

04/05/2016

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 18 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 Massachusetts's elected officials and organizations – including community development financial institutions; labor, community, and consumer justice groups; and affordable housing, legal services, and seniors organizations.

Our state has a history of strong consumer protections against predatory payday lending dating back over a decade¹.

These regulations include laws that limit the impact of both brick-and-mortar shops and online out-of-state lending, thus protecting Massachusetts residents from a debt trap that could heavily impact their financial security. This holistic approach has proven successful, as Massachusetts has little to no payday lending activity.

Many Massachusetts residents are in financial distress, struggling to