

Arizonans for Responsible Lending Coalition  
c/o CEI  
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March 15, 2016

The Honorable Richard Cordray  
Consumer Financial Protection Bureau  
1700 G Street NW  
Washington, D.C. 20552

Re: CFPB's forthcoming payday lending rule

Dear Director Cordray:

We, the signers of this letter from payday loan-free states, 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. 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 states' 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.

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 CFPB's rule should be permitted everywhere. 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 harm in states where payday lending is now legal.

We represent a broad cross-section of Arizona'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, and seniors' organizations.

In 2000, the Arizona State Legislature embarked on a 10-year experiment in usury called "deferred presentment loan transactions." This was a statutory exemption from Arizona's existing small loan law that capped interest rates on small loans at 36% APR or less. Payday lenders were given a safe harbor in Arizona law and proceeded to extract millions of dollars from

our local economies and working families by charging 390% APR on short-term small loans. The explosive growth of this industry and mounting evidence of harm to consumers came to the attention of state policy makers. The safe harbor law would expire in 2010 unless the state legislature acted to extend the carve-out provision. The payday lending industry decided to take the issue directly to the voters in 2008 through the Arizona Ballot Initiative process. The payday lending industry spent almost 15 million dollars in an attempt to convince Arizona voters to allow them to continue their operations into perpetuity. They sent out expensive mailers, ran slick TV and radio ads, all to no avail.

In 2008 by a 60-40% margin in every single district in the state, Arizona voters soundly rejected Proposition 200 - the payday lenders' ballot proposition. The sun set on the payday lenders legal exemption from Arizona's small loan usury law in 2010. Every single year since 2008 the payday lenders have found a way to put forward a reauthorization bill to state policy makers. The bill numbers change, the title of the bill changes, but the business model does not. This is a long-standing public policy debate that continues even though the issue has already been decided at the ballot box. The debate continues only because the payday lending industry continues to pour money into Arizona in the form of high paid lobbying firms and campaign contributions.

Many Arizona residents are in financial distress, struggling to make ends meet, living from paycheck to paycheck. The last thing Arizona residents need is more predatory, high-cost, small-dollar loans— 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.
- **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 an interest rate cap, it is critical that states 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.

Arizona has shown that strong, enforceable prohibitions against payday lending constitute sound public policy and clearly benefit the public interest. Financially-struggling Arizona 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.

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

Respectfully,

Arizona Coalition to End Sexual and Domestic Violence, Phoenix Arizona

Arizona Community Action Agency, Phoenix Arizona

Arizona Grandparent Ambassadors, Sherry Griffin (Phoenix) Laura Jasso (Tucson)

Arizona Public Interest Research Group, Phoenix Arizona

Center for Economic Integrity, Tucson Arizona

Children's Action Alliance, Phoenix Arizona

Child and Family Resources, Tucson Arizona

Downtown Voices Coalition, Phoenix Arizona

Gila County, Globe ,Arizona

Gila House, Globe, Arizona

Encanto Citizens Association, Inc. Phoenix, Arizona

Ocotillo Glen Neighborhood Association Phoenix, Arizona

Primavera Foundation, Tucson, Arizona

Small Business Owner, John Edmonson, Sun City Arizona

Southwest Veteran's Chamber of Commerce, Phoenix Arizona

United Food and Commercial Workers Local 99, Tucson Arizona

United Way of Tucson and Southern Arizona, Tucson Arizona

Washington Park Neighborhood Association, Phoenix Arizona

West Plaza Neighborhood Association, Phoenix Arizona

West Side Town Hall Program, Phoenix Arizona

William E Morris Institute for Justice, Phoenix Arizona

Colonel (USAF Retired), Gene Fenstermacher, Sierra Vista, AZ