

STATE OF New Mexico
Financial Institutions Division
RFI – Payday Loan Consumer Reporting Service FID

RFI QUESTIONS

	Requirement/Item	Question
1.	RFI process	Does the FID definitively intend to follow the RFI with a Request for Proposal before certifying consumer reporting service providers? No. If so, what is the anticipated publication date, response due date and aware date?
2.	Multiple service providers	Is it correct to assume that if more than one database provider is certified by the FID that there will need to be a real-time interface between the databases? No decision has been made as to whether multiple providers will be selected or a single provider at this time.
3.	HB 92 includes language related to all types of small loans in New Mexico	Please confirm that the provisions in HB92 related to the Payday Loan consumer reporting database begin in section 14 (page 29) and that all Sections prior to that, with the exception of the definitions in Section 2, are not applicable to the requirements for the consumer reporting database. House Bill 92 is the result of the New Mexico's legislature's effort to comprehensively address payday lending.
4.	Payment plan	a. At what point in a loan is the consumer eligible to request the payment plan; i.e. any time or only on or after the due date? Anytime. b. When a consumer requests a payment plan, does the 130 day period start at that point or on the original due date? 130 days starts at the time of the payment plan.

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		<p>c. Do the 130 days include the day the consumer requested the payment plan, or do they start the next day? For example, if a consumer requested the payment plan on July 15, is July 15 considered Day 1 of the 130 day period or do the 130 days start the next day? This will be addressed during the rulemaking process.</p> <p>d. If a consumer has more than one open loan and enters a payment plan on one, can they also request a payment plan on the other(s)? Yes.</p>
		<p>e. On page 37 of HB 92, item C.1. (Payment Plan) refers only to the unpaid principal amount. Our understanding from reading the full context is that this should be principal and unpaid fees. Please confirm. Yes, a payment plan may include principal and unpaid fees.</p>
5.	10 Day Waiting Period	<p>a. Do the 10 days include the day the consumer satisfied the payoff provisions, or do they start the next day? For example, if a consumer paid off all of their loan obligations on July 15, is July 15 considered Day 1 of the 10 day period or does the 10 days start the next day (July 16 in this example)? This will be addressed during the rulemaking process.</p> <p>b. Is the consumer eligible for a new loan on the 10th day of the waiting period or on the day following? For example, if the 10th day was July 25th, could the consumer apply for a loan on the 25th or must they wait until the next day (July 26 in this example)? This will be addressed during the rulemaking process.</p>

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		<p>c. If the answer to b. above is “on the 10th day”, does the time of day make any difference. For example, if the consumer satisfied their open loans at 2 PM, would they eligible for a new loan 10 days later at any time on the 10th day or only after 2 PM on the 10th day? This will be addressed during the rulemaking process.</p>
6.	Charge-offs	<p>a. If a loan is charged-off, does it remain open in the database as far as future eligibility is concerned? This will be addressed during the rulemaking process.</p>
		<p>b. If a consumer enters a payment plan but has another Payday loan that has been charged-off, would the charge-off be considered in determining when the 10-day waiting period would begin? In other words, would the consumer need to satisfy both the current loan and the charged-off loan before the 10-day period could begin? This will be addressed during the rulemaking process.</p> <p>c. Payday Licensees currently have different policies for when a loan is charged-off. Is it the intent of the FID to standardize the rules regarding when a loan is to be charged-off? This will be addressed during the rulemaking process.</p>

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		<p>d. The RFI asks for a report of net recoveries of charge-offs (Statement 8, item 6). Is it the intent of the FID to require Licensees to update the database when a recovery is made? Yes.</p> <p>It would seem that the FID would also need to standardize the rules regarding when a recovery must be posted if this information is to be maintained accurately.</p> <p>e. If a charge-off is considered an open loan as far as a future eligibility check is concerned, does a posted recovery reduce the outstanding loan amount and thus increase the future available loan eligibility amount? Yes.</p>
7.	Partial payments	<p>a. Should the database be designed to allow for partial payments? Yes.</p> <p>b. If yes, does the partial payment increase the amount the customer can borrow on a subsequent loan? Yes.</p>
8.	NSF fee	<p>a. Is the NSF fee added to the current balance; i.e. does it affect the consumer's ability to borrow? This will be addressed during the rulemaking process.</p> <p>b. In the database should the NSF status be recorded separately from a charge-off? This will be addressed during the rulemaking process.</p>
9.	Database verification fee	<p>Is the database verification fee added to the total loan balance or held outside the loan balance and collected separately. In other words, if a consumer borrowed \$100, would his outstanding balance be \$100 principal plus \$15.50 administrative fees plus \$.50 database fee (total of \$116) ? This will be addressed during the rulemaking process.</p>

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10.	Joint application	The language in HB92 provides for joint applicants. Based on our experience with the Payday Loan industry we do not believe that this is a normal business practice for a Payday Loan Licensees. How does the FID envision that this would be reflected in the database? Specifically:
		a. Would all applicants need to be associated to the loan, and if so, how would the loan then affect the individual applicants' eligibility for other loans? This will be addressed during the rulemaking process.
		b. Would the 25% income limit be a combined income for all applicants? If so, how would the loan amount be considered if a joint applicant applied for another loan as an individual? This will be addressed during the rulemaking process.
		c. If a loan with joint applicants went into a payment plan, or if an individual consumer's loan went into a payment plan and the consumer was also part of a joint-applicant loan, how would this affect the requirement for the 10 day awaiting period after all open loans had been satisfied? Would both the individual and joint loans need to be satisfied? This will be addressed during the rulemaking process.

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11.	Reporting	<p>a. If the State has more than one certified reporting database, the individual consumer reporting agencies would only be able to report data for loans where they had recorded the loan information. The State would need to combine the data to get a consolidated view. Please confirm this understanding. If this is the case, we would recommend that the FID work with the vendors to specify a standard format so that the information could be more easily combined. No decision has been made as to whether multiple providers will be selected or a single provider at this time.</p> <p>b. Statement 8, item 11 asks for a report of the number of consumers eligible for a payment plan. As defined in HB92 it appears that all consumers would be eligible for a repayment plan. Please clarify the intent of this reporting requirement. This will be addressed during the rulemaking process.</p>
12.	Bankruptcy	<p>a. If a loan is part of a bankruptcy that is discharged should the database support recording that fact? No.</p> <p>b. If so, should the loan be considered closed/paid as far as any future loan eligibility or 10 day waiting period is concerned?</p>
13.	Number of Copies	<p>Page 5 of the RFI indicates that 2 copies of the RFI response should be provided, page 8 says 6 copies. Please clarify. 6 copies will need to be provided.</p>