

MCRCC

The Voice For Maryland Consumers

MARYLAND CONSUMER RIGHTS COALITION

Dear Director Cordray:

We, the undersigned organizations from Maryland, a payday loan-free state, 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.

As you may already be aware, Maryland has had a long history of keeping loans affordable by capping small loan interest rates at 33 percent. As a result, payday lenders do not operate on the ground in Maryland and many Maryland families are protected from falling into long-term debt-traps. Yet, according to a study from Pew Charitable Trusts, at least 3 percent of Marylanders take out a payday loan from an online payday company-despite the fact that these businesses are unlicensed in the state. These online lenders are charging Maryland families interest rates ranging from 120-1,200 percent. More than 150 complaints have been filed in the last two years with the Commissioner of Financial Regulations' office.

Research has also shown that these practices disproportionately harm people of color throughout Maryland and beyond. Payday lenders have been shown to concentrate business in communities of color, thereby greatly mitigating wealth building efforts and luring people into debt cycles.

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

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

Sincerely,

Associated Black Charities
 Baltimore CASH Campaign
 Chesapeake Center for Youth Development
 Civil Justice, Inc.
 Community Law Center, Inc.
 Goldson Law Office
 Howard County Consumer Affairs
 Maryland CASH Campaign
 Maryland Center on Economic Policy
 Maryland Consumer Rights Coalition
 Maryland New Directions
 Maryland Working Families
 MinePurist.net
 NAACP, Baltimore City
 New Pathways Inc.
 NHS of Baltimore
 Public Justice Center
 Southeast CDC
 St. Ambrose Housing Aid Center
 Williams & Santoni, LLP