Presentment Program, Comparison of South Carolina Deferred Presentment Transaction Activity to CFPB White Paper of Initial Data Findings, July 2013, Veritec Solutions LLC.
(Attached as Attachment1_South_Carolina_Comparison.pdf)

Attachment 2 - Report on Impact of CFPB Proposals Under Consideration on the State of South Carolina Consumer Lending Market, September 28, 2015, Veritec Solutions LLC
(Attached as Attachment2_South_Carolina_Impact_Report.pdf)

Attachment 3 - State of Florida Office of Financial Regulation Deferred Presentment Program Annual Report to Legislature, January 1, 2004
(Attached as Attachment3_Florida_Annual_Report_2004.pdf)

Attachment 4 - Summary of Consumer Protections Enforced by Real-Time State Databases
(Attached as Attachment4_Summary_Consumer_Protections)

Attachment 5 - CFPB Veritec Contract 2014 03
(Attached as Attachment5_ CFPB_Veritec_Contract_2014_03.pdf)

Attachment 6 - State of Illinois Trends Report 2015
(Attached as Attachment6_State_of_Illinois_Trends_Report.pdf)

Attachment 7 - Veritec 2008_01_CRL_Whitepaper_Analysis - Springing the Debt Trap: Rate caps are Only Proven Payday Lending Reform, December 13, 2007.
(Attached as Attachment7_Springing_Debt_Trap_Analysis.pdf)

Attachment 8 - Veritec 2007_01_CRL Whitepaper Analysis - Financial Quicksand: Payday lending sinks borrowers in debt with $4.2 billion in predatory fees every year, November 30, 2006.
(Attached as Attachment8_Financial_Quicksand_Analysis.pdf)

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Credentials and Experience

Veritec Solutions, LLC ("Veritec") is uniquely qualified to submit these comments to the proposed rules for Payday, Vehicle Title, and Certain High-Cost Installment Loans. Veritec statewide regulatory databases have provided real-time compliance verification and regulatory reporting for hundreds of millions of small dollar lending transactions since our inception in 2002. Our statewide regulatory databases have been implemented in 14 States and continue to provide real-time compliance verification and regulatory reporting for over 20 million small-dollar loan transactions annually. Our regulatory database solutions enable these State regulators to effectively and efficiently oversee, examine and enforce consumer protections for covered products. This experience also provides Veritec with unparalleled insight and information about the impact of regulations on covered product usage, lender and borrower compliance activity, effective regulatory data management practices, use of regulatory data for effective and efficient oversight, and a host of other critical information that could enable the CFPB to make informed decisions as to how best structure and enforce a federal regulatory environment. Additional details of our experience are provided below.

- Veritec has successfully implemented and currently manages statewide small-dollar lending regulatory database applications for fourteen (14) States that provide real-time enforcement of consumer protections for covered products including Payday Loans, Installment Loans, Auto Title Loans, Mortgage Loans, in addition to an Anti-Fraud Check Cashing Database, in support of our State Regulatory Partners. Veritec has more expertise and experience in this area than any other firm or agency.

- Veritec Solutions is a regulatory services company. We do not offer any products, goods or services to the small-dollar lending industry outside of the regulatory programs we support for State regulatory agencies. Veritec is neither a credit bureau nor credit reporting agency; we do not sell, barter, share, exchange or otherwise provide consumer information for any other purpose beyond these State regulatory programs.

- Veritec provides a technology and operating structure that leverages the proven performance and strengths of our service delivery experience. Our regulatory solutions are the only real-time, point-of-sale integrated systems which operate 24 hours a day, 7 days a week, 365 days a year to capture 100% of the small-dollar lending transactional data in the jurisdictions we support. There are no other regulatory frameworks existing in the United States that are more comprehensive than the Veritec real-time regulatory environment. Our regulatory database solutions operate in a secure environment to protect the integrity of information and ensure its efficacy. The solution also provides a number of features that create a better environment for consumers of these services, improve the operating environment for licensees, and facilitate a jurisdiction's ability to regulate this industry.

- Veritec has also installed robust reporting capabilities at the state regulatory level. Our VISER™ reporting platform (Veritec Interactive Solution for Examination Reporting), that allows for real-time reporting and tracking of activity by authorized State regulatory personnel within the jurisdictions we support.

- Our solution enables compliance for small-dollar lending licensees of all sizes and levels of technical sophistication, by offering multiple access channels to our system.
- Our regulatory database solution is integrated with most Licensed Lenders of small dollar loans including over thirty (30) small-dollar lending software systems and vendors directly interfacing their technology with Veritec. We estimate that we already electronically communicate with licensees that operate over 70% of licensed payday lending retail outlets across the United States.
- The Veritec team has a proven track record in delivering custom regulatory database solutions and supporting operations for the Government and Financial Services Industry. Our management team has been recognized by numerous organizations and has provided unique insights into the small dollar lending industry to regulators in the United States, Canada, France, Poland, Japan, Australia, and Great Britain.

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General Comments (not related to specific citation from the Federal Register document)

1. The Bureau may wish to further consider the economic impact of the proposed rules as noted in the September 2015 Report on Impact of CFPB Proposals Under Consideration on the State of South Carolina Consumer Lending Market.[1] This Report is included as Attachment 2 to this document. The Bureau should consider that the proposed rules include additional restrictions to small-dollar credit beyond those outlined in the CFPB Outline of Proposals Under Consideration published on March 26, 2015; therefore, the estimated economic impact outlined in this report will likely be increased under the proposed rule.
2. The CFPB issued the proposed regulations primarily pursuant to Section 1031 of the Dodd-Frank Act to identify and prevent unfair, deceptive, and abusive acts and practices. Specifically, the Bureau has presented that they have identified certain acts and practices in these markets as being unfair, deceptive, and abusive using the standards below:

    - Unfairness standard: an act or practice is unfair if it causes or is likely to cause substantial injury to consumers which is not reasonably avoidable by consumers and such injury is not outweighed by countervailing benefits to consumers or to competition.
    - Abusiveness standard: an act or practice that takes unreasonable advantage of (A) a lack of understanding on the part of the consumer of the material risks, costs, or conditions of the product or service or of (B) the inability of the consumer to protect the interests of the consumer in selecting or using a consumer financial product or service.

    Several of the referenced 14 State jurisdictions have implemented regulations with effectively enforced consumer protections that address the unfair, deceptive, and abusive acts and practices identified by the Bureau. These States have consumer protections which include:

    - Means testing of a borrower's ability to repay
    - Roll-overs are prohibited
    - Limits on sustained usage
    - Limits on multiple-borrowing or total indebtedness
    - An extended payment plan which provides an "off-ramp" option for the borrower
    - Limits on fees and terms
    - Clear disclosures to ensure consumer understanding of product fees, terms and conditions

    Consumer protections are effectively enforced in these States in real-time via a statewide regulatory database. Consumers in these jurisdictions are protected against the unfair, deceptive, and abusive acts and practices that cause substantial injury. These statewide regulatory databases also prevent

[1] Report on Impact of CFPB Proposals Under Consideration on the State of South Carolina Consumer Lending Market, September 28, 2015, Veritec Solutions LLC (Please refer to Attachment 2)

risks associated with unlicensed lending activity through effective controls to ensure that only licensed lenders can provide loans that are in compliance with State law. Consumers have the ability in these States to register complaints and report violations via multiple channels including a toll-free customer support center. We have received very few complaints about non-compliant lending from consumers. These statewide regulatory databases provide regulatory access to information on 100% of lending activity to enable effective and efficient oversight of licensed lenders.

The proposed rules will pre-empt or override many of the jurisdictional regulations that are effectively preventing unfair, deceptive, and abusive acts and practices.[2]

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[2] Summary of Consumer Protections Enforced by Real-Time State Databases (Please refer to Attachment 4)

Specific Comments (related to specific citations from the Federal Register document)

1. Page 839, Section 1041.17

Citation from Federal Register Document: The Bureau also considered an alternative under which lenders would be required to furnish information to the Bureau or a contractor designated by the Bureau and to obtain a report from the Bureau or its contractor. Such an approach might be similar to the approaches of the 14 States previously referenced. However, the Bureau believes that these functions are likely better performed by the private sector and that the proposed approach would permit faster implementation of this rule. Further, there may be legal or practical obstacles to this alternative approach. The Bureau solicits comment on this alternative.

The Bureau's belief that the proposed approach would permit faster implementation of this rule contradicts the experience of 14 states referenced in the rule that have all implemented statewide databases which successfully perform a similar function to the proposed Registered Information Systems in the rule. Did the Bureau adequately review or consider the implementation process and timeline used for the referenced 14 States? The actual experience in these States shows that the critical path for a successful implementation includes sufficient time for industry adoption and integration of the database with their operations (e.g., interface development, training, technology changes, etc.). The complexity of the proposed multi-database environment will increase the amount of time required for a successful implementation as compared to a single, centralized database. Additionally, the complexity of the proposed multi-database, report-to-all environment imposes substantial, unnecessary costs and burdens to licensees that are further addressed in the following Section of this document: 3. Page 839, Section 1041.17. Alternative approaches that the Bureau may wish to consider are included in the following Section of this document: 2A. Page 839, Section 1041.17.

There are several aspects of the Bureau's proposed multi-database, report-to-all approach which increase the level of complexity and time required for a successful implementation when compared to the alternative considered under which lenders would be required to furnish information to the Bureau or a contractor designated by the Bureau and to obtain a report from the Bureau or its contractor (i.e. the single, centralized database approach). Some key aspects which differentiate implementation of a single, centralized database from the proposed approach are noted below.

a) A single set of standards is used for data capture and electronic communication.
The Bureau has suggested that they will encourage the development of common data standards for registered information systems. The development of standards that are acceptable to multiple registered information systems providers will require a substantial effort that will also delay the implementation timeline and will create further complications when future changes are necessary. The Bureau should be aware that common data standards will not address several other complexities involved with the proposed multi-database environment. There are several database communication standards, processing standards, reporting standards and other standards with substantial impact to the implementation timeline and on-going successful operations of the Registered Information System ("RIS") environment. This subject is further addressed in the following Section of this document: 9. Page 857, Section 1041.16.

Licensees interface and communicate with a single system using a single set of standards which simplifies the implementation process, reduces the time required for implementation, minimizes the implementation costs for the licensee, and minimizes the on-going operational costs for the licensee.

The implementation and testing process must be repeated for each registered information system deployed to ensure that licensee systems are able to successfully communicate with each system and perform all of the necessary functions required for compliance. The timing of this process will be different for each separate RIS as each company that provides RIS services will have their own unique implementation and testing timeline. Each RIS company will have their own unique training and testing process; consequently, every provider of a covered product will be required to complete this process in a timely manner based on the schedule for each RIS. This process will likely require each provider of a covered product to spend significant time with each RIS provider to coordinate and complete this process. Each RIS provider will have their own unique testing environment, customer service and technical support functions with varying degrees of responsiveness. Has the Bureau adequately reviewed and considered the implementation steps and actual implementation experience for the referenced 14 states with a single, centralized regulatory database environment? An adequate review of this information will show that several steps in the implementation process must be repeated for every separate RIS deployed and that simply having common data standards will not alleviate this costly burden.

Licensees must also be able to successfully communicate in an on-going manner with each registered information system to ensure that submissions were successfully received and processed. Data standards are only a portion of the necessary standards required for a successful regulatory database environment. Communication Protocols, Error Management and Transmission Standards are necessary on networks and systems which cannot guarantee error-free operation. Transmission is not always definitively reliable, and individual systems may use different hardware or operating systems, thus causing ineffectual and inefficient processes between the RIS and Licensees.

Has the Bureau considered that when a Licensee receives an error message or simply does not receive a reply at all from the RIS, how the Licensee is to know what the message entails or that the transmission was incomplete when each RIS and Licensee are operating under different hardware and software environments. The time and cost constraints in the development and implementation of a standard communication protocol across the RIS' and amongst the thousands of Licensee's is potentially highly burdensome. Communication protocols are basically all of the communications between devices, and protocols in general are a pre-defined sets of rules which are used to split data up in order for it to be sent in a particular way. The following reasons are why communication protocols are important:

- Private communication capabilities
- Authentication messages
- Error checking

If not managed appropriately, the potential for harm is great for Licensees and ultimately the consumers. The efficacy of the process of communication between the Lenders and multiple RIS providers must be uniform as is the case in the 14 States with a single, centralized regulatory database environment.

b) Licensees and Consumers interact with a single provider for technical support and / or customer service.
Licensees will need to interact with the technical support and / or customer service functions for each RIS provider in order to complete the implementation and testing process. Each RIS will have a unique customer service environment with varying levels of responsiveness. Licensees will also need to communicate with each RIS provider on an on-going basis to address any technical and / or telecommunication issues related to submission of required information. For example, what if an RIS fails to timely respond to a data submission request from a covered product provider? What is required of the RIS and / or covered product provider in this case? Has the Bureau adequately considered that providers of covered products will experience technical issues with each RIS during implementation and on-going operations? Is the Bureau aware that the complexity of the RIS environment and the number of technical issues increases substantially with each additional RIS that is deployed? Has the Bureau adequately considered the experience of the referenced 14 States and how timely, consistent technical support and customer service impact the implementation timeline and are critical aspects of a successful RIS operational environment?

c) Promulgation of data standards that are acceptable to each RIS will require substantially more time to develop and finalize than working with a single, centralized RIS. This subject is further addressed in the following Section of this document: 9. Page 857, Section 1041.16

d) The cost of implementing future changes in products and / or regulations that impact data furnishing requirements increase as the number of RIS providers increase.

There are additional aspects of the proposed approach that unnecessarily complicate and extend the timeline required for a successful implementation process. The Bureau is welcome to contact us for a discussion of these aspects.

We believe that the timeline prescribed by the proposed rule for RIS registration, onboarding, assessment, approval and live furnishing is insufficient to allow for development of the appropriate standards and implementation of an operationally effective RIS environment under the proposed approach. The Bureau should review and consider the implementation experience of the 14 referenced States that have implemented a real-time statewide regulatory database. The timeline from contract agreement to live utility for these statewide regulatory databases in a single jurisdiction can range from 4 to 12 months with a SINGLE loan product. This is clearly not the situation in the environment being proposed by the Bureau. We believe that the proposed timeline will be difficult to meet based on our actual experience with implementation of similar regulatory databases along with the many variables and complexities of the proposed multiple RIS environment and onboarding process.

The Bureau indicated that there may be legal or practical obstacles to this alternative approach as noted in the above citation from the proposed rule. The proposed rule did not provide specifics about potential legal obstacles to this alternative approach nor did the proposed rule consider potential precedents for this alternative approach. The referenced 14 States have all successfully contracted with or designated a third-party provider for implementation and operation of their statewide regulatory database using a competitive selection process. Has the Bureau adequately reviewed and considered the approach used by the referenced 14 States? Did the Bureau consider that the National Mortgage Licensing System (“NMLS”) is a single, centralized regulatory database provider and may serve as a precedent? Could the proposed RIS environment follow a similar approach to NMLS? What would prevent the Bureau from using a competitive process to contract with or designate a private entity for implementation and operation of a single, centralized RIS environment?

The proposed rule did not provide specifics about potential practical obstacles to this alternative approach. The single, centralized database approach is more practical to implement and operate than the far more complex multiple-database, report-to-all approach proposed by the rule as noted throughout this document. Implementation, operations, and on-going administration of a single database RIS environment is a substantially more practical approach than a multiple database approach for several reasons including those noted above in this comment. Has the Bureau adequately reviewed and considered the actual experience of the referenced 14 states and compared these experiences with the complexities of the proposed approach and practical obstacles to this approach?

2. Page 839, Section 1041.17

Citation from Federal Register Document: The Bureau recognizes that there are also costs involved in furnishing to multiple entities, but, as discussed below, anticipates that those costs could be reduced substantially with appropriate coordination concerning data standards. The Bureau believes on balance that the furnishing costs would be less expensive overall, and thus is proposing that approach. The Bureau solicits comment on whether the proposed approach reflects the most appropriate way to ensure that lenders can obtain consumers' borrowing history across lenders, or whether there are other approaches the Bureau should consider.

