

BY HAND DELIVERY

March 10, 2015

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 55 signatories to this letter, respectfully urge you to issue a strong payday lending rule that ends the payday loan debt trap. As the CFPB prepares to issue a proposed rule to address payday lending nationally, we call on you not to undermine our state's longstanding civil and criminal usury laws. Indeed, we urge you to issue a rule that enhances our existing protections, and to set a high bar for the entire country.

We represent a broad cross-section of New York elected officials and organizations – including community development financial institutions; labor, community, and consumer justice groups; and affordable housing, legal services, and seniors organizations.

Many New Yorkers are in financial distress, struggling to make ends meet from paycheck to paycheck. The last thing New Yorkers 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 issues a weak payday lending rule.

A strong rule should, at a minimum:

- **Require a meaningful “ability to repay” standard, without exceptions or safe harbors.** A weak rule, particularly one that includes a safe harbor, would give payday lenders unwarranted ammunition to knock down New York's existing protections, as they have been trying to do for many years.
- **Bolster the enforceability of existing state consumer protections, such as New York's usury law.** The CFPB rule should provide that a violation of state usury law is an unfair, deceptive and abusive act and practice (UDAAP). Clearly, the rule should not preempt stronger state laws, such as our state's 25% criminal usury cap. The CFPB rule should

also provide that payday loans are subject to the law of the state where the borrower resides.

- **Prohibit abusive bank account access by payday lenders.** The CFPB rule should, for example, 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.
- **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.

New York has shown that a strong, enforceable prohibition against payday lending constitutes sound public policy and clearly benefits the public interest. The vast majority of financially-struggling New Yorkers have found ways other than abusive, unfair, and predatory payday loans to address their financial needs. Payday lending has thrived, where permitted, because of more fundamental financial challenges that everyday people face, with respect to affordable housing, health care, and a living wage. We remain deeply concerned that a weak CFPB payday lending rule will usher in a new wave of predatory lending in non-authorizing states such as New York.

For all 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 will also enhance New York's protections against abusive payday lending practices. Indeed, a strong rule will benefit people everywhere.

Respectfully,

New York City Public Advocate Letitia James
New York City Council Member Daniel Dromm
New York City Council Member Corey Johnson
New York City Council Member Brad Lander
New York City Council Member Mark Levine
New York City Council Member Antonio Reynoso
New York City Council Member Helen Rosenthal

Albany County Rural Housing Alliance, Inc.
Association for Neighborhood and Housing Development
Bethex Federal Credit Union
Better Neighborhoods, Inc.
Brooklyn Cooperative Federal Credit Union
Brooklyn-Wide Interagency Council of the Aging, Inc.
Buffalo Urban League
CAMBA Legal Services
Central New York Citizens in Action
Common Law

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Community Service Society of NY
Consumer Justice for the Elderly: Litigation Clinic, St. John's University School of Law
Consumers Union
Cooper Square Committee
Cypress Hills Local Development Corp.
District Council 37 AFSCME
Empire Justice Center
Federation of Protestant Welfare Agencies
Fordham Law School Feerick Center for Social Justice
Fifth Avenue Committee, Inc.
The Financial Clinic
Genesee Co-op Federal Credit Union
Grow Brooklyn
Housing Help Inc.
JASA Legal Services for the Elderly in Queens
Local 804 Federal Credit Union
Long Island Housing Services, Inc.
Lower East Side People's Federal Credit Union
Margert Community Corporation
MFY Legal Services, Inc.
Neighborhood Housing Services of Bedford-Stuyvesant
Neighbors Helping Neighbors, Inc.
New Economy Project
New York Legal Assistance Group
New York Public Interest Research Group (NYPIRG)
New York StateWide Senior Action Council, Inc.
Neighborhood Housing Services of North Bronx
The Parodneck Foundation
Pratt Area Community Council
Retail Action Project
ROC-NY, an affiliate of ROC United
Retail, Wholesale and Department Store Union (RWDSU)
Securities Arbitration and Consumer Clinic, Syracuse University College of Law
University Neighborhood Housing Program
Veterans' Economic Security Clinic, SUNY Buffalo Law School
Westchester Residential Opportunities, Inc.
Western New York Law Center
The Working World