

April 4, 2016

The Honorable Richard Cordray  
Consumer Financial Protection Bureau  
1700 G Street NW  
Washington, DC 20552

RE: CFPB's Payday Lending Rule

Dear Director Cordray:

The undersigned representatives of New Hampshire organizations respectfully urge the Consumer Financial Protection Bureau (CFPB) to issue a strong payday lending rule that ends the payday loan debt trap. The best way to address abusive payday lending, as well as car title and other forms of predatory high-cost lending, is to put an end to it once and for all. Here in New Hampshire, we will continue to fight against all forms of predatory high-cost lending.

As the CFPB prepares to issue a proposed rule to address payday lending nationally, we call on you not to undermine New Hampshire's usury and other consumer protections against payday lending. We also call on you to issue a rule that eliminates the terrible abuses caused by car title lending. Indeed, we urge you to set a high bar for the entire country and issue a rule that enhances, rather than diminishes, our existing protections. Like you, we appreciate that there is a tremendous amount at stake for low-income families and communities throughout the country.

We remain deeply concerned that a weak CFPB payday lending rule will usher in a new wave of predatory lending in our state, as aggressive payday lenders argue that what is permitted in some states under the CFPB's rule should be permitted everywhere. New Hampshire law currently authorizes car title loans at interest rates up to 300 percent annually; it would be a devastating blow to the consumer protection landscape to permit payday lending at triple-digit rates. A rule that foments the spread of payday lending or continues the abuses associated with car title lending would not be sound public policy.

We represent a broad cross-section of New Hampshire's human services sector, including faith-based organizations and nonprofits that serve children, seniors, and people living in poverty. We have a long and complex history with payday and car title lending. In 1999, the New Hampshire Legislature repealed longstanding rate caps that applied to all small dollar loans, leading to an explosion of predatory small loan lending. In 2008, the Legislature reversed course and enacted 36 percent interest rate caps on payday and car title loans. In 2012, the Legislature reversed itself yet again and replaced the 36 percent interest rate cap on car title loans with a 300 percent cap (leaving the 36 percent cap on payday loans intact). Now we have several car title loan companies operating multiple storefronts all over New Hampshire. We have witnessed the devastation caused by placing borrowers in an unaffordable loan at a 300 percent interest rate, and using the threat of repossession to force them into continued payments.

The consumers of our state simply cannot afford to reopen New Hampshire's doors to payday lenders, and we need your help to shut our doors to car title lenders as well. New Hampshire has an extremely high cost of living, yet the lowest minimum wage in the region. We have urban poverty in large cities like Manchester and Nashua and rural poverty in many other parts of the state, including our large, sparsely-populated North Country. Many New Hampshire residents face financial distress, struggling from paycheck to paycheck to make ends meet. We believe payday loans dig people into an even deeper hole. Please propose a strong national rule that will help us keep payday lenders out of our state and help us eliminate abusive car title lending.

A strong rule would, at a minimum:

- **Strengthen the enforceability of existing usury laws and other state consumer protections.** The rule should provide that payday loans are subject to the law of the state where the borrower resides, and it should establish that those who facilitate illegal loans, including through payment processing, lead generating, and advertising, are engaging in unfair, deceptive, and abusive practices.
- **Require a meaningful “ability to repay” standard without exceptions, and with no safe harbors or legal immunity for poorly underwritten loans.** The CFPB rule should include a strong “ability to repay” requirement for all loans, based on income and expenses. It should not provide any safe harbors. A weak rule, particularly one that allows lenders to make unaffordable loans or that includes a safe harbor, would give payday lenders unwarranted ammunition to knock down existing state protections, as they have been trying to do for years. The rule should provide that loans that do not meet a meaningful ability to repay standard are *per se* unfair.
- **Include enforceable protections against abuses by lead generators and other third-party marketing affiliates that sell people’s sensitive personal and financial information to payday lenders.** The sale of this information exposes people already in dire financial straits to risks of fraud and other exploitative business practices.
- **Affirm that state interest rate caps are an extremely effective way to protect people from payday loans and other predatory, high-cost loans.** Although the CFPB may not set an interest rate cap, it is critical that it encourages states to maintain their caps and other consumer protections against abusive high-cost lending.

In addition, the CFPB should require banks to permit accountholders to close their accounts at any time for any reason, and prohibit banks from charging overdraft fees once the accountholder has requested that the account be closed.

Here in New Hampshire we have seen firsthand that strong, enforceable prohibitions against payday lending constitute sound public policy and clearly benefit the public interest. We would

like to see similar prohibitions against car title lending. Payday and car title loans leave people in New Hampshire worse off.

For these reasons, we urge you to issue a strong rule that in no way undermines New Hampshire's clear interest rate caps on payday loans, and that enhances our protections against car title lending abuses, by eliminating these predatory loans once and for all.

Respectfully submitted,

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