The Bureau's proposed multiple-database, report-to-all approach will result in an RIS environment that is overly-complex, burdensome and costly for providers of covered products. There are several issues introduced by this proposed approach which include the following:

a) Furnishing costs increase as the number of RIS providers increase. A provider of covered products will have to manage data communications with each and every RIS to ensure that submitted data was received and that transmission errors are addressed. Each RIS will experience technical issues from time-to-time that may prevent them from receiving and processing data. Each provider of covered products will experience technical issues that may prevent them from being able to timely communicate with one or more RIS'. How will these issues be addressed in a multiple-database, report-to-all environment? The costs of addressing these types of issues increase as the number of RIS participants increases. Additional costs will be incurred during the implementation process for a multiple-database, report-to-all environment as noted in the following Section of this document: 1. Page 839, Section 1041.17

b) Coordination concerning data standards will require a substantial effort that impacts the critical path for a timely implementation and will also create long-term issues with adaptability for new product innovations and accommodation of regulatory changes. Future changes to data standards in a multiple-database, report-to-all RIS environment will require coordination with each RIS. Each RIS will have a different implementation process and timeline to accommodate changes. Each RIS will have unique database and application designs that will impact their flexibility to accommodate future changes resulting from product innovations and/or regulatory updates.

c) The Bureau's cost of oversight increases as the number of RIS providers increase.

d) There is no practical manner to ensure that each RIS maintains the same level of accuracy of consumers' borrowing history. An RIS provider cannot practically be required to reconcile their

records with every other RIS provider. Providers of covered products will have no practical means of reconciling their records across multiple external RIS providers.

e) The cost of implementing future changes in products and / or regulations that impact data furnishing and reporting requirements increase as the number of RIS providers increase. Changes will have to be implemented and tested across multiple lenders and RIS providers.

f) Consumer or Lender initiated corrections to information will have to be validated and completed across multiple RIS providers, each with different processes and procedures for managing corrections. How does the Bureau intend to oversee the timeliness and accuracy of this process? The lack of a consistent loan identification number will increase the complexity of this effort.

g) There is no practical means to ensure consistency, timeliness and accuracy of routine data management and administrative processes across multiple RIS providers. A simple example is a scenario when a Lender "walks away" from their business and fails to timely update RIS information. How will this information be updated consistently across multiple RIS providers? Who will oversee and manage this process?

The Bureau's proposed multiple-database, report-to-all approach fails to address some of the key "lesson's learned" from 2 of the referenced 14 States (Alabama and Indiana) that initially implemented a multi-database environment. Actual experience in both of these States demonstrated that a multi-database environment does not provide for effective or efficient compliance with consumer protections; consequently, both of these States have migrated to a single statewide regulatory database. Some of the key lessons learned from these experiences are included below.

- The Indiana Department of Financial Institutions ("DFI") implemented a multi-database environment to enforce their small loan statutes around October 2005. This approach required that each database provider enable communication with every other database provider in real-time so that each database could provide a compliance report based on comprehensive, statewide loan data for all covered product transactions.
    - The Indiana DFI published guidance for "Commercially Reasonable Database" qualifications along with Q & A in July 2005[3].
    - Inter-database communication standards were developed and approved by all database providers in a collaborative effort. This effort required over 3 months to complete (between July and October 2005). These database communication standards included key performance requirements and monitoring guidelines.
    - Each database provider was responsible for developing their own lender communication and reporting standards.

  The Indiana DFI became aware of several issues related to the multi-database environment around June 2006. These issues included the following:
    - One of the database providers experienced an outage of their inter-database communications process that lasted for approximately 8 days.

[3] Official Guidance Related to the Required Database Implementation Pursuant to IC § 24-4.5-7-404(5), July 6, 2005, Indiana Department of Financial Institutions (sent to all small loan licensees)

  - Over 2,400 "out of compliance" loans were conducted by lenders using this database provider during this period.
  - Additional "out of compliance" loans authorized by this database provider were discovered during a detailed investigation of this process.

  The Indiana DFI conducted a thorough investigation and analysis of the multi-database environment as a follow-up to this incident. The analysis highlighted that the multiple database environment frequently allowed out-of-compliance loan activity to go undetected, the approved databases in Indiana followed dramatically different business practices resulting in an inconsistent adherence to statutory guidelines under the Indiana Small Loan Act. The Bureau's proposed multiple-database, report-to-all approach does not address these key findings.

- The State of Alabama passed legislation in 2003 that required deferred presentment licensees to "use a third party private sector database, where available, to ensure that the customer does not have outstanding deferred presentment transactions that exceed five hundred dollars ($500)". This law allowed for an ineffective multi-database environment that was unable to enforce this statutory provision.
  - Multiple third-party private sector databases were used by licensees in Alabama.
  - Licensees were required to use one of the available databases.
  - There were no requirements for these multiple databases to share standards or communicate with each other.

  The Alabama State Banking Department ("SBD") was aware of several issues related to the multi-database environment. These issues included the following:

  - This environment did not provide effective compliance with the statutory provision to limit total outstanding indebtedness because there was no practical means for a licensee to access comprehensive, statewide information about a borrower's covered product activity.
  - Databases in Alabama followed dramatically different business practices resulting in an inconsistent adherence to statutory guidelines. The Bureau's proposed multiple-database, report-to-all approach does not address this key finding.

The Alabama SBD implemented a single statewide regulatory environment in 2015 that has demonstrated success in resolving issues with the multiple-database environment and enabling licensee compliance with statutory guidelines. Additional considerations for an alternative approach that the Bureau may wish to consider are outlined below:

2A. Alternative Approach Considerations

The proposed rules outline a compliance process which differs based on the type of loan conducted (i.e. whether loan is made under §1041.5, 7, 9, 11 or 12). The proposed rule also outlines substantial record-keeping requirements related to each type of loan. These are important considerations for establishing a RIS environment that encourages compliance by minimizing the cost and burden associated with using this resource for making a compliance decision and maintaining records.

The Bureau may wish to consider an alternative to the multiple-database, report-to-all approach that will better accomplish the stated goals in the proposed rule, reduce burdens on lenders, reduce cost of oversight, increase effectiveness of compliance, improve ability to accommodate innovation in the marketplace, and enable stronger regulatory oversight for State and Federal regulators. The Bureau can accomplish these substantial improvements by considering the key benefits of various approaches reviewed in the proposed rules and incorporating best practices from the proven statewide regulatory database solutions in the referenced 14 states into the registered information system environment. These best practices could enable an alternative approach with the following characteristics and capabilities:

- Minimize cost and burden of furnishing data to RIS
- More effective and efficient lender compliance
- Minimize cost and burden of maintaining records
- Access restricted to actively licensed providers of covered products
- Information privacy consistent with purpose of RIS (compliance) and protection of personally identifying information (PII)
- Increased accuracy and consistency of borrower and covered product data
- More effective and efficient regulatory oversight of lenders
- More effective and efficient regulatory oversight of the RIS environment
- Economies of scale
- Minimize time required for implementation
- Ability to timely incorporate innovation and regulatory changes

Application of the above best practices, characteristics and capabilities to an improved alternative approach is outlined in more detail below.

I. Minimize cost and burden of furnishing data to RIS

The cost and burden to lenders for obtaining a report from, and furnishing data to, an RIS can be minimized by incorporating the following operating characteristics:

- Lender furnishes information about covered loans to, and management communications with, a single entity for data furnishing in real-time (loan consummation, updates, when loan ceases to be outstanding)
    - Single entity for data furnishing establishes and manages common data standards and other standards
        - Common standards established with input from all key stakeholders as described in the following section of this document 18. Page 888, Section 1041.17.
    - Single entity for data furnishing required to share information across all RIS providers in real-time
    - Single entity for data furnishing issues loan identification number that is consistent across all RIS providers

- Single entity for data furnishing has a verification process to confirm information furnishing requirement satisfied or provides clear indication of error(s) and re-submission requirements using common standards and communication protocols
- Single entity for data furnishing manages process to verify successful communications across all other entities (lender, RIS providers)
- Additional benefits to this approach are:
  - No burden on lenders associated with keeping track of how many RIS providers are authorized at any given time
  - Testing and implementation of data furnishing process is minimized by working with a single entity for data furnishing
  - Implementation of changes to data furnishing requirements is simplified by working with a single entity for data furnishing

- Single entity for data furnishing manages communications related to an RIS "outage" or lender "outage" when they may experience technical or telecommunications issues. For example, reconciling outages and furnishing information about covered product activity that occurred during the outage
  - Must be highly-available 24x7x365 via multiple access channels with procedures in place to handle situation when a lender is unable to access an RIS

II. More effective and efficient lender compliance

The proposed rule requires that a lender have access to information about loans made by other lenders in order to assess properly a consumer's eligibility for a loan under the proposal. The proposed rule requires that the lender receives and analyzes this information, along with internal information and information from any affiliates (e.g., defaults, non-covered bridge loans for the prospective borrower) to determine a prospective borrower's eligibility for a loan under the proposal. The cost and burden associated with this process can be minimized by incorporating the following operating characteristics:

- Lender checks a single RIS to obtain a real-time report that immediately reflects real-time information about all covered products for the prospective borrower
  - Checking a single RIS is already a part of proposed approach; however, the proposed rule should be updated to reflect a real-time requirement for data capture and reporting as outlined in the following section of this document 11. Page 860, Section 1041.16.
- A report provided from an RIS minimizes the time and cost associated with determining the type of loan that a borrower may be eligible for. This can be accomplished if the RIS provides an immediate "yes / no / may be possible" (e.g. if ATR requirements allow, etc.) compliance decision on conducting a loan under sections 1041.5, 7, 9, 11 or 12 and necessary supporting details in a standard format.
  A Consumer Compliance Report from an RIS could provide a lender with information about borrower eligibility for a small-dollar loan similar to the following:

Loan Type	**Eligibility Status** *(examples)*	**Other Eligibility Information** *(examples)*
1041.5 Short-Term	___ Yes, if other requirements satisfied ___ Yes, with limitations ___ No (can provide reason)	Ability to repay requirements must be satisfied Can provide limitations in amount and terms for rollover or to avoid presumption of unaffordability Can indicate if delinquency or defaults apply Can indicate if 3-loan sequence applies and associated cooling-off period Can indicate if limitations or cooling-off periods due to rollovers, other recent or outstanding covered products Other applicable conditions or limitations
1041.7 S/T Exemption	___ Yes ___ Yes, with limitations ___ No (can provide reason)	Mandatory 30-day cooling-period after 3 loan sequence (can indicate if cooling-off period applies and next eligible date) Amount limitations if in 3-loan sequence (can indicate maximum amount allowed) Maximum 6 loans in one-year period (can provide current count and period) Maximum 90 days total indebtedness in one-year (can provide current count and period along with term limitations for any new loan) Other applicable conditions or limitations
1041.9 Long-Term	___ Yes, if other requirements satisfied ___ No (can provide reason)	Ability to repay requirements must be satisfied, Can provide limitations in amount, payments and terms for rollover or to avoid presumption of unaffordability Can indicate if delinquency or defaults apply, Can indicate if limitations or cooling-off periods apply due to other recent or outstanding covered products, Other applicable conditions or limitations
1041.11 L/T Exemption	___ Yes ___ No (can provide reason)	Consumer cannot have more than 3 Credit Union Loans WITH A SINGLE LENDER within a period of 180 days Can provide current count and period Can provide term limitations if applicable Can provide waiting period if applicable Can indicate if borrower currently has outstanding debt under these provisions with other lenders Other applicable conditions or limitations
1041.12 L/T Exemption	___ Yes ___ No (can provide reason)	Consumer cannot have more than 2 Loans WITH A SINGLE LENDER within a period of 180 days Can provide current count and period Can provide term limitations if applicable Can provide waiting period if applicable Can indicate if borrower currently has outstanding debt under these provisions with other lenders Other applicable conditions or limitations

This capability will require modifications to the proposed rules such as:

- Modify conditional exemptions in a manner that enables a "yes / yes with limitations / no" compliance response
- Furnish "missing" information by including it in the request for an RIS report (e.g. indication of whether consumer has any defaults or non-covered bridge loans that impact eligibility, etc.)
- Furnish information to an RIS about any events or non-covered loan activity that impacts eligibility (e.g., defaults, non-covered loan activity by a licensed lender of covered products, loans conducted under conditional exemptions, etc.)
- An additional benefit of this approach is the compliance check / outcome audit trail that is created and recorded

- The lender may also maintain any additional required records associated with their compliance determination in a manner that is in compliance with the rules (e.g., ATR calculations)
- Cost and burden for a lender to determine compliance of a covered product is minimized by simplifying the process for determining what covered product loans may be possible with a prospective borrower. For example, if a borrower is eligible for a loan under one of the conditional exemptions then the lender may choose to offer one of these products if it meets the borrower's needs without having to go to the expense of a full ATR analysis
- A lender may also choose to conduct further analysis of credit-risk associated with a prospective borrower to answer the question "should they proceed with a prospective loan?" and / or perform an Ability to Repay assessment to determine compliance of a prospective loan pursuant to other sections of the rule (i.e. whether loan is made under §1041.5 or 9)

III. Minimize cost and burden of maintaining records

Information furnished to an RIS would permit the RIS to maintain and report electronic tabular records that are accessible by a lender to meet record keeping requirements in a number of areas including:

- Consumer who qualifies for a conditional exception or overcomes presumption of unaffordability
- Loan type and terms (whether loan is made under §1041.5 or 9, 11 or 12)
- Payment history and loan performance
- History of compliance inquiries (consumer reports) and outcomes
- Additional benefits of this approach include:
  - Records for all covered product activity conducted by a lender will be consolidated in a single location
  - Format and content of these electronic records will be consistent across all lenders

- Electronic records would be highly-accessible by the lender
- Regulatory access to these electronic records will be readily available with consistent content and format

IV. Access restricted to actively licensed providers of covered products

The proposed rule states that the primary purpose of the RIS environment is to ensure that a lender has access to information about loans made by other lenders in order to assess properly a consumer's eligibility for a loan under the proposal. However, the approach outlined in the proposed rule does not limit access to this private information in a manner that is consistent with the purpose of this environment. The information furnishing mandate in the proposed rule includes private and personally identifying information as outlined in the following section of this document 16. Page 875, Section 1041.17.

The Bureau may wish to consider an alternative approach that limits access to information furnished to an RIS only to actively licensed providers of covered products. This approach limits access to this private information in a manner that is consistent with the purpose of this environment as stated in the proposed rule. The Bureau should be aware that this is consistent with the best practices followed by the 14 referenced States with a statewide regulatory database as further described in the following section of this document 15. Page 873, Section 1041.17.

This alternative approach can be enabled in a number of ways including:

- Modify rule to require licensing of all providers of covered products in the jurisdictions in which they operate.
- Modify rule to require that licensing of all covered product providers is registered with the NMLS system.
- Require RIS providers to only allow access to information by actively licensed providers.
- Require that each RIS provider maintain accurate licensing records
- Require the single entity for data furnishing described above in this section to maintain accurate licensing records for all covered product providers (e.g., through NMLS and / or other licensing systems) and share this information with each RIS provider.

Additional benefits of following this approach include:

- Unlicensed lenders are effectively "shut out" from benefits of using this information resource
- Unlicensed loan activity will not have a loan identification number issued by the single entity for data furnishing as described earlier in this section. Without a valid loan ID, unlicensed activity becomes more evident which allows borrowers to more easily identify and report this type of activity.

V. Information privacy consistent with purpose of RISs and protection of personally identifying information (PII)

The proposed rules create a federal mandate for state licensed lenders of covered products to furnish private and personally identifying information (PII) that is confidential and protected under State law. The restrictions of use of information under FCRA will not meet these State requirements for privacy of this information as further discussed in the following section of this document 16. Page 875, Section 1041.17.

Restrictions for access to RIS information under FCRA will enable access to this information that goes far beyond the stated requirements under the proposed rule. FCRA will enable RISs to exploit this private information in several ways that may be detrimental to borrowers (e.g., lead generation, advertising, etc.).

The Bureau may wish to consider an alternative approach to further restrict access to RIS information in a manner that is consistent with the proposed rules. The Bureau may accomplish this by incorporating the following operating characteristics into the RIS environment:

- Limit access to information furnished to an RIS only to actively licensed providers of covered products as further discussed above in this section
- Information furnished to an RIS only includes data necessary for lender compliance and record keeping pursuant to the proposed rules
- Information furnished to an RIS may not be shared with a CRA
- An RIS provider may not be part of, or be affiliated with, a CRA
- The Bureau could consider a requirement that RIS', or the single entity for data furnishing described above in this section, furnish appropriate loan information to CRAs as necessary for Ability to Repay analysis pursuant to the proposed rule (e.g. registration of a covered product, timing of payments, loan status, etc.) without disclosing unnecessary private information.

