

BY MAIL

3/24/2016

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 11 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 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.

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 harms in states where payday lending is now legal.

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

Connecticut has a strong track record regulating and limiting payday loans. The state has restrictive regulations that limit storefront lending and imposes hard caps on interest rates. In 2015 the state further strengthened its legislation to protect consumers from out-of-state lenders. Connecticut's regulators have sued online payday lenders, enforcing consumer protections that prevent families from falling into debt traps.

Many Connecticut residents are in financial distress, struggling to make ends meet from paycheck to paycheck. The last thing Connecticut residents 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.
- **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.

Connecticut has shown that strong, enforceable prohibitions against payday lending constitute sound public policy and clearly benefit the public interest. Financially-struggling Connecticut 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 Connecticut's clear ban on payday lending, and that enhances Connecticut's protections against abusive payday lending practices. Indeed, a strong rule will benefit people everywhere.

Respectfully,

Jamey Bell, Greater Hartford Legal Aid

Catherine Blinder, Dept. of Consumer Protection

Nancy Boone, CABHN

Laurel Freeman, Connecticut Legal Services Consumer Law Project for Elders

Annie Harper, Project Director, CMHC/PRCH Financial Health Project

James Horan, CEO, Connecticut Association for Human Services

Peg Molina, New Milford Social Services

Janmarie Peña, All Our Kin

Richard Porth, United Way of Connecticut

Lynne Schilling, Aid for Orphans Relief Foundation

Tom, Swan, Connecticut Citizen Action Group