

**BY HAND DELIVERY**

April 6, 2016

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

Re: CFPB's forthcoming payday lending rule

Dear Director Cordray:

We, the 87 signers of this letter from New York State, respectfully urge the 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. Ninety million Americans live in payday loan-free states, and we know they are far better off without payday lending. We will continue to fight to keep high-cost loans out of our states and communities.

As the CFPB prepares to issue a proposed rule to address payday lending nationally, we call on the CFPB not to undermine our state's usury and other consumer protection laws. 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. A rule that undercuts laws that protect tens of millions of Americans in payday loan-free states would not be sound public policy, even if it mitigates harms in states where payday lending is now legal.

We represent a broad cross-section of New York's elected officials and organizations – including community development financial institutions; civil rights, labor, community, and consumer justice groups; and affordable housing, faith-based, military and veterans, legal services, good government and seniors organizations.

As you know, payday lending is categorically illegal in New York State. Our centuries-old usury law makes it a felony to charge a borrower more than 25 percent interest on a loan. For many years, the payday lenders have been working to change that. In New York, they see an untapped, lucrative market for their products. For years, for example, payday lenders teamed up with the check cashers' trade group to push our state legislature to legalize payday lending. These were fierce battles that drained massive public resources and required years of tireless advocacy by a broad-based coalition of community and economic justice groups to ensure that New York did not authorize payday lending.

A weak CFPB rule would inevitably embolden the industry to keep threatening our state's usury protections. We urge the CFPB to exercise its full authority to put an end to predatory payday lending – or there's no predicting how much longer we will be able to maintain our critical usury protections.

Many New Yorkers are in financial distress, struggling to make ends meet from paycheck to paycheck. Indeed, payday lenders thrive because people do not have sufficient income to cover their living expenses. The last thing people need is a plague of predatory, high-cost, small-dollar loans to dig them into an even deeper hole — precisely what could result if the CFPB were to issue a weak payday lending rule.

A strong rule would, at a minimum:

- **Strengthen the enforceability of existing usury laws and other state consumer protections.** The CFPB rule should provide that a violation of state usury or other consumer protection laws is an unfair, deceptive and abusive act and practice (UDAAP). 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. Rather, the rule should provide that loans that do not meet a meaningful ability to repay standard are per se unfair, unsafe and unsound.
- **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 *the most effective ways to protect people from payday and other predatory, high-cost loans.*** Although the CFPB may not set interest rate caps, it is critical that states are able to maintain their usury caps and other consumer protections against abusive high-cost lending.

New York has shown that strong, enforceable prohibitions against payday lending constitute sound public policy and clearly benefit the public interest. Financially-struggling New York residents have found ways other than abusive, unfair, and predatory payday loans to address their financial needs. Payday lending would, as it has elsewhere where permitted, make these residents worse off, not better. We remain deeply concerned that a weak CFPB payday lending rule will usher in a new wave of predatory lending in New York, and be disastrous for the entire country.

For these reasons, we urge you to issue a strong rule that in no way undermines New York's clear ban on payday lending, and that enhances New York's protections against abusive payday lending practices. Indeed, a strong rule will benefit people everywhere.

Respectfully,

NYC Council Member Andrew Cohen  
NYC Council Member Julissa Ferreras-Copeland  
NYC Council Member Daniel R. Garodnick  
NYC Council Member Vanessa Gibson  
NYC Council Member Corey Johnson  
NYC Council Member Ben Kallos  
NYC Council Member Andy King  
NYC Council Member Rory I. Lancman  
NYC Council Member Brad Lander  
NYC Council Member Mark D. Levine  
NYC Council Member Carlos Menchaca  
NYC Council Member I. Daneek Miller  
NYC Council Member Antonio Reynoso  
NYC Council Member Donovan Richards  
NYC Council Member Deborah L. Rose  
NYC Council Member Helen Rosenthal  
NYC Council Member Rafael Salamanca  
NYC Council Member Ritchie Torres  
NYC Council Member Paul A. Vallone  
NYC Council Member Jumaane D. Williams

Affordable Housing Partnership  
Albany County Rural Housing Alliance, Inc.  
Albany Housing Coalition, Inc. Veteran's Services  
Align  
Association for Neighborhood and Housing Development  
Belmont Housing Resources for Western New York  
Brooklyn Cooperative Federal Credit Union  
Brooklyn Legal Services Corp A

Brooklyn-Wide Interagency Council of the Aging, Inc.  
Buffalo Urban League  
CAMBA  
Capital District Community Loan Fund  
Central New York Citizens in Action  
Committee for Better Banks  
Common Cause New York  
Community Loan Fund of the Capital Region, Inc.  
Community Service Society of NY  
Consumer Justice for the Elderly Litigation Clinic, St John's University School of Law  
Demos  
District Council 1707  
District Council 37 AFSCME  
Ellicott District Community Development, Inc.  
Empire Justice Center  
Erasmus Neighborhood Federation  
Fifth Avenue Committee, Inc.  
Genesee Co-op FCU  
Grow Brooklyn, Inc.  
Health & Welfare Council of Long Island  
Hebrew Free Loan Society  
Housing Court Answers  
Housing Help, Inc.  
IMPAACT BROOKLYN  
JASA/Legal Services for the Elderly of Queens & LEAP  
Local 1549 AFSCME, Clerical Administrative Employees  
Local 371 AFSCME, Social Service Employees  
Local 372 AFSCME, NYC Board of Education Employees  
Local 375 AFSCME, Civil Service Technical Guild  
Local 420 AFSCME, Municipal Hospital Employees  
Long Island Housing Services, Inc.  
Lower East Side Peoples Federal Credit Union  
MHANY Management, Inc.  
National Federation of Community Development Credit Unions  
Neighborhood Housing Services of Bedford-Stuyvesant, Inc.  
Neighborhood Trust Financial Partners  
Neighbors Helping Neighbors, Inc.  
New Economy Project  
New York CDFI Coalition  
New York Communities for Change

New York Public Interest Research Group (NYPIRG)  
New York Statewide Senior Action Council, Inc.  
Nobody Leaves Mid-Hudson  
Nuevo El Barrio para la Rehabilitacion de la Vivienda y la Economia (NERVE)  
Reform Jewish Voice of NYS  
Restaurant Opportunities Center of New York  
Retail, Wholesale and Department Store Union (RWDSU)  
Syracuse University College of Law Securities Arbitration and Consumer Clinic  
Teamsters Local 237  
The Legal Aid Society  
The Parodneck Foundation  
The Working World  
United Way of Buffalo and Erie County  
University Neighborhood Housing Program  
Urban Homesteading Assistance Board  
Urban Upbound  
Westchester Residential Opportunities, Inc.  
Western New York Council on Occupational Safety and Health  
Western New York Law Center