VI. Increased accuracy and consistency of borrower and covered product data

The Bureau's proposed multiple-database, report-to-all approach will result in an RIS environment that is overly-complex, burdensome and costly for providers of covered products as noted in the following section of this document 2. Page 839, Section 1041.17.

One of the issues with the Bureau's proposed approach is that there is no practical manner to ensure that each RIS maintains the same level of accuracy and consistency of a consumers' borrowing history. There are several circumstances that will lead to inconsistency of records under the proposed multiple-database, report-to-all approach including:

- There will be sporadic occurrences of data communication issues between one or more lenders and one or more RIS providers that interrupt the data furnishing process. This situation will create disparities among the data captured by one or more RIS providers.
- There will be times when a lender is unable to communicate with one or more RIS providers due to either an RIS service interruption, lender system issue, telecommunications carrier issue, internal network issue at the RIS or Lender, or other reasons.
- Lack of a consistent loan identification number between RIS providers may create disparities in the application of updates to borrower loan records.

The above scenarios, and others, will create disparities among the data captured by one or more RIS providers and will create inaccuracies in borrower records maintained by one or more RIS providers. The proposed rules do not address the process or responsibilities to address these situations. This may lead to a situation where lenders may make an inaccurate compliance decision based on the information they receive from an RIS provider.

An RIS provider cannot practically be required to reconcile their records with every other RIS provider. Providers of covered products will have no practical means of reconciling their records across multiple external RIS providers. The Bureau may wish to consider some of the best practices from the 14 referenced States with a statewide regulatory database such as additional requirements that lenders maintain accuracy of information registered with an RIS (e.g., a requirement to reconcile records with one or more RIS providers on periodic basis).

Benefits of the suggested alternative of furnishing data to a single entity for data furnishing (as noted above in this section) include:

- Processes can be established to address outages that prevent a lender from furnishing data to a single entity for data furnishing in real-time. Once this data is recovered, it can be consistently reported to and verified with each RIS provider.
- A single entity for data furnishing can have processes in place to address an RIS provider outage and report / verify information furnished by lenders during the outage when the RIS has recovered.
- A single entity for data furnishing can have reporting and processes in place which enable a lender to periodically reconcile furnished information with their internal records. Any resulting data corrections can be furnished and verified with each RIS provider.

VII. More effective and efficient regulatory oversight of lenders

The Bureau's proposed multiple-database, report-to-all approach does not provide the Bureau, or other regulatory agencies, with readily available access to lender data that is furnished to an RIS provider and compliance decisions made by the lender after accessing this information. Access to this type of information in a manner that is consistent with regulatory responsibilities will substantially increase effectiveness and efficiency of regulatory oversight while lowering the overall cost of compliance for lenders and cost of regulatory oversight.

The Bureau may wish to consider best practices from the 14 referenced States that have implemented a statewide regulatory database and have access to lender furnished information in a manner that is consistent with regulatory responsibilities. The effectiveness and efficiency of regulatory oversight under the proposed rule can be substantially improved by incorporating the following operating characteristics into the proposed RIS environment:

- Create a repository of all data furnished to RIS' that is accessible to the Bureau and other approved regulatory agencies (e.g., authorized State regulators) in a manner consistent with regulatory responsibilities.
    - The single entity for data furnishing as described above in this section may be able to provide this function.
- Enable access to this information in a manner that enables the ability for Federal and State regulators to effectively enforce the rules either individually or jointly.

Refer to the following section of this document for additional information about this subject including associated benefits: 19. Page 897, Section 1041.18.

VIII. More effective and efficient regulatory oversight of RIS environment

The Bureau's proposed multiple-database, report-to-all approach does not provide the Bureau with a practical means to monitor performance of the RIS environment and RIS providers in meeting objectives to enable effective and efficient compliance with consumer protections under the rules.

The Bureau may wish to consider best practices from the 14 referenced States that have implemented a statewide regulatory database and have access to information furnished to the database in a manner that enables the regulator to monitor performance of the database and database provider in enforcing consumer protections.

The effectiveness and efficiency of regulatory oversight of the RIS environment under the proposed rule can be substantially improved by incorporating the following operating characteristics into the proposed RIS environment:

- Create a repository of all data furnished to RIS' that is accessible to the Bureau in a manner consistent with responsibilities for oversight of the RIS environment.
    - The single entity for data furnishing as described above in this section may be able to provide this function.
- Single entity for data furnishing can provide Bureau with reports on key performance measures related to each RIS (e.g., availability, performance, outages, etc.).
    - Ability to verify accuracy and consistency of RIS records across all RIS providers
    - Ability for Bureau comparison of key performance measures between RIS providers
    - Ability to monitor RIS activity in response to supervisory findings
- An additional benefit to this approach is that lenders furnish information to a single entity for data furnishing and will not need to be notified of when there is a new RIS provider or an existing RIS provider is terminated.

IX. Economies of scale

The Bureau's proposed multiple-database, report-to-all approach will impose substantial costs and burdens on lenders, as well as the Bureau, as further described in the following sections of this document 1. Page 839, Section 1041.17 and 2. Page 839, Sections 1041.17. The alternative approach outlined in this section will provide substantial economies of scale that improve the efficiency and effectiveness of the RIS environment as noted throughout this section. Additional economies of scale associated with this alternative approach include:

- RIS providers register with a single entity for data furnishing to receive furnished information from all licensees using a standard format and process. This substantially lowers the cost and burden for an RIS provider to manage thousands of communication channels with every lender.

- Eliminates the need for redundant testing efforts for the data furnishing process across all lenders and all RIS providers. This substantially lowers the initial cost and burden associated with implementation as well as the on-going cost and burden associated with changes in approved RIS providers.
- Lenders furnish data to a single entity using a standard format and process. This substantially lowers the cost and burden for a lender to manage multiple communication channels with every RIS provider.
- Ensures that all data is furnished and captured in real-time from lenders in a consistent manner.
- Eliminates the need for lender administration of relationships and support across multiple RIS providers.
- Eliminates the need for RIS administration of relationships and support across multiple lenders.
- Enables RIS providers to efficiently recover from any outage period during which either a lender was unable to furnish data, or the RIS provider was experiencing technical issues that prevented them from receiving data.
- Enables an efficient, centralized change management process to incorporate future changes to data furnishing requirements.

X. Minimize time required for implementation

The Bureau's belief that the proposed multiple-database, report-to-all approach would permit faster implementation of this rule contradicts the experience of 14 states referenced in the rule that have all implemented statewide databases which successfully perform a similar function to the proposed Registered Information Systems in the rule. Refer to the following section of this document for additional information 1. Page 839, Section 1041.17.

The alternative approach outlined in this section will minimize the time, cost and burden associated with implementation by simplifying several aspects of the implementation process including development of common standards for data and communication, implementation and on-going management of a single communication channel for lenders, implementation and on-going management of a single communication channel for RIS providers, and management of the on-boarding process.

XI. Ability to timely incorporate innovation and regulatory changes

The alternative approach outlined in this section will enable more efficiency and flexibility to accommodate product innovation and changes in regulations which drive changes to data furnishing requirements. A single entity for data furnishing will allow for an efficient, centralized change management process to incorporate future changes to data furnishing requirements. For example, any future changes to data furnishing requirements will require changes to data furnishing standards, and implementation of these changes by lenders and RIS providers. This process is simplified through use of a single communication channel for lenders and RIS providers. The adoption of new standards is coordinated with a single entity, lenders and RIS

providers conduct testing with a single entity vs. many, the effective date of changes does not depend on the implementation schedule of multiple entities (e.g. there are no staggered go-live schedules that lenders and RIS providers have to accommodate) are a few of the efficiencies that enable more timely adoption of changes due to innovations.

3. Page 839, Section 1041.17

Citation from Federal Register Document: The Bureau solicits comment on whether the burdens associated with obtaining consumer reports from registered information systems and furnishing information about covered loans as would be required under proposed § 1041.16 are justified and whether there are alternative ways to ensure that lenders have access to information about a consumer's borrowing history necessary to achieve the consumer protection goals of this part, including not establishing a program for registering information systems and instead relying on lenders' own records, the records of their affiliates, and existing consumer reporting markets.

The consumer protection goals under the proposed rules will require that lenders have access to real-time information about a consumer's borrowing history. Many of the consumer protections contained in the proposed rule are similar to consumer protections in the referenced 14 states. These 14 States have deployed a real-time statewide database that enables lender compliance for 100% of the transactions in real-time at the point-of-sale, with no-delay, before a loan is consummated. The similar nature of the consumer protections in the proposed rule require real-time information regarding a consumer's borrowing activity.

The citation noted above solicits comment about the potential alternative approach of "*not establishing a program for registering information systems and instead relying on lenders' own records, the records of their affiliates, and existing consumer reporting markets*". Has the Bureau considered the experience in any of the referenced 14 states which may have published information regarding enforcement of their consumer protections prior to implementation of their statewide databases? For example, the Bureau may wish to consider the experience in the State of Florida with enforcement of their Deferred Presentment Act, which was effective in 2001. Key consumer protections in the Florida Act that require lender access to information about a borrower's transaction activity are summarized below:[4] [5]

Senate Bill 1526 ("SB 1526") enacted by the 2001 Legislature became effective October 1, 2001. SB 1526 required that the Office of Financial Regulation implement a common database with real-time access via the Internet for Deferred Presentment Providers ("DPPs") on or before March 1, 2002. Key features of SB 1526 include:

- The DPP must utilize a common database to verify that certain conditions are met prior to entering into a new Deferred Presentment Transaction ("DPT") with a person.
- A DPP may not enter into a DPT with any person having an outstanding DPT with that, or any other, DPP.
- A DPP may not enter into a DPT with a person having a previous DPT, with that or any other DPP, that has terminated within the last 24 hours.

[4] State of Florida Office of Financial Regulation Deferred Presentment Program Annual Report to Legislature, January 1, 2004. This report included as an attachment to this document.
[5] Florida Statutes, Chapter 560, Part IV Deferred Presentment, https://www.flsenate.gov/Laws/Statutes/2012/Chapter560/PART_IV/

- The face amount of the check may not exceed $500 exclusive of fees.
- The transaction fee cannot exceed 10% plus a $5 verification fee.
- No deferred presentment agreement shall be for a term in excess of 31 days or less than 7 days.
- The customer may extend the term of the agreement for an additional 60 days after the original termination date without any additional charge provided the customer makes an appointment with a consumer credit counseling agency within 7 days after the end of the deferment period. The customer must complete the counseling within the 60 day grace period.
- Provides additional customer protections and disclosures

The real-time statewide regulatory database under the Florida Deferred Presentment Act was implemented in March 2002. Lenders were required to rely on available records (e.g., their own records, the records of their affiliates, and existing consumer reporting markets) and a consumer affidavit to determine compliance with the Act during the approximately 5-month period of time between the effective date of this Act and implementation of the database (October 2001 through February 2002). Licensed lenders were required to upload to the Database all open transactions (i.e. outstanding loans) conducted from October 2001 through February 2002. Published information from the Florida Deferred Presentment Program about these transactions shows that over 30% of the outstanding deferred presentment loans conducted during this time period were out of compliance with regulations.[4 above] These results clearly illustrate that lender reliance on their own records, the records of their affiliates, existing consumer reporting markets and consumer self-reported information does not provide for effective compliance.

The Bureau should also consider that the regulatory agencies in the referenced 14 States have access to transaction-level data captured by the real-time single statewide regulatory database for purposes consistent with their regulatory responsibilities. Access to this information has enabled these regulatory agencies to effectively and efficiently identify potentially non-compliant activity and incorporate this information into their examination process. The proposed rule is silent about the ability of regulators at the State and Federal level to access RIS information to facilitate effective and efficient regulatory oversight. This subject about regulator access to RIS information is further addressed in the following Section of this document: 15. Page 873, Section 1041.17.

4. Page 850, Section 1041.16

Citation from Federal Register Document: The Bureau believes that the development of common data standards across information systems would benefit lenders and information systems and the Bureau intends to foster the development of such common data standards where possible to minimize burdens on furnishers. The Bureau believes that development of these standards by market participants would likely be more efficient and offer greater flexibility and room for innovation than if the Bureau prescribed particular standards in this rule, but it solicits comment on whether it should require that information is furnished using particular formats or data standards or in a manner consistent with a particular existing data standard.

Development of common data standards across information systems will benefit lenders and reduce the burden of reporting to multiple RIS providers under the proposed approach. However, data standards are only a portion of the necessary standards required for a successful regulatory database environment. For example, standards must be established for error processing and for how to handle

periods when a lender is unable to communicate with one or more of the multiple RIS providers. Licensees must also be able to successfully communicate in an on-going manner with each registered information system to ensure that submissions were successfully received and processed.

Data standards should also incorporate data that will be useful for regulatory enforcement as well as research purposes to determine effectiveness of the regulations in providing consumer protections. RIS market participants may not have the expertise necessary to recognize data requirements for regulatory oversight. The Bureau should consider incorporating appropriate regulatory expertise and review into the process of developing and/or facilitating common standards.

The development of data standards across organizations may eventually lead to innovative practices and efficient delivery of data and reporting capabilities, however, in an environment where data has to be consistent throughout the breadth of Licensed Lenders, the innovation will not be uniformly distributed. As this non-conforming innovation takes place, what will be made of the data management practices of the RIS and furnishing lenders which have not yet taken part in the innovation? What is the motivation of an RIS to innovate, then share their newfound process, application, technology or knowledge with the other RIS organizations? How does the CFPB functionally and practically intend to foster these standards across disparate organizations with their differing approaches to technology adoption, investment, and operation?

The proposed multi-database, report-to-all RIS environment creates a substantial burden on lenders even if common data standards and other necessary standards are developed. Common standards will not alleviate the burdens associated with having to implement and interact with multiple RIS providers for every data furnishing event required under the proposed rule. Refer to the following Section of this document for additional discussion of costs and burdens associated with this approach: 9. Page 857, Section 1041.16

The use of common standards across multiple RIS providers will also create challenges when changes to these standards are required to accommodate product innovations and changes in regulations. Necessary future changes to common standards may not be equally compatible with multiple RIS providers that each have unique system architectures with limitations that may impact their ability to accommodate certain changes. Additionally, every time those common standards are updated, each loan provider will have to coordinate testing and implementation of these updates with each RIS provider. This is another example of how the multiple RIS, report-to-all approach creates a substantial burden to lenders and will limit flexibility and ability to accommodate product innovations.

The development of standards that are acceptable to all market participants (i.e. RIS providers) will require a substantial effort that will delay the implementation timeline and will create further complications when future changes are necessary. The registration and on-boarding approach and timeline proposed by the Bureau will not allow adequate time for development and testing of common standards that can be incorporated into working solutions under the proposed schedule. This subject is further addressed in the following Section of this document: 6. Page 852, Section 1041.16.

5. Page 850, Section 1041.16

Citation from Federal Register Document: The Bureau also seeks comment on whether it should consider restrictions related to fees or charges information systems might impose in connection with the proposed furnishing requirement, and whether any such restrictions should apply to all fees or charges or only to certain types of fees or charges.

There are several factors that the Bureau should consider before placing restrictions on fees or charges as noted in the above citation. Fees and charges imposed by RIS providers should be structured in a manner that is consistent with the stated purpose for the RIS which is to enable compliance with the consumer protections in the proposed rule. The proposed rule mandates that a lender must purchase a report from one RIS provider as part of the compliance process for every prospective covered product transaction and must furnish loan information about each loan to every RIS provider. Consequently, fees and charges for these services should be structured in a manner that encourages compliance with every transaction. Fees and charges must allow for an RIS provider to maintain financially sound business operations while enabling lender use of these compliance services at a reasonable, "business-friendly" cost. Below are some examples of key factors related to this subject that the Bureau should consider:

- Costs incurred by a lender to receive an RIS report for a prospective borrower will "discourage" compliance. The lender does not know if they can conduct a loan in compliance with Federal rules at the time of inquiry. If a loan is not allowed under Federal rule, then the lender has incurred a cost with no offsetting revenue. Accordingly, the cost of these inquiries must be recuperated in future loans and will increase the cost of borrowing to the consumer. Compliance is "encouraged" by minimizing the cost associated with determining if a loan can be conducted in compliance with regulations.
- Costs incurred by a lender for RIS services when a loan is consummated can be incorporated into the actual cost of credit to the borrower and is reflective of the "cost of doing business" for the lender.
- Costs incurred for furnishing required data increase as the number of RIS participants increase. This subject is further addressed in the following Section of this document: 2. Page 839, Section 1041.17.
- The overall cost of compliance for a lender will be substantially lower if the RIS is able to provide a "yes / yes with limitations / no" answer to compliance of a prospective loan with conditional exemptions. Refer to the following section of this document for additional information. 2A Alternative Approach Considerations.
- Pricing restrictions may result in unintended consequences. For example, RIS providers that are also CRAs may look to utilize this information in other manners such as the sale of data, lead generation activity or other services that may contradict the stated goals of the CFPB. Use of information furnished to an RIS should be restricted in a manner that is consistent with the stated purposes of these services in the proposed rule. This subject is further addressed in the following Section of this document: 14. Page 873, Section 1041.17.

The Bureau may wish to review the actual experience in the referenced 14 States with a statewide regulatory database. Has the Bureau adequately reviewed and considered the fees and charges for use of the statewide regulatory databases operated in the referenced 14 states? Costs for these statewide regulatory databases have been structured in a competitive manner that leverages economies of scale, encourages compliance and minimizes the overall cost and burden to the lender for ensuring compliance of every loan.

6. Page 852, Section 1041.16

Citation from Federal Register Document: The Bureau believes that 120 days would allow lenders sufficient time to prepare for compliance with proposed § 1041.16 and would allow an information system sufficient time to onboard all lenders that would be required to furnish to the information system. The Bureau solicits comment on whether 120 days provides sufficient time for these activities or whether additional time would be needed.

The proposed multiple RIS, report-to-all approach will require that lenders on-board with all RIS providers. Lenders will have 120 days to on-board with each RIS provider from the time that the RIS provider becomes fully registered. RIS providers will become fully registered at different times, so there could be multiple, disparate "120-day timelines" during which a Lender will have to on-board with each respective RIS provider. Several of these on-boarding timelines will overlap and the proposed rules do not appear to contemplate many of the activities that will be necessary for a Lender to on-board with an RIS provider (e.g., legal documents such as service agreements, the testing environment and process, technical support or customer service requirements, etc.). This proposed multiple RIS, report-to-all approach creates a substantial burden for the lender as each RIS provider is likely going to have unique on-boarding requirements. Consequently, the 120 days to on-board may not be sufficient for a lender to complete the on-boarding process in a timely manner for all RIS providers depending on the factors noted above in this paragraph.

RIS providers will have a 120-day timeline to on-board all covered product lenders after becoming fully registered. The proposed rules do not appear to contemplate many of the activities that will be necessary for an RIS provider to bring a Lender on-board (e.g., legal documents such as service agreements, the testing environment and process, technical support or customer service requirements, etc.). The proposed rules also do not provide sufficient information about the estimated volume of covered product lenders that will be required to on-board with each RIS provider. RIS providers will need to understand all process requirements and have the appropriate resources in place to manage the on-boarding process for the thousands of covered product providers within this time period. This process will create a high temporary workload on the RIS provider for which they will not be compensated. The Bureau will need to ensure that a prospective RIS has the capability to manage the on-boarding process. Lenders may not be able to complete this process in a timely manner with a particular RIS depending on the number of RIS providers.

The complexity and cost of the on-boarding process for the Bureau, RIS providers and lenders increases as the number of RIS participants increases. The complexity of the on-boarding process can be simplified by following an alternative approach that will minimize the burden and costs associated with the RIS environment. This subject is further addressed in the following Section of this document: 2A. Alternative Approach Considerations.

7. Page 852, Section 1041.16

Citation from Federal Register Document: Assuming that information systems are registered before the effective date of the furnishing obligation, as the Bureau expects will be the case, the Bureau further solicits comment on whether less time would be required for these activities with respect to information systems provisionally registered after the effective date of the furnishing obligation.

Refer to the above Section of this document 6. Page 852, Section 1041.16. The sufficiency of the 120 days to on-board will depend on standards and process requirements for on-boarding. The use of an

alternative approach may help to minimize the on-boarding burden for licensees and RISs. This subject is further addressed in the following Section of this document: 2A. Alternative Approach Considerations.

8. Page 853, Section 1041.16

Citation from Federal Register Document: As discussed above, the Bureau has also considered whether to propose a requirement that lenders report outstanding loans in addition to new originations at the point that furnishing begins. While the Bureau is concerned that such a requirement could impose significant burden during the initial implementation period for the rule because lenders would have to compile and report data on loans that may never have been previously reported, the impacts may be less once lenders are already reporting originations to some registered information systems on an ongoing basis. Accordingly, in addition to the general request for comment above, the Bureau solicits comment specifically on whether lenders should be required to furnish information on outstanding covered loans when they first onboard to the platforms of provisionally registered information systems, after the effective date of the furnishing requirement in proposed § 1041.16. Such an approach would improve the comprehensiveness of the consumer reports that these systems would generate once they were registered pursuant to proposed § 1041.17(d)(2), since it would allow them to include data going back not just for the preceding 60 days as under the proposed rule, but for several months prior. This would particularly improve the resulting reports with respect to information about covered longer-term loans. The Bureau believes that requiring the reporting of outstanding loans to provisionally registered information systems may impose additional burden on lenders compared to the proposal, however, and solicits comment on whether such a requirement would be appropriate.

The Bureau may wish to review and consider the experience of specific States referenced in the rule that have required "historical data uploads" as part of their implementation of statewide databases which perform a similar function to the proposed Registered Information Systems in the rule. The purpose of these historical uploads was similar to that cited above to "improve the resulting reports with respect to information about covered longer-term loans". Refer to the above Section of this document 3. Page 839, Section 1041.17 for additional information about historical information requirements in the State of Florida.

Requirements for upload of historical loan information will create an additional burden on lenders; however, lenders will also benefit from uploading this information by preventing past customers with delinquent loans from gaining access to additional credit until outstanding loans are satisfied. This information will also improve the effectiveness of the proposed rule in meeting consumer protection goals. The Bureau should note that there will likely be challenges with availability, accuracy and data quality of historical loan information.

- Lenders may not have the required data fields outlined in the proposed rule for past loans.
- Lenders will have to format this information to meet RIS standards.
- Lenders may report historical information that is disputed by the borrower and causes them to be ineligible for other loans. How will these consumer complaints be handled? How will data clean-up between multiple RIS providers be coordinated?
- Will standards promulgated for multiple RIS providers enable consistent identification of these historical loans across all providers?
- Will reports issued by an RIS need to differentiate historically loaded loans?

- What measures will be put in place to prevent a lender from loading erroneous loan information that limits a borrower's eligibility for other covered products at other lenders?

The Bureau should consider these, and other, factors related to a requirement to load previous outstanding loan information.

9. Page 857, Section 1041.16

Citation from Federal Register Document: Proposed § 1041.16(c) would require that a lender furnish the required information in a format acceptable to each information system to which it must furnish information. Proposed § 1041.17(b)(1) would require that, to be eligible for provisional registration or registration, an information system must use reasonable data standards that facilitate the timely and accurate transmission and processing of information in a manner that does not impose unreasonable cost or burden on lenders. As discussed above and below, the Bureau solicits comment on whether it should require that information is furnished using particular formats or data standards or in a manner consistent with a particular existing data standard.

The Bureau's proposed approach for a multiple RIS, report-to-all environment creates a "one-to-many" burden for every lender that provides covered products to furnish required information. The approach cited above creates an unreasonable and costly burden on lenders of having to potentially accommodate a different set of standards as each RIS deems acceptable. Substantial burdens associated with this approach include:

- Each RIS could have unique standards that must be accommodated by the lender.
- The lender will experience substantial implementation costs required to accommodate each unique standard.
    - Obtaining the standard and training appropriate staff on requirements
    - Interacting with the RIS provider on questions about the standard
    - System development and testing required to modify internal systems to accommodate the standard
    - Completing the on-boarding process with the RIS provider
    - Modifying processes and procedures to accommodate the standard
- The lender will experience substantial on-going costs required to accommodate each unique standard.
    - Monitoring data communications and error processing
    - Managing "outages" when unable to communicate with the RIS provider whether due to internal issues or issues with the RIS provider
    - Interacting with RIS customer service and technical support as needed
    - Re-testing of data communications whenever there is an internal system update
    - Accommodating any changes to the data standards by the RIS provider
    - Maintaining accurate borrower and loan information with the RIS provider
    - Managing borrower and loan data corrections with the RIS provider

The Bureau should also note that there are several other standards beyond just "data" standards that are necessary for successful implementation and on-going operations of the Registered Information System ("RIS") environment. Some examples of additional standards include database communication standards, processing standards, reporting standards and other standards.

Existing data and other standards in use for the 14 referenced States that have implemented a statewide regulatory database are part of the fully-hosted proprietary technology solution owned by Veritec Solutions which supports these regulatory programs. These proprietary standards support the real-time regulatory systems deployed in these States that verify consumer eligibility for covered products in real-time, with no delay, at the point-of-sale before a covered product transaction can be consummated. The single, centralized database approach is further discussed in the following Section of this document: 1. Page 839, Section 1041.17.

Clearly, use of a common standard is a necessity for the "one-to-many" multiple RIS, report-to-all environment proposed by the Bureau to mitigate a portion of the burdens noted above. However, common standards still do not address several of the costly burdens noted above. Common standards also will not address several other issues related to the multiple RIS, report-to-all environment that decrease the effectiveness of the proposed regulations. These issues are further discussed in the following Sections of this document: 2. Page 839, Section 1041.17 and 4. Page 850, Section 1041.16

The Bureau may wish to consider an alternate approach for the RIS environment. This subject is further addressed in the following Section of this document: 2A. Alternative Approach Considerations.

10. Page 858, Section 1041.16

Citation from Federal Register Document: Proposed § 1041.16(c)(1) specifies the information a lender would be required to furnish at loan consummation. The Bureau proposes that lenders furnish this information for the reasons specified below and to ensure that lenders using consumer reports generated by registered information systems would have access to information sufficient to enable them to meet their obligations under proposed §§ 1041.5 through 1041.7, 1041.9, and 1041.10. In addition to soliciting comment on the specific information that would be required under proposed § 1041.16(c)(1)(i) through (viii), the Bureau generally solicits comment on whether proposed § 1041.16(c)(1) is reasonable and appropriate, including whether the information lenders would be required to furnish at loan consummation under the proposal is sufficient to ensure that lenders using consumer reports obtained from a registered information system would have sufficient information to comply with their obligations under the proposal and achieve the consumer protections of this part. The Bureau also solicits comment on whether lender access to any additional information concerning a consumer's borrowing history would further the consumer protections of this part and, if so, the specific potential burdens and costs of requiring such information to be furnished.

Data regarding loan consummation and loan closing must be provided in real-time, with no-delay, and reflected immediately in consumer reports in order to effectively enable lender compliance with the proposed rules. Additional detail on this subject is included in the following Section of this document: 11. Page 860, Section 1041.16. The proposal in 1041.16(c)(1) that a lender furnish the specified information no later than the date on which the loan is consummated or as close in time as feasible after that date will not allow for effective compliance with consumer protections under the proposed rule to prevent repeat borrowing.

The data furnishing requirements under the proposed rule should be limited to those data elements that are required for effective and efficient compliance with these regulations. Specific data furnishing requirements listed under Section 1041.16(c)(1) are listed below along with our comments regarding each requirement.

i. Information necessary to uniquely identify the loan.
This requirement must take into consideration that a unique loan identifier must be consistent across all lenders and all RIS providers. The lack of a unique loan identifier that is be consistent across all lenders and all RIS providers will create several substantial issues related to data integrity under the proposed multiple RIS, report-to-all approach. This subject is further discussed in the following Section of this document: 12. Page 860, Section 1041.16.

ii. Information necessary to allow the information system to identify the specific consumer(s) responsible for the loan.
This requirement is for personally identifying information (PII) regarding a consumer which will likely include some form of government-issued identification such as Driver's License Number, Social Security Number, Alien ID number, etc. along with Name, Address and contact information for the consumer. The Bureau should be aware that PII is protected under several state laws and the proposed rule will create a Federal mandate for State-licensed providers to furnish this information to RIS providers.

iii. Whether the loan is a covered short-term loan, a covered longer-term loan, or a covered longer-term balloon-payment loan.
This requirement may be combined with 1041.16(c)(1)(iv).

iv. Whether the loan is made under § 1041.5, § 1041.7, or § 1041.9, as applicable.
This requirement may be combined with 1041.16(c)(1)(iii).

v. For a covered short-term loan, the loan consummation date.

vi. For a loan made under § 1041.7, the principal amount borrowed- this requirement should apply to all loans made under § 1041.5, § 1041.7, or § 1041.9.

vii. For a loan that is closed-end credit:

   a. The fact that the loan is closed-end credit
   b. The date that each payment on the loan is due.
   c. The amount due on each payment date.
   d. (additional recommended data element) The due date (anticipated payoff date) of the loan

viii. For a loan that is open-end credit

   a. The fact that the loan is open-end credit
   b. The credit limit on the loan
   c. The date that each payment on the loan is due
   d. The minimum amount due on each payment date.

Additional data elements that should be furnished to enable compliance under the rules:

- Licensee identifier including location that issued the loan. The licensee identifier should also be verified to ensure that the Licensee is actively licensed to conduct business with the borrower (e.g., is actively licensed in the State where the borrower resides).
- Whether loan was conducted at the location or via other means (e.g. on-line)

- Whether the loan was a "historical transaction" – refer to the following Section of this document: 8. Page 853, Section 1041.16.

The Bureau should be aware that the proposed rule creates a Federal mandate for State licensees (i.e. providers of covered products that are licensed under State law) to furnish personally identifying information ("PII") to each RIS that is currently considered private and protected information under State law. This subject is further addressed in the following Section of this document: 15. Page 873, Section 1041.17.

11. Page 860, Section 1041.16

Citation from Federal Register Document: The Bureau recognizes that real-time furnishing offers the best chance that a consumer report generated by a registered information system would capture all prior and outstanding covered loans made to the consumer but believes that the burdens of requiring real-time furnishing may be outweighed by what may be an incremental benefit. Accordingly, although the Bureau would encourage lenders to furnish information concerning covered loans on a real-time basis, the proposal would permit lenders to furnish the required information on a daily basis or as close in time to consummation as feasible. The Bureau solicits comment on whether the time period within which information would be required to be furnished under proposed § 1041.16(c)(1) is reasonable or whether an alternative period is more appropriate.

The purpose of the Registered Information Systems ("RIS") environment, as reflected in the proposed rule, is to enable lender compliance with consumer protections under the rule (ref. page 877). Information required to comply with consumer protections under the proposed rule is not currently available to all lenders because covered loans under the proposal are not typically furnished to consumer reporting agencies .The proposed rule states that "Satisfaction of the eligibility criteria set forth in proposed § 1041.17(b)(3) would require that an information system receive information furnished by lenders and provide consumer reports in a manner that facilitates compliance with and furthers the purposes of this proposal" (ref. page 877).

There are several consumer protections under the proposed rule that require access to transaction level information for all covered products that is captured and reported in real-time, with no delay, in order for lenders to effectively comply. For example, the following CFPB-proposed rules are subject to evasion, either by the consumer or a lender without a real-time enforcement:

- Concurrent ATR short-term loans
- Available credit to consumers under the short-term conditional exceptions
- Concurrent short-term conditional exception lending
- Allowing concurrent ATR long-term lending
- Concurrent long-term conditional exception lending

The consumer protection goals under the proposed rules will require that lenders have access to real-time information about a consumer's borrowing history. Many of the consumer protections contained in the proposed rule are similar to consumer protections in the referenced 14 states. These 14 States have deployed a real-time statewide database that enables lender compliance for 100% of the transactions in real-time at the point-of-sale, with no-delay, before a loan is consummated. The similar

nature of the consumer protections in the proposed rule require real-time information regarding a consumer's borrowing activity.

The implications and advantages of real-time enforcement have been established in the 14 referenced states. For example:

- Real-time enforcement and loan updates provide an accurate, up-to-date snapshot of both a lender's practices and borrower behavior.
- For audit purposes, a regulator would know exactly when qualifying information became available to the lender and the audit picture becomes complete with every transaction recorded. Real-time enforcement is the only mechanism that could trigger "alarms", should a regulator wish to institute this type of auditing practice.
- Without real-time data, a lender can legitimately (in some cases) plead "information ignorance" and issue a loan that would have been denied had their information been timely. In essence, this creates a conceptual "safe harbor" for lenders that is simply not necessary.
- The application of a real-time policy allows the decision to make the loan out of the hands of the lender and requires them to adhere to regulations based on timely information, nationwide.

The proposed rule recognizes that Lender access to information about a consumer's borrowing history with other lenders is currently limited because covered loans under the proposal are not typically furnished to Consumer Reporting Agencies ("CRAs"). The Bureau should be aware that CRAs are designed for risk assessment and credit reporting and are not designed, or accustomed, to capturing and reporting transaction-level information in real-time for regulatory compliance purposes. Some CRAs claim to have real-time reporting; however, these CRAs may not have the capability to capture transaction-level information in real-time and have it reflected at the same moment, with no delay, in a credit report provided to a lender.

Furnishing the required information on a daily basis or as close in time to consummation as feasible will not enable effective compliance with the consumer protections outlined in the proposed rule. The list of scenarios below provides examples of how consumer protections will be evaded if information is not furnished and reported in real-time. Examples of evasion that are prevented by real-time enforcement:

- The lack of real-time compliance will not prevent a consumer from borrowing more than they are allowed by the regulation. The consumer could borrow from Storefront A, travel to another destination and borrow from Licensee B within minutes or hours. Without real-time compliance and enforcement, Lender B has no knowledge of the initial transaction, which occurred earlier, and from all available information, the consumer has no outstanding debt (until the next day or as provided to an RIS by Lender A). Lender B cannot be penalized for overextending the consumer's debt position since no reliable information was available to them, and the consumer could put their own economic health in further unnecessary jeopardy. Utilizing this example as a potential case of the consumer needing protection from themselves, if a licensed lender does not have access to the "data truth" at the point of sale, how effective is the regulation?
- The ability to limiting the total indebtedness of a consumer is removed without access to real-time data. Without current information, total debt limits can be exceeded with the consumer visiting multiple locations to evade the limit. This is especially important even under the Ability to Repay "(ATR)" criteria. A borrower may qualify for a loan, attempt to take out another under the ATR rules and if the original debt is not recorded and made available to an RIS, the consumer will successfully acquire a new loan under outdated ATR criteria information.

- Lender collusion could create a scenario in which a lender could make a loan to a consumer who is then sent to a nearby location (a co-licensee, partner firm or even a competitor), knowing that activity is not reported in real time and that credit to the consumer would be available from the second lender.

There are also other consumer related functions which are affected by the lack of access to real-time data. The timely reporting of a consumer's payment(s) is important for their personal "score" (i.e. availability of additional credit because current debt is diminished) , as retired debt has a material impact on their ATR calculation. Real-time data capture and access allows the consumer to immediately receive the benefit of their good debt management behavior. On a less frequent basis, but concerning nonetheless, extended repayment plans are an important element of assisting consumers in managing their debt. A consumer may be eligible for this valuable service that allows them make payments over time and often with no additional cost. Many states have provisions that limit how often and under what conditions the consumer may avail themselves of this option. If the consumer's information is not accurate and timely, they could be denied this alternative means of working themselves out of debt.

The statewide regulatory databases implemented in the referenced 14 States have successfully provided the real-time data capture and reporting capabilities, with no delay, required for effective compliance with consumer protections that have similarities with certain consumer protections outlined in the proposed rule. The real-time data furnishing requirements required to comply with similar regulations in these States have been successfully adopted by the industry and have not created a substantial burden for lenders. Examples of these similar consumer protections are noted below for the State of Florida.

In the State of Florida, consumers can only have 1 loan open at any point in time, with a limit of $500 and fees representing 10% of loan amount. The loan term limits extend from 7 – 31 days. There are no rollovers permitted, however, with the completion of financial counseling, the consumer may initiate an extension of the repayment plan to 60 days. Once the loan is repaid and closed, the consumer must wait 24 hours before opening a new loan. If there were no real-time reporting of the consummation or closing of a loan, the consumer could bypass the regulations and open multiple loans on the same day, thus subverting the intent of preventing harm to consumers. Has the Bureau considered that if there is an opportunity to borrow more money through a loophole created by the lack of real-time data reporting, compliance and enforcement, consumers and unscrupulous lenders may take advantage, to the ultimate detriment of the financial security of the consumer?

The Commonwealth of Kentucky requires that licensees verify compliance of every prospective loan in real-time at the point-of-sale BEFORE a loan can be consummated with a borrower. These licensees furnish information in real-time to the statewide regulatory database as part of the verification and loan consummation process. These licensees also furnish information in real-time for loan updates and when the loan is closed.

The statewide regulatory database has enabled effective and efficient compliance with state regulations as noted in the publicly available reports for the State of Alabama Program. The Trend Report for the State of Illinois provides additional information about the statewide regulatory database and success of the industry in adopting the real-time data furnishing requirement.

The real-time statewide regulatory databases in the referenced 14 States were implemented, and operated, by a private third-party provider that was chosen by each State in a competitive selection process. These databases were designed for real-time data capture and reporting in order to effectively and efficiently provide the regulatory reporting required for lenders to verify compliance of every

transaction in real-time at the point-of-sale, with no delay, BEFORE the transaction is consummated with the borrower. These databases also provide real-time capture and reporting of loan transaction updates and loan closing (i.e. when the loan is paid in full) in a similar manner to the data capture requirements outlined in the proposed rules. Licensees in these States have successfully integrated their systems and operations with the statewide database. Has the Bureau adequately reviewed and considered the publicly available reports about how these referenced 14 States have successfully deployed statewide regulatory databases? These reports demonstrate the successful adoption of the real-time data furnishing requirement as well as how the statewide databases effectively and efficiently enforce these similar State regulations.

The Bureau should consider the actual experience demonstrated in the referenced 14 States to conclude that the real-time furnishing requirement necessary for effective compliance with the consumer protections in the proposed rule is a reasonable requirement. The referenced 14 States have demonstrated that proven technology has been successfully deployed in the marketplace that will effectively support the reporting requirements under the proposed rule.

12. Page 860, Section 1041.16

Citation from Federal Register Document: The Bureau anticipates that information furnished to satisfy proposed § 1041.16(c)(1)(i) would likely be the loan number assigned to the loan by the lender, but proposed § 1041.16(c)(1)(i) would defer to lenders and information systems to determine what information is necessary or appropriate for this purpose. The Bureau solicits comment on this proposal, including whether it should specify the type of information lenders must furnish to ensure that updates to a covered loan are properly attributed.

This requirement must take into consideration that a unique loan identifier must be consistent across all lenders and all RIS providers. The lack of a unique loan identifier that is consistent across all lenders and all RIS providers will create several substantial issues related to data integrity under the proposed multiple RIS, report-to-all approach. Examples of these issues include:

- There is no practical manner for a lender to determine whether a loan identifier that will be unique across all lenders and all covered products.
- Has the CFPB considered the practical matter of generating the loan identifier across all lenders and multiple RIS' when a number of transactions are being consummated at the same exact moment across the country?
- Inability to ensure that information updates are consistently applied to the correct loan across multiple RIS providers when data is submitted by a lender.
- Inability to ensure consistency of consumer reports across RIS providers.
- Difficulties in identifying the correct loan across multiple RIS providers when handling consumer inquiries.

The proposed rule anticipates that information furnished to uniquely identify the loan would likely be the loan number assigned to the loan by the lender, or would defer to lenders and information systems to determine what information is necessary or appropriate for this purpose. This proposed approach for uniquely identifying the loan is inadequate to meet the intended purposes of the RIS environment.

The Bureau should consider the proven method of uniquely identifying a loan that is used by the referenced 14 States that have implemented a statewide regulatory database for real-time enforcement of similar regulations as those contemplated in the proposed rule. These databases provide the unique

loan identifier as part of the real-time compliance verification and loan consummation process that happens at the lender point-of-sale, with no delay. This method also ensures that a unique loan identifier is only associated with a loan that has been conducted in compliance with regulations and is correctly registered on the statewide regulatory database. We recommend that the Bureau consider this methodology to improve the effectiveness of the RIS environment. This unique identifier also provides an effective means for ensuring accuracy of information and provides a regulatory audit trail for regulatory examination and oversight. However, this type of loan identification process is not practical under the proposed multiple RIS, report-to-all approach without consideration of alternative approaches as outlined in the following Section of this document: 2A. Alternative Approach Considerations.

13. Page 868 and 869, Section 1041.16

Citation from Federal Register Document: Proposed § 1041.16(c)(3) would require that a lender furnish specified information no later than the date the loan ceases to be an outstanding loan or as close in time as feasible to the date that the loan ceases to be an outstanding loan. In addition to soliciting comment on the specific information required under proposed §1041.16(c)(3)(i) and (ii), the Bureau generally solicits comment on whether proposed § 1041.16(c)(3) is reasonable and appropriate, including whether the information lenders would be required to furnish when a loan ceases to be an outstanding loan is sufficient to ensure that lenders using consumer reports obtained from registered information systems would have sufficient information to comply with their obligations under the proposal and achieve the consumer protections of this part. As discussed above with respect to the timing of furnishing at consummation, the Bureau believes that a real-time or close to real-time furnishing requirement when a loan ceases to be an outstanding loan may be appropriate to achieve the consumer protections of this part. Such a requirement would ensure that lenders using consumer reports from a registered information system have timely information about most covered loans made by other lenders to a consumer. Although the Bureau would encourage lenders to furnish information concerning covered loans on a real-time or close to real-time basis, the proposal would permit lenders to furnish the required information on a daily basis or as close in time as feasible to the date the loan ceases to be outstanding. The Bureau solicits comment on whether the time period within which information would be required to be furnished under proposed § 1041.16(c)(3) is reasonable or whether an alternative period is more appropriate.

Data regarding loan consummation and loan closing must be provided in real-time, with no-delay, and reflected immediately in consumer reports in order to effectively enable lender compliance with the proposed rules. Additional detail on this subject is included in the following Section of this document: 11. Page 860, Section 1041.16. The proposal in 1041.16(c)(3) that a lender furnish specified information no later than the date the loan ceases to be an outstanding loan or as close in time as feasible to the date that the loan ceases to be an outstanding loan will not allow for effective compliance with consumer protections under the proposed rule and will further limit borrower access to small-dollar credit.

Consumer protection goals under the proposed rule require real-time updates when a loan ceases to be an outstanding loan. The proposed rules impose certain restrictions on making covered loans when a consumer has or recently had certain outstanding loans. In other words, an outstanding loan impacts borrower eligibility to seek additional small-dollar credit. Additionally, the timing of an outstanding loan and when it ceases to be registered as outstanding impacts the timing of when a borrower is eligible to access additional small-dollar credit under the rule. Since Lenders must rely on the information

provided by an RIS to make compliance decisions, it is critical that this information is updated in real-time, and reflected in consumer reports, with no-delay.

Furnishing the required information no later than the date the loan ceases to be an outstanding loan or as close in time as feasible to the date that the loan ceases to be an outstanding loan will not enable effective compliance with the consumer protections outlined in the proposed rule. For example, the ability to maintain and mandate cooling off periods is compromised without access to real-time data concerning a loan consummation or closure. Real-time reporting is important for timely management of cooling-off periods especially for consumers wishing to take out another loan immediately after a cooling-off period. While the CFPB does not mandate a cooling-off period between first, second and third loans in a sequence, the borrower may not be able to access credit from a second lender (B) if Lender A has not timely closed the initial transaction. Real-time reporting will allow for immediate access to information for the consumer to obtain credit that is allowable under both CFPB and some states rules.

The statewide regulatory databases implemented in the reference 14 States have successfully provided the real-time data capture and reporting capabilities, with no delay, required for effective compliance with consumer protections that have similarities with certain consumer protections outlined in the proposed rule. The real-time data furnishing requirements required to comply with similar regulations in these States have been successfully adopted by the industry and have not created a substantial burden for lenders. Examples of these similar consumer protections are noted below for the State of Illinois.

A summary of the various consumer protections that are enforced in real-time in the referenced 14 States that implemented statewide regulator databases is attached to this document (refer to Attachment 3, Summary of Consumer Protections Enforced by Real-Time State Databases).

In the State of Illinois, there are limits as to maximum loan amount, either $1000 or 25% of Gross Monthly Income (GMI). Without access to real-time data, lenders could unknowingly provide credit in excess of $1000 or 25% of GMI to a consumer who moved quickly between two or more lenders in requesting Payday Loans. Real-time data furnishing requirements protects the consumer not only from a predatory lender, but also protects the consumer from themselves.

If the loan is paid in full and not reported in real-time, the consumer could be unnecessarily rejected when requesting a new loan, which could put the consumer in dire financial straits if an emergency arose requiring additional funds soon after repaying the previous loan.

- Real-time prevents evasion of:
    - Cooling off periods
    - Allowable loan limits
    - Concurrent borrowing limits (number of loans outstanding at any one time)
    - Aggregate loan limits where multiple outstanding loans are allowed
- Real-time provides an accurate, up-to-date snapshot of both a lender's practices and borrower behavior.
    - For audit purposes, a regulator would know exactly when qualifying information became available to the lender
    - The audit picture becomes complete with every transaction recorded

  - Real-time is the only mechanism that could trigger "alarms", should a regulator wish to institute this type of auditing practice

- Without real-time, a lender can legitimately (in some cases) plead "information ignorance" and issue a loan that would have been denied had their information been timely. In essence, this creates a conceptual "safe harbor" for lenders that is simply not necessary.
- Real-time allows the decision to make the loan out of the hands of the lender and requires them to adhere to regulations based on timely information (nationwide).

The State of South Carolina requires that licensees update information on their statewide database in real-time when a loan ceases to be outstanding. These licensees furnish information in real-time for loan updates and when the loan is closed (i.e. ceases to be outstanding). The statewide regulatory database has enabled effective and efficient compliance with state regulations as noted in the publicly published for the South Carolina Deferred Presentment Program. These reports also provide additional information about the statewide regulatory database and success of the industry in adopting the real-time data furnishing requirement. A summary of the various consumer protections that are enforced in real-time in the referenced 14 States that implemented statewide regulator databases is attached to this document (refer to Attachment 4, Summary of Consumer Protections Enforced by Real-Time State Databases).

The real-time statewide regulatory databases in the referenced 14 States were implemented, and operated, by a private third-party provider that was chosen by each State in a competitive selection process. These databases were designed for real-time data capture and reporting in order to effectively and efficiently provide the regulatory reporting required for lenders to verify compliance of every transaction in real-time at the point-of-sale, with no delay, BEFORE the transaction is consummated with the borrower. These databases also provide real-time capture and reporting of loan transaction updates and loan closing (i.e. when the loan is paid in full) in a similar manner to the data capture requirements outlined in the proposed rules. Licensees in these States have successfully integrated their systems and operations with the statewide database. Has the Bureau adequately reviewed and considered the success and best practices of the regulatory programs in the referenced 14 States that have successfully deployed statewide regulatory databases? These regulatory programs demonstrate the successful adoption of the real-time data furnishing requirement as well as how the statewide databases effectively and efficiently enforce these similar State regulations.

The Bureau should consider the actual experience demonstrated in the referenced 14 States to conclude that the real-time furnishing requirement necessary for effective compliance with the consumer protections in the proposed rule is a reasonable requirement. The referenced 14 States have demonstrated that proven technology has been successfully deployed in the marketplace that will effectively support real-time reporting under the proposed rule.

The data furnishing requirements under the proposed rule should be limited to those data elements that are required for effective and efficient compliance with these regulations. Specific data furnishing requirements listed under Section 1041.16(c)(3) on page 1181 of the proposed rule are listed below along with our comments regarding each requirement.

i. The date as of which the loan ceased to be an outstanding loan;

ii. For a covered short-term loan:

A. *Whether all amounts owed in connection with the loan were paid in full, including the amount financed, charges included in the total cost of credit, and charges excluded from the total cost of credit; and*
This requirement is confusing and is not clear about what information must be furnished (e.g. is this simply a yes/no response?). If all amounts owed in connection with the loan are not paid in full, then the loan does not cease to be an outstanding loan. In this case, the data furnishing requirement should be reflected as an update to indicate that partial payment was received.

B. *If all amounts owed in connection with the loan were paid in full, the amount paid on the loan, including the amount financed and charges included in the total cost of credit but excluding any charges excluded from the total cost of credit.*

Additional data elements that should be furnished to enable compliance under the rules:

- Licensee identifier including location that received final payment on the loan
- The payment method (e.g. cash, check, ACH or other means)

14. Page 873, Section 1041.17

Citation from Federal Register Document: The Bureau solicits comment on whether defining consumer report by reference to the definition of consumer report in the FCRA is appropriate.

Definition of a Consumer Report under 15 U.S.C. § 1681a (the Fair Credit Reporting Act or "FCRA") is not consistent with the purpose of a Registered Information System ("RIS") or the purpose of the consumer report issued by an RIS under the proposed rule. § 603.(d) of FCRA defines a consumer report as "…communication of any information by a consumer reporting agency bearing on a consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living which is used or expected to be used or collected in whole or in part for the purpose of serving as a factor in establishing the consumer's eligibility for (A) credit or insurance to be used primarily for personal, family, or household purposes; (B) employment purposes; or (C) any other purpose authorized under section 604 [§ 1681b]." This definition of a Consumer Report under FCRA clearly notes that the Report is to be used to evaluate a "consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living"; in other words, the report is used to evaluate the credit risk associated with providing various loan options to the prospective borrower and address the question "Should a lender conduct a loan with the borrower"? The use of a consumer report from an RIS under the proposed rule is to determine if a loan can be made in compliance with the proposed regulations; in other words the report is used to answer the question "Can a lender conduct a prospective loan with the borrower that is in compliance with regulations?" These are two vastly different questions which are answered for different reasons.

The proposed rule outlines the following rationale for the proposed RIS environment:

- The Bureau believes that, in order to achieve these consumer protections, a lender must have access to reasonably comprehensive information about a consumer's current and recent borrowing history, including covered loans made to the consumer by other lenders, on a real-time or close to real-time basis. *(ref. page 836)*

- Lenders currently making loans that would be covered under the proposal do not furnish to consumer reporting agencies, either at all or consistently, information concerning loans that would be covered short-term loans or concerning a large portion of loans that would be covered longer-term loans, so that a lender's access to information about a consumer's borrowing history with other lenders is limited. *(ref. page 836 and 837)*
- Online borrowers appear especially likely to move from lender to lender, making it particularly important for online lenders to have access to information about loans made by other lenders in order to assess properly a consumer's eligibility for a loan under the proposal. (ref. page 837)
- Fourteen States require lenders to provide information about certain loans to statewide databases in order to address these information gaps and **ensure that lenders have information necessary to comply with various State restrictions concerning lending**, but only lenders licensed in those States furnish information to those databases. *(ref. page 837)*
- Under the proposal, a lender contemplating making most covered loans to a consumer would be required to obtain a consumer report from a registered information system and **consider such a report in determining whether the loan could be made to the consumer, in furtherance of the consumer protections of this part**.

Emphasis has been added to the above reasons to note that, similar to the statewide databases referenced in the proposed rule, an RIS is intended to provide reports to authorized lenders that answer the question "Can a lender conduct a prospective loan with the borrower that is in compliance with regulations?" This purpose is not consistent with the purpose of a consumer reporting agency as defined under FCRA. The consumer report provided by an RIS is not sufficient, nor is it intended, to answer the question "Should a lender conduct a loan with the borrower?"; this question is the subject of a credit report (i.e. consumer report) from a Credit Reporting Agency that helps a lender determine a borrower's ability to repay.

The Bureau should closely review and consider experience of the referenced 14 states in the proposed rule that have all implemented statewide databases which successfully perform a similar function to the proposed Registered Information Systems. Did the Bureau adequately review or consider the use of information in the referenced 14 States? The actual experience in these States shows that these statewide databases are used for regulatory compliance purposes and incorporate privacy protections to ensure that personally identifying information is protected. As an example, an authorized licensee cannot access information on the statewide database about loans conducted by another licensee. This type of information is protected as private licensee information.

The proposed Registered Information Systems in the rule do not incorporate these same privacy protections; consequently, the rule mandates that state licensed lenders furnish information to an RIS that contradicts privacy protections under state law.

In an effort to protect the confidentiality of information contained in their regulatory databases, jurisdictions have passed and enforced legislation that is highlighted below (some States have laws that relate to more than one of the following provisions):

- 9 states have explicitly defined the contents of the database as "Confidential"
- 5 states have exempted the contents from Open Record provisions
- 4 states have exempted the contents from Freedom of Information requests
- 4 states assert that the database is not public record

- 5 states specifically limit the use of the data for the state's purposes
- 5 states provide for access to the data be provided to the state's regulatory authority
- 3 states provide that data to be archived and deleted after a certain time.

Clearly the states who are responsible for managing data associated with short-term lending have expressed a strong inclination to assure the privacy of their citizens who elect to use this form of credit. The elements of a "Best Practice" environment in collecting and disseminating this type of data would include that the information is:

- To remain confidential
- To be exempt from inquiries by any private entity seeking access
- To be limited to the specific use for which it is designed
- To be available for the state to conduct examinations to assure consumer protection enforcement
- To be available at aggregate (not including Personal Identifying Information) to the state to assess program effectiveness and to shape public policy
- Not to be used for any commercial purposes

The Bureau should strongly consider these attributes when developing rules for the usage and disclosure of information gathered by any RIS. These same privacy protections should be applicable to information furnished to an RIS in order to protect borrower information in a manner that is consistent with applicable State law. An RIS which chooses not to provide credit reports as defined under FCRA should adhere to applicable privacy protections, should not be required to share certain furnished information with Credit Reporting Agencies, and should not be a covered entity under FCRA. This would not preclude an RIS from being under supervisory authority of the CFPB. This subject is further discussed in the following Section of this document: 16. Page 875, Section 1041.17.

The following list of Legislative citations are for the 14 jurisdictions where a state-wide database is in place to protect consumers. The privacy considerations mentioned above are contained within these laws.

Alabama	Al ST § 5-18A-1 et seq.
Delaware	DE ST TI 5 §2227 et seq.
Florida	FL ST § 560.401 et seq.
Illinois	815 ILCS 122/1-1 et seq.
Indiana	IN ST 24-4.5-7-101 et seq.
Kentucky	KY ST §286.9-010 et seq.
Michigan	M.C.L.S. 487.2121 et seq.
New Mexico	N. M. S. A. 1978, § 58-15-31 et seq.
North Dakota	ND ST §13-08-01 et seq.
Oklahoma	59 Okl.St.Ann. § 3101 et seq.
South Carolina	SC ST §34-39-110 et seq.
Virginia	VA ST §6.2-1800 et seq.
Washington	WA ST §31.45.010 et seq.
Wisconsin	W.S.A. 138.14

15. Page 873, Section 1041.17

Citation from Federal Register Document: Proposed § 1041.17(a)(2) would define Federal consumer financial law by reference to the definition of Federal consumer financial law in the Dodd-Frank Act, 12 U.S.C. 5481(14). This term is defined in the Dodd-Frank Act to include several laws that would be or may be applicable to information systems, including the FCRA. Proposed § 1041.17(b)(4) would require information systems to develop, implement, and maintain a program reasonably designed to ensure compliance with all applicable Federal consumer financial laws. The Bureau believes that defining this term to include all such applicable laws would ensure that information systems have appropriate policies and procedures in place to prevent consumer harms that could result from these systems' collection, maintenance, and disclosure of potentially sensitive consumer information concerning covered loans. The Bureau solicits comment on whether this proposed definition is appropriate.

The proposed § 1041.17(b)(4) requirement for an RIS to develop, implement, and maintain a program reasonably designed to ensure compliance with all applicable Federal consumer financial laws is vague and does not provide enough information to adequately determine which of these various laws, and which specific aspects of these laws, are applicable. The stated purpose of an RIS in the proposed rules may contradict the Bureaus determination that an RIS is a covered entity under certain Federal Consumer Financial Laws including FCRA. This subject is further discussed in the following Section of this document: 14. Page 873, Section 1041.17.

The primary purpose of an RIS under the proposed rules is to provide information that enables lenders to conduct loans that are in compliance with regulations under the rule. Registered information systems act as a central repository of transaction-level information that is necessary to determine the compliance of a contemplated loan but do not provide a risk analysis or credit-scoring assessment of a consumer ability to repay. These registered information systems provide a similar function to the statewide databases referenced in the rule. These statewide databases in the 14 referenced States provide a proven environment for regulatory oversight and compliance that provides stronger protection of private, personally identifying information, than otherwise allowed under FCRA. These statewide databases, some of which have been in operation for more than 14 years, have not had any consumer complaints in relation to protection or privacy of information or violation of Consumer Financial Laws including FCRA.

The Bureau should further review and consider the best practices, benefits and lessons-learned from the experience of the 14 referenced States which include:

- The use of these statewide databases is limited to only authorized, state-licensed lenders that maintain an active licensing status with a respective State agency. Veritec recommends that the Bureau consider a similar requirement to restrict access to any RIS to properly licensed lenders (e.g., state licensed lenders). This type of requirement will also provide a level of control to ensure that lenders are properly licensed in the State in which a consumer resides.

  This requirement could be facilitated by requiring all lenders of covered products to be licensed in each State that they conduct business and that each RIS must interface each respective State agency licensing system or with NMLS for States that use this centralized licensing system.

- An authorized licensee can only access information on the statewide database that is necessary for determining compliance of a prospective loan. A licensee can access all information that they have furnished to the statewide database but are unable to access personally identifying consumer information submitted by another licensee or detailed information about loans that a

borrower has conducted with other licensees.

The Bureau should consider a similar approach to restrict access to information by authorized users only as needed for compliance with proposed regulations.

- Information captured by the statewide database is accessible by the respective regulatory agency for oversight and examination purposes as allowed under State Law. The referenced 14 States have demonstrated that access to this information for regulatory purposes has significantly increased the effectiveness and efficiency of their oversight and examination of licensed lenders. This subject is further discussed in the following Section of this document: 1. Page 839, Section 1041.17.

Veritec recommends that the Bureau consider revising their approach to the proposed RIS environment in a manner that will allow for an RIS to follow restricted usage only for regulatory compliance purposes under the rules. This type of RIS would be subject to applicable Consumer Financial Laws, including FCRA, based on their use of furnished information. This additional "classification" of RIS would substantially improve the effectiveness of the proposed rules in a number of ways including:

- Licensees may choose to utilize such an RIS for a "yes / yes with limitations / no" determination about compliance of a prospective loan under conditional exceptions. This inquiry and determination will provide an additional audit trail.
- Authorized regulatory agencies may choose to utilize such an RIS for reporting to enable effective and efficient oversight and examination related to loan activity within their jurisdiction (e.g., State or Federal). States that already have a statewide database for compliance with State laws may augment their capabilities to include compliance with Federal regulations.
- Reporting from such an RIS may be utilized by the CFPB to substantially increase the effectiveness and efficiency of their oversight and examinations. For example, reporting can help to:
    - Identify and target suspicious activity for examination
    - Determine whether a particular activity is systemic to an organization
    - Identify fraud and abuse
    - Monitor the effectiveness of regulations in meeting the consumer protection goals under the rules
    - Enable strong collaboration with State regulatory agencies to enforce Federal regulations

Restrictions on use of information beyond those required under FCRA is further discussed in the following Section of this document: 16. Page 875, Section 1041.17.

Refer to the following section of this document for alternative approach considerations: 2A. Alternative Approach Considerations.

16. Page 875, Section 1041.17

Citation from Federal Register Document: The Bureau recognizes that an information system's provision of prescreened lists based on information furnished pursuant to this proposal may create a risk that an unscrupulous provider of risky credit-related products might use such a list to target potentially vulnerable consumers. At the same time, the Bureau believes that prescreening could prove useful to certain consumers to the extent they needed credit and received firm offers of affordable credit. The

Bureau solicits comment on whether to impose restrictions on the use of information furnished pursuant to this part beyond the restrictions contained in the FCRA.

Restrictions on the use of information furnished to registered information systems should be consistent with the intended purpose for these systems to ensure regulatory compliance as stated throughout the proposed rule. The intended purpose of 15 U.S.C. § 1681 (the "FCRA") is not consistent with the intended purpose of registered information systems as stated in the proposed rule. Refer to the following Sections of this document for additional details on this subject: 14. Page 873, Section 1041.17 and 15. Page 873, Section 1041.17.

The proposed rule notes the similarity between the registered information systems and statewide regulatory databases that successfully enforce similar provisions. For example, page 837 of the proposed rules states that "Fourteen States require lenders to provide information about certain loans to statewide databases **in order to address these information gaps and ensure that lenders have information necessary to comply with various State restrictions concerning lending, but only lenders licensed in those States furnish information to those databases** [*emphasis added*]. However, the proposed rules failed to disclose that referenced States have imposed restrictions on the use of information furnished to these statewide databases that go beyond the restrictions contained in the FCRA. These additional restrictions are necessary to ensure appropriate usage of this information under the regulations, prevent use of the information for other purposes that are not consistent with the regulations, and protect the privacy of personally identifying information (PII) pursuant to State law. Refer to the following Section of this document for additional details on this subject: 14. Page 873, Section 1041.17.

The intended purpose of registered information systems under the proposed rule is similar to the referenced statewide databases; that is, to provide information about a consumer's borrowing activity on a real-time basis as necessary to comply with applicable regulations. These statewide regulatory databases have been in operation since 2002 and have proven success with meeting their intended purpose, using the furnished information in a manner that is consistent with the regulations, and maintaining the privacy and protection of furnished information under restrictions that go above and beyond those required under FCRA. Examples of restrictions on use of information furnished to these statewide regulatory databases that go beyond restrictions under FCRA are listed below.[6]

- Only Lenders that are actively licensed are authorized to access the statewide database for purposes of compliance with regulations.
- Only information furnished by an authorized lender to the statewide database shall be made available to the lender.
- Only the person seeking a loan may make a direct inquiry to request a more detailed explanation of a particular transaction that was the basis for an eligibility determination.
- The statewide database will provide limited predefined reporting capabilities to authorized lenders, but under no circumstances will these reporting capabilities extend beyond transactions entered by that lender.
- A lender's access to the statewide database, including all locations of such lender, will be restricted at such time as the regulatory agency provides notice to the statewide database vendor that the lender's license status is no longer in an active status.

[6] F.S. Chapter 560 PART IV Deferred Presentment Act and Florida Administrative Code Chapter 69V-560

- Any information regarding any person's transactional history is confidential and shall not be released to the public.

These above restrictions that are reflective of the requirements in the State of Florida are similar in all of the referenced 14 statewide databases. These restrictions ensure that information is used only for its intended regulatory purpose and that protections comply with applicable State law regarding the privacy of this information.[7] The Bureau should be aware that the proposed rules create a federal mandate for state licensed lenders of covered products to furnish personally identifying information (PII) that is confidential and protected under State law. The restrictions of use of information under FCRA will not meet these State requirements for privacy of this information.

Imposing similar restrictions, as noted above, on usage of information provided to registered information systems under the proposed rules, in addition to applicable restrictions under FCRA, will enable these systems to meet their stated purpose and ensure that furnished information is not used for unintended purposes. Additionally, we recommend that the Bureau consider additional eligibility requirements and other restrictions for registered information systems that prevent Credit Reporting Agencies from improperly gaining access to, or using, certain private information furnished to a registered information system. The Bureau could consider a requirement for registered information systems to furnish limited loan information to Credit Reporting Agencies only as necessary to facilitate Ability to Repay requirements under the proposed rule (e.g. registration of a covered product, timing of payments, loan status, etc.) without disclosing unnecessary private information.

Critical factors for the success of the registered information systems under the proposed rule include real-time data capture, real-time reporting, and accuracy of information. Lenders must be able to access accurate, real-time information about a borrowers covered product activity in order to comply with the rules. This subject is further discussed in other sections of this document.

The Bureau should consider that Credit Reporting Agencies (“CRAs”), in general, are not well-suited to meet the purposes of the proposed registered information systems. CRAs have demonstrated poor performance when it comes to all of the critical success factors noted above; CRAs are not designed for real-time data capture and real-time reporting nor has it been necessary in the past for these entities to perform in this manner to meet requirements under the FCRA. An even more concerning aspect of CRAs is their poor track record and performance in maintaining the accuracy of furnished information which is highlighted in the Bureau’s August 2015 Monthly Complaint Report.[8] This report highlights several key issues with CRAs that demonstrate the incompatibility of these entities with requirements for an effective registered information system:

- “The CFPB has handled approximately 105,500 credit reporting complaints, making credit reporting the third most-complained-about product” as of August 2015 (Debt Collection and Mortgages are the top two).
- #1 complaint with CRAs is “Incorrect information on credit report” (77%) and “Credit Reporting Company’s investigation” (9 percent).
- 86 percent of complaints about CRAs are related to inaccuracy of data and investigation practices to correct the accuracy of data.
- 3 of the top 4 “Most complained about companies” are CRAs.

[7] Examples of state law protecting privacy of information furnished to the statewide regulatory database include Section 560.4041, Florida Statues, Illinois 205 ILCS 670/17.5(h) and Michigan MCL 487.2142

[8] Consumer Financial Protection Bureau, August 2015 Monthly Complaint Report, Vol. 2, Product Spotlight: Credit Reporting

We recommend that the Bureau consider how these types of issues will be avoided with registered information systems provided by CRAs. We also recommend that the Bureau compare the above issues with CRAs as noted in their August 2015 Monthly Complaint Report to the actual performance of the statewide regulatory databases in the referenced 14 States. These statewide databases have proven success in meeting similar purposes and serve as a model for a registered information system. Has the Bureau adequately reviewed and considered the experience in these 14 referenced states to identify best practices for a registered information system?

These statewide databases also provide for regulatory access to furnished information to the respective regulatory agencies for regulatory oversight and examination purposes as consistent with their respective regulations. This subject is further discussed in other sections of this document. This access to the statewide databases by the respective regulatory agency also enables effective oversight of the performance of these information systems in meeting applicable requirements. Has the Bureau adequately reviewed and considered how regulatory agency access to these statewide databases enables effective oversight of information systems performance in meeting requirements and how this relates to the proposed registered information systems? The registered information systems environment in the proposed rules does not provide for similar access to registered information systems by the Bureau. Consequently, the Bureau will not have the ability to access furnished information in a manner that provides for effective oversight of these entities under the proposed rule. The proposed rule does not specify how the Bureau intends to ensure that registered information systems are effectively meeting requirements on an on-going basis. We recommend that the Bureau further consider the similar experience in the 14 referenced states as a model environment for a registered information system.

17. Page 876, Section 1041.17

Citation from Federal Register Document: Proposed § 1041.17(b)(1) also would require that, in order for an entity to be eligible to be a provisionally registered or registered information system, the Bureau must determine that it uses reasonable data standards that facilitate the timely and accurate transmission and processing of information in a manner that does not impose unreasonable cost or burden on lenders. The Bureau believes that the development of common data standards across information systems would benefit lenders and information systems and intends to foster the development of such common data standards where possible. The Bureau believes that development of these standards by market participants would likely be more efficient and offer greater flexibility and room for innovation than if the Bureau prescribed particular standards in this rule, but solicits comment on whether proposed § 1041.17(b)(1) should require that information systems use particular data standards or transmit and process information furnished in a manner consistent with any particular existing standard.

A similar citation to the above is contained on page 839 of the proposed rules and is addressed in the following section of this document 2A. Alternative Approach Considerations.

The citation above states that the Bureau "intends to foster the development of such common data standards where possible" but does not provide sufficient detail about how the Bureau intends to foster this substantial development effort. The timeline for registration and on-boarding of registered information systems prior to the effective date of the rule does not allow adequate time for the development of common data standards and for providers of these services to implement these

approved common standards. This subject is further discussed in the following section of this document 18. Page 833, Section 1041.17.

18. Page 888, Section 1041.17

Citation from Federal Register Document: Proposed § 1041.17(c)(3)(i) and (ii) provide that the deadline to submit an application for preliminary approval for registration pursuant to proposed § 1041.17(c)(1) is 30 days from the effective date of proposed § 1041.17 and that the deadline to submit an application to be a registered information system pursuant to proposed § 1041.17(c)(2) is 90 days from the date preliminary approval for registration is granted. Proposed § 1041.17(c)(3)(iii) provides that the Bureau may waive the deadlines set forth in proposed § 1041.17(c)(3). The proposed deadlines are designed to allow entities seeking to become registered prior to the effective date of proposed § 1041.16 adequate time to prepare their applications, and the Bureau adequate time to review applications, so that information systems may be registered sufficiently in advance of the effective date of proposed § 1041.16 to allow furnishing pursuant to that section to begin as soon as that section is effective. As discussed above, the proposed deadlines are based on the Bureau's proposal to provide a 15-month implementation period between publication of the final rule and the effective date of proposed § 1041.16. The Bureau solicits comment on whether the deadlines under proposed § 1041.17(c)(3) are reasonable and achievable.

The deadlines under section § 1041.17(c)(3) are neither reasonable or achievable prior to the effective date of the final rule using the multiple-database, report-to-all registered information system ("RIS") approach proposed by the rule for the following reasons:

- A prospective RIS will have a 30-day period to complete and submit their preliminary application which begins 60 days after the final rule is published in the Federal Register. The proposed rule does not specify the preliminary approval criteria in a sufficient manner to determine a reasonable timeline for preparation and submission of an application. A prospective RIS will have 60-90 days in which to review these detailed criteria and prepare an application.
- A prospective RIS will have 90 days from the date preliminary approval is granted to prepare its complete application for registration, including obtaining the written assessments required pursuant to proposed § 1041.17(b)(5) and § 1041.17(b)(7).
- A prospective RIS cannot reasonably be expected to begin their system and process development efforts until after their preliminary approval has been granted.
- The 90-days period in the proposed rule following preliminary approval is not adequate to complete system development, process development, testing efforts, and all written assessments.
- Common data standards, which the Bureau recognizes as a key success factor for the RIS environment, cannot possibly be developed until a final rule is published. The development of common data standards will require that a reasonable process is followed which includes input from key stakeholders. Input from key stakeholders may require, at a minimum:
    - Assembly of a common standards working group which may consist of key stakeholders such as:

        - Qualified group leader(s) or chairperson(s) (recommended that these individuals have some reporting responsibility to the Bureau or other entity involved with RIS oversight)
        - A qualified representative from each prospective RIS
        - Qualified industry representatives
    - Prepare deliverables for the group organizational meeting which may include:
        - Final data furnishing requirements
        - Final data communications requirements
        - Final consumer report requirements
        - Best practices (i.e. key guidelines) for common data standards
        - Expectations for group members
        - Project approach, timeline and key deliverables
        - And other key considerations such as audit and oversight requirements, change control process, etc.
    - Group working sessions to develop and finalize the common data standards and other standards
    - Publishing of common data standards and change control process
- The proposed rule indicates that eligibility criteria for an RIS will include:
    - Technical capability to receive information lenders must furnish pursuant to § 1041.16 immediately upon the furnishing of such information (paragraph 2, page 875)
    - Use of reasonable data standards that facilitate the timely and accurate transmission and processing of information in a manner that does not impose unreasonable cost or burden on lenders (paragraph 3, page 875)
    - Technical capability to generate a consumer report containing, as applicable for each unique consumer, all information described in § 1041.16 substantially simultaneous to receiving the information from a lender (paragraph 2, page 876)
    - Follow reasonable procedures to assure maximum possible accuracy of the information concerning the individual about whom the report relates (paragraph 2, page 876)
    - Perform or performs in a manner that facilitates compliance with and furthers the purposes of this part (paragraph 1, page 877)
    - Receive information furnished by lenders and provide consumer reports in a manner that facilitates compliance with and furthers the purposes of this proposal (paragraph 2, page 877)
    - Developed, implemented, and maintains a program reasonably designed to ensure compliance with all applicable Federal consumer financial laws. This compliance program must include written policies and procedures, comprehensive training, and monitoring to detect and promptly correct compliance weaknesses (paragraph 1, page 878).

  - Provide a written assessment of the Federal consumer financial law compliance program described in proposed § 1041.17(b)(4) and that such assessment satisfies certain criteria. The assessment must set forth a detailed summary of the Federal consumer financial law compliance program that the entity has implemented and maintains; explain how the Federal consumer financial law compliance program is appropriate for the entity's size and complexity, the nature and scope of its activities, and risks to consumers presented by such activities; and certify that, in the opinion of the assessor, the Federal consumer financial law compliance program is operating with sufficient effectiveness to provide reasonable assurance that the entity is fulfilling its obligations under all Federal consumer financial laws (paragraph 3, page 878 and paragraph 1 page 879).
  - Developed, implemented, and maintains a comprehensive information security program that complies with the Standards for Safeguarding Customer Information, 16 CFR part 314 and thus would be required to develop, implement, and maintain reasonable administrative, technical, and physical safeguards to protect the security, confidentiality, and integrity of customer information.
  - Provide a written assessment of the information security program described in proposed § 1041.16(b)(6) which sets forth the administrative, technical, and physical safeguards that the entity has implemented and maintains; explain how such safeguards are appropriate to the entity's size and complexity, the nature and scope of its activities, and the sensitivity of the customer information at issue; explain how the safeguards that have been implemented meet or exceed the protections required by the Standards for Safeguarding Customer Information, 16 CFR part 314; and certify that, in the opinion of the assessor, the information security program is operating with sufficient effectiveness to provide reasonable assurance that the entity is fulfilling its obligations under the Standards for Safeguarding Customer Information, 16 CFR part 314.

- A prospective RIS may be able to reasonably demonstrate the technical and process capabilities for preliminary approval without having common data standards complete; however,
- A prospective RIS cannot possibly complete their system and process development efforts without having final specifications for common data standards.
- A reasonable amount of time must be provided for a prospective RIS to complete any configuration, development and testing required to integrate common data standards (and other standards) with their technical and operational environments.
- The required written assessments cannot be completed until a prospective RIS has completely prepared their technical and operational environments.

To summarize, the deadlines under proposed § 1041.17(c)(3) do not allow adequate time for preliminary approval application, technical development, operational development, incorporation of common data standards, and completion of written assessments as noted above.

We recommend that the Bureau further consider the timeline required to meet eligibility criteria, foster common data standards and for prospective RIS applicants to integrate these standards with their service offering. The Bureau may wish to begin the common standards process prior to publication of the final rule, if possible, in order to facilitate completion of the RIS environment prior to the effective date of the rule. The Bureau may also wish to consider alternative approaches that mitigate

implementation issues as outlined in the following Section of this document 2A. Alternative Approach Considerations.

19. Page 897, Section 1041.18

Citation from Federal Register Document: The Bureau seeks comment generally on benefits for lender compliance and external supervision from proposed § 1041.18 and also the costs and other burdens that would be imposed on lenders, including small entities, by proposed § 1041.18. Furthermore, the Bureau seeks comment on current reporting requirements under State, local, or tribal laws and regulations for lenders that make covered loans, including on the scope and frequency of such requirements.

The proposed rule requires that a lender making a covered loan must develop and follow written policies and procedures reasonably designed to ensure compliance with requirements. Section 1041.18 of the proposed rule requires a lender to maintain records for every covered product transactions to include:

- Ability to Repay calculations and verification evidence
    - Consumer report from consumer reporting agency ("CRA") or specialty CRA
    - Consumer's written statement of amount, timing of net income and payments required for major financial obligations (if necessary)
- Consumer report from Registered Information System ("RIS")
- Search of Lender and affiliate records
    - Whether a non-covered bridge loan was outstanding in preceding 30 days
- Authorization of lender-initiated withdrawal of funds from consumer account to collect any amount due on a covered loan
- Electronic records in tabular format:
    - Origination ATR calculations and determinations for a covered loan
    - Consumer who qualifies for exception or overcomes presumption of unaffordability
    - Loan type and terms (whether loan is made under§1041.5, 7, 9, 11 or 12)
    - Payment history and loan performance

These new requirements under the proposed rule represent a substantial increase in current recordkeeping requirements for licensed covered product providers. Consequently there will be a substantial cost for compliance with these requirements, especially for smaller lenders, that will ultimately result in higher loan costs to the borrower. The proposed rule does not provide specifics of these record keeping requirements (e.g. format, content, retention, etc.) as needed to accurately determine the costs to the lender.

Access to this information as proposed has limited benefit for compliance and external supervision. Additionally, there will be substantial costs associated with review and analysis of this information by regulatory authorities for several reasons:

- The proposed rule does not provide specifics of these record keeping requirements (e.g. format, content, retention, etc.) so the Bureau can expect that these records will be maintained with various content and in various formats depending on the compliance program adopted by each lender. There will be substantial cost and effort required for external reviewers to compile, review and analyze these records.
- These records represent static information that is a "snapshot" of activity at the time a loan occurred. Review and analysis of compliance with consumer protections under the proposed rule requires that external reviewers have access to real-time information about all covered product transactions from all lenders in order to reasonably verify, determine or research compliance for a particular loan.
- The proposed rules do not provide for external reviewer access to real-time information about all covered product transactions from all lenders in a consistent format that is conducive to analysis by an authorized external reviewer.

Several of the recordkeeping requirements under Section 1041.18 could be satisfied through access to information furnished to an RIS.

- Consumer report from Registered Information System ("RIS")
- Electronic records in tabular format for consumers who qualify for exception or overcomes presumption of unaffordability
- Electronic records in tabular format for loan type and terms (whether loan is made under §1041.5, 7, 9, 11 or 12)
- Electronic records in tabular format for payment history and loan performance
- Additional recordkeeping requirements could also be satisfied by modifying information furnished under Section 1041.18 as follows:
    - Whether a non-covered bridge loan was outstanding in preceding 30 days
    - Consumer delinquencies impacting eligibility for a covered product
    - Note that required furnishing of additional information may also enable the real-time ability for an RIS to determine compliance of a short-term loan provided under proposed conditional exceptions in a manner similar to the statewide regulatory databases in the referenced 14 States.

The ability to satisfy these recordkeeping requirements via access to real-time information furnished to an RIS would substantially reduce cost and burden for both the lender and external reviewer. Additionally, access to consistent information in a consistent format would substantially improve the effectiveness and efficiency of the external review process as demonstrated by the proven success in the referenced 14 states with a statewide regulatory database.

The referenced 14 states with a statewide regulatory database have proven the success of real-time data capture and enforcement in enabling compliance of all covered product transactions at the point-sale while enabling efficient and effective regulatory oversight. The respective regulatory agencies in these 14 referenced states have real-time access to information captured by their respective statewide database. Access to this information is enabled by statute in a manner that is consistent with the regulatory responsibilities for the respective agency. Refer to the following section of this document for

additional information about access to this information pursuant to State law 15. Page 873, Section 1041.17.

These statewide regulatory databases capture consistent real-time information for 100% of all covered product transactions. Real-time regulatory reporting access to consistent information across all lenders for all covered products enables several benefits including:

- Examinations are more effective because they are based on a review and analysis of 100% of the covered product transactional data captured by the database in real-time at the licensee point-of-sale across ALL licensees.
    - This is far more effective than forensic review of a random sample of records during an on-site exam
    - Ability to drill-down to transaction details and real-time events across the life-cycle of every covered loan
    - Ability to drill-down to timing of key events across all lenders and borrowers
    - Reporting highlights non-compliant, fraudulent and / or suspicious transaction activity by a specific licensee based on applicable rules and regulations (e.g. multiple covered loans made to a consumer by one licensee, amounts and / or fees exceed limits, use of multiple social security numbers by the same customer, etc.).
    - Reporting also highlights non-compliant, fraudulent and / or suspicious transaction activity across multiple licensees (e.g. multiple covered loans made to a consumer across licensees, use of multiple social security numbers by the same customer, etc.).
    - Examiners are able to remotely monitor a licensee's progress in addressing any examination findings related to transaction activity.
        - "Repeat offenders" are effectively identified and targeted
- The examination process is more efficient because:
    - Examiners do not need to coordinate an on-site licensee visit to perform due diligence
        - Due diligence for examinations can be scheduled at any time 24x7
    - The amount of time spent on-site at a licensee location or corporate headquarters for a majority of examinations is more predictable and is greatly reduced in most situations.
        - Focused on non-compliant and / or suspicious activity
        - Reduced need to perform randomized review of records
    - Examiners are able to remotely monitor a licensee's progress in addressing any examination findings related to transaction activity.
        - The number of follow-up visits may be reduced
        - Follow-up visits will be focused on transaction activity related to specific findings
    - The overall number of on-site examinations may be reduced if due-diligence does not identify any major concerns.

- Ability to verify that lenders are complying with information furnishing requirements for all loans
- Ability to monitor RIS performance in meeting regulatory requirements
- Measure effectiveness of laws and lender compliance
    - Macro-economic and performance trends
    - Report to key constituents
    - Identify areas for improvement, areas of concern, legislative action

Veritec conducts an annual survey of our state regulatory partners for feedback about how the statewide regulatory databases enable process improvements and efficiencies. Results from these surveys include[9]:

- The statewide database improved State regulator ability to manage and regulate covered products and industries.
- States' ability to identify suspect activity and compliance issues, and the overall effectiveness of their examination process, is significantly more effective utilizing the statewide database.
- Statewide regulatory database reporting capabilities have significantly reduced the amount of time required to conduct a licensee examination.
- States have consistently responded that the statewide database has enabled more effective compliance, enforcement and examinations creating increased efficiency and effectiveness of the State Regulator office.

20. Page 929, Section 1041.17

Citation from Federal Register Document: The Bureau is also seeking comment on two general approaches on the effective date for the requirement to furnish loan information to registered and provisionally registered information systems to facilitate an orderly implementation process.

The two general approaches on the effective date for the requirement to furnish loan information to registered and provisionally registered information systems are noted on pages 845 and 846 of the proposed rule and are summarized below.

- Information furnishing would become effective on the same date as proposed §§ 1041.5 through 1041.7, 1041.9, and 1041.10. Under this approach, a consumer report obtained from an RIS would not be as comprehensive as it would be after longer periods of required furnishing. The passage of time would increase the degree of utility these reports provide to the consumer protection goals of this part.
    - Veritec has experience with this same approach in some of the referenced 14 States that have implemented data furnishing requirements that coincide with the effective date for their statewide regulatory database. Veritec agrees with the observation in the proposed rule that utility of the consumer reports from an RIS would be initially limited and will not enable effective compliance with consumer protections under the rules. Consequently,

[9] 2015 State Regulator Survey, Veritec Solutions LLC, available for confidential review and inspection by authorized regulatory agencies upon request.

consumers will be eligible for covered product transactions that may not be in compliance with the new regulations. However, this issue will diminish over time.

- A potential benefit of this approach to lenders and consumers is a reduced initial "impact" (i.e. declined access to credit) from the new regulations that will gradually increase over time. Some States have taken this approach to mitigate concerns expressed about the negative initial impact of real-time compliance on loan volumes and consumer access to small-dollar credit. However, this benefit is not consistent with the stated goals under the proposed regulations to hasten the utility of consumer reports and promote effective compliance as soon as practical.
- Veritec recommends that the Bureau adequately review and consider the actual experience from the referenced 14 States that have taken this approach including an analysis of data furnishing activity following the effective date.

- Stagger the effective dates of the furnishing obligation and the obligation to obtain a consumer report from a registered information system.
  - One option under this approach would be to have the furnishing requirement in proposed § 1041.16 go into effect 30 days (or some other longer time period) before the effective dates of proposed §§ 1041.5 through 1041.7, 1041.9, and 1041.10.

    Veritec believes that this option best meets the stated goals for balancing timely consumer protections with reducing the burden of furnishing requirements on the industry for the following reasons:

    - This option provides a "pilot period" for Lenders and RIS providers to ensure that the information furnishing process is working smoothly prior to use of consumer reports when the rules go into effect.
    - Consumer reports should have enough information to provide a reasonably comprehensive report on borrowing history when the rules go into effect.
    - Potential limitations on information furnished for loans conducted prior to the effective date of the rule ("historical loans") may need to be addressed if the Bureau proceeds with this option.

    The proposed rule notes a valid issue regarding this option in footnote 867 (page 847) in that information provided during a pilot period may have limitations. This same limitation would apply to historical loans if the Bureau allows information about these historical loans to be furnished to an RIS. As noted throughout this document, we believe that the Bureau should further review and analyze information from the 14 referenced States that have implemented a statewide regulatory database and have experienced a similar situation.
  - Another option would be to have proposed § 1041.16 go into effect at the same time as proposed §§ 1041.5 through 1041.7, 1041.9, and 1041.10, but to delay the requirements that lenders obtain a consumer report from a registered information system before originating a covered loan under those proposed sections.

    As noted in the proposed rule on page 846, delaying the requirement to obtain a consumer report from a registered information system until furnishing had been underway for a period of time would mean that lenders would be able to make covered

loans under proposed §§ 1041.5, 1041.6, 1041.9, and 1041.10 without access to the consumer borrowing history information. This limitation is not consistent with the stated goals under the proposed regulations to hasten the utility of consumer reports and promote effective compliance as soon as practical.

21. Page 929, Dodd-Frank Act Section 1022(b)(2) Analysis

Citation from Federal Register Document: The Bureau requests comment on the preliminary analysis presented below as well as submissions of additional data that could inform the Bureau's analysis of the benefits, costs, and impacts of the proposed rule. In developing the proposed rule, the Bureau has consulted with the prudential regulators and the Federal Trade Commission (FTC) regarding, among other things, consistency with any prudential, market, or systemic objectives administered by such agencies.

Analysis conducted by the Bureau as a basis for the proposed rule is contained in two reports published by the Bureau.[10,11] The data sample used by the Bureau for these reports has several limitations that resulted in conclusions which do not reflect the effectiveness of consumer protections enacted in several of the 14 referenced States.[12] Several of these States have effectively addressed unfair, deceptive and abusive acts or practices associated with small-dollar lending and enforce these consumer protections in real-time for every covered product. The statewide regulatory databases in these states capture 100% of small-dollar lending activity conducted by every licensed lender. The table below lists provides a list of these statewide regulatory databases and the year of implementation.

State	Implementation of Statewide Database
Alabama	2015
Delaware	2013
Florida	2002
Indiana	2005
Illinois	2005
Kentucky	2009
Michigan	2006
New Mexico	2007
Oklahoma	2004
South Carolina	2009
Virginia	2008
Washington	2009
Wisconsin	2010

[10] Consumer Financial Protection Bureau, Payday Loans and Deposit Advance Products, A WHITE PAPER OF INITIAL DATA FINDINGS, April 24, 2013
[11] CFPB Data Point: Payday Lending, The CFPB Office of Research, March 2014
[12] The 14 referenced states that have implemented statewide regulatory databases to enforce consumer protections in real-time for every covered product transaction. These States include AL, DE, FL, IN, IL, KY, MI, NM, OK, SC, VA, WA, WI

This data in these statewide regulatory databases represent a complete data set of small-dollar loan activity conducted in each jurisdiction under a consistent set of regulations. For example, data contained in the South Carolina Deferred Presentment Database includes:

- Market-wide activity submitted by ALL licensed lenders in the State of South Carolina since 2009 (over 345 locations)
- Real-time data captured at the point-of-sale for every covered loan during the entire life-cycle of each loan since 2009
- Over 5 million loan transactions conducted and captured by the Database
- Over 9 million transaction history events during the life-cycle of every loan (open, deposit, close, etc.)
- Multi-year span that allows in-depth analysis of long-term usage and sustained use

In comparison, the data sample used by the Bureau for their analysis and reports has substantial limitations which include:

- CFPB data was obtained from a selected few lenders that operate storefronts across 33 states, each with non-homogenous regulations in place.
- The CFPB studies are based on "pooled data" from various markets with different rules and regulations.
- Statistics on borrower loan activity in the CFPB study is limited to a single lender with operations in multiple jurisdictions each having a different set of rules and regulations.
- Statistics on borrower loan activity in the CFPB study are relatively absent regarding the consumption of "low-usage" borrowers.
- The CFPB study does not take into consideration the differences between loan activity in states with regulations that are enforced in real-time and activity in states with limited regulations that rely on licensee and borrower self-compliance.
- The CFPB study is limited to activity conducted over one-year period and does not provide an analysis of borrower usage over a longer time period.

A comparison report of South Carolina Deferred Presentment Transaction Activity to CFPB White Paper of Initial Data Findings was completed in July 2013.[13] The purpose of this report was to provide stakeholders in the South Carolina Deferred Presentment industry with an objective analysis of the South Carolina market to compare with findings from the published CFPB White Paper on Payday Lending.[10] The report includes a direct comparison between South Carolina and the CFPB study using the same analysis methodology presented in the CFPB study. The report found that there is a statistically significant difference between findings in the State of South Carolina and findings in the CFPB study. Examples of significant findings in this report are listed below:

- South Carolina law does not allow for a new loan to be taken on the same business day that a prior loan is paid in full.

[13] State of South Carolina Deferred Presentment Program, Comparison of South Carolina Deferred Presentment Transaction Activity to CFPB White Paper of Initial Data Findings, July 2013, Veritec Solutions LLC (Please refer to Attachment 1)

- "Rollovers" are prohibited in South Carolina and South Carolina law requires that a subsequent new loan is an issuance of new credit.
- A majority of South Carolina borrowers no longer use the payday loan product after 3 years.
- There is an 18.6% difference in the average amount of fees paid on payday advance loan between what is reported in the CFPB study and the actual experience in South Carolina ($476 in South Carolina vs. $574 reported by the CFPB).
- There is a 28.9% difference in the average number of loans taken out over a one year period between what is reported in the CFPB study and the actual experience in South Carolina (8.0 in South Carolina vs. 10.7 reported by the CFPB).
- There is an 11.9% difference in the average number of days a consumer is in a payday loan during the year between what is reported in the CFPB study and the actual experience in South Carolina (174 days in South Carolina vs. 196 days reported by the CFPB).
- There is a 30.0% difference in the 25th percentile number of days a consumer is in a payday loan during the year between what is reported in the CFPB study and the actual experience in South Carolina (68 days in South Carolina vs. 92 days reported by the CFPB).
- The largest proportions of borrowers in South Carolina are those that opened one loan during the year. These borrowers represent 13.6% of all borrowers.
- Borrowers using the product 12 times during the year represent the second largest group of borrowers. These borrowers represent 10.1% of all borrowers.
- Borrowers using the product 12 or fewer times per year represent 82.9% of all borrowers.
- There is a substantial drop in the percentage of borrowers taking more than 12 loans per year. Borrowers using the product more than 12 times per year represent 17.1% of all borrowers.
- It is common practice for South Carolina borrowers to take advantage of consumer protections in the South Carolina statute that do not allow the lender to assess additional fees for any reason.
- Actual loan term for South Carolina borrowers exceeds the contractual loan term by 10.9% on average.
- South Carolina borrowers that take out 12 or fewer loans during the year experienced an average actual APR of 241% compared to an average contractual APR of 274%.

Veritec, under contract with the Bureau, facilitated efforts by the Bureau to access data from the statewide databases to support their research and analysis.[14] Veritec facilitated efforts by the Bureau to access state data to support their research and analysis. The Bureau submitted request letters to several of the referenced 14 States.[15] Veritec is aware of at least 2 of these States that granted permission for the Bureau to analyze data from the statewide database pursuant to the Bureau's

[14] Award: TFSACFP140014, Contractor: Veritec Solutions, LLC., Description: De-identified loan-level data, Period of Performance: 03/14/2014 to 03/13/2015. A copy of the Award letter and contract are included as an attachment to this document (Please refer to Attachment 5)

[15] Veritec is aware of data request letters sent to 7 of the 14 referenced states in February 2012 (FL, KY, ND, OK, SC, VA and WA)

request.[16] Use of these robust datasets would likely have yielded substantially different findings and results compared to the limited data sample cited in the Bureau's research reports as noted above in this section. We are unsure of why the Bureau did not pursue use of these robust statewide datasets after receiving authorizations from the respective regulatory agencies.

In addition to the robust datasets which the CFPB elected not to utilize, there are also multiple analyses which capture consumer usage of covered products across three to five years. The information uncovered in these studies demonstrate the movement of consumers out of the covered financial products over time.

An analysis of consumer activity in the State of Florida over the course of 5 years brings forth tangible data demonstrating the tendency for consumers to exit the Payday Loan marketplace over time.[17]Utilizing real-time consumer level data from 2002 through 2007, Veritec analyzed the activity of consumers in the marketplace. In the State of Florida, these results show that a majority of the 321,196 borrowers that conducted one or more loans during the first year (i.e. 2002) of the program (the "Base Borrowers") no longer use the product after four years. The results show that over 32 percent of the Base Borrowers no longer used the product after one year and that over 65 percent of these borrowers no longer used the product after five years. This data clearly illustrates that a majority of borrowers discontinue the use of the product over time.

321,196 borrowers that conducted one or more loans between March 1, 2002 and December 31, 2002		
Year	**Borrower Count**	**% 2002 Borrowers with one or more loans**
2002	321,196	100.0%
2003	216,352	67.4%
2004	163,423	50.9%
2005	133,642	41.6%
2006	116,234	36.2%
2007	106,460	33.1%

Additionally, the State of South Carolina endeavored to discover the utility of Payday Loans over 3 years in their marketplace. This data was collected from a 3-year period between 2010 and 2012 utilizing 100% of real-time data collected from all loans processed.[18] The chart below show the number and percentage of borrowers that have continued to use the product over this 3 year span. These figures allowed us to gain a better understanding of long-term use of payday loans by borrowers and

[16] North Dakota issued an approval letter to the CFPB in March 2012 for their data request. The Bureau entered into a confidentiality agreement with the State of Illinois in December 2013 and was granted permission to analyze data from their statewide regulatory database.
[17] Veritec Solutions LLC response to Center for Responsible Lending Report Springing the Debt Trap: Rate caps are Only Proven Payday Lending Reform. Publish Date: December 13, 2007. (Please refer to both Attachments 7 and 8)
[18] State of South Carolina Deferred Presentment Program, Comparison of South Carolina Deferred Presentment Transaction Activity to CFPB White Paper of Initial Data Findings, July 2013, Veritec Solutions LLC (Please refer to Attachment 1)

demonstrate the decrease in consumption of the payday loan product. South Carolina was able to determine appropriate regulations around the utility of covered products based upon factual data over the course of many years.

	Number of 2010 Borrowers Using Product in:			
2010 Borrower Category	**2010**	**2011**	**2012**	**Change in product use over 3 years by borrower category**
All 2010 Borrowers	144,389	89,542	67,145	-53%
Borrowers with 1-2 loans in 2010	39,384	13,650	9,659	-75%
Borrowers with 3-12 loans in 2010	85,345	58,501	44,262	-48%
Borrowers with 13-20 loans in 2010	15,740	13,627	10,307	-35%
Borrowers with 21+ loans in 2010	3,920	3,764	2,917	-26%

In addition to the data gathering cased described in both Florida and South Carolina, the Illinois Trends Report for 2015[19] illustrates the effectiveness of consumer protections in States with a Centralized Real-time enforcement database across multiple products, encompassing Payday Loans, Consumer Installment Loans, Installment Payday Loans, Title Secured Loans and Small Consumer Installment Loans. The State of Illinois has been intentional about the utility of the myriad of covered products and have adapted regulatory measures to drive behavior in the covered product marketplace.

Veritec recommends that the CFPB further pursue research and analysis of the complete datasets from the 14 referenced States to thoroughly research the effectiveness of consumer protections which are enforced in real-time under these State regulations to address unfair, deceptive, and abusive acts or practices. All of these 14 referenced States have laws and regulations that are designed to address unfair, deceptive, and abusive acts or practices. A list of Legislative Citations of these State laws is included in the following section of this document 14. Page 873, Section 1041.17.

22. Page 935, Dodd-Frank Act Section 1022(b)(2) Analysis

Citation from Federal Register Document: The Bureau solicits comments on all aspects of the quantitative estimates provided below, as well as comments on the qualitative discussion where quantitative estimates are not provided. The Bureau also solicits data and analysis that would supplement the quantitative analysis discussed below or provide quantitative estimates of benefits, costs, or impacts for which there are currently only qualitative discussions.

Reference the following section of this document which includes relevant comment to this citation 20. Page 929, Section 1041.17.

[19]Illinois Department of Financial & Professional Regulation Illinois Trends Report Select Consumer Loan Products Through December 2015 Prepared by Veritec Solutions, LLC On 4/4/2016. A copy of the report is included as an attachment to this document. (Please refer to Attachment 6)

23. Page 941, Dodd-Frank Act Section 1022(b)(2) Analysis

Citation from Federal Register Document: For all lenders, the Bureau expects that access to a registered information system would be priced on a "per-hit" basis, in which a hit is a report successfully returned in response to a request for information about a particular consumer at a particular point in time. The Bureau estimates that the cost per hit would be $0.50, based on pricing in existing specialty consumer reporting markets.

Reference the following section of this document which includes relevant comment to this citation:
5. Page 850, Section 1041.16.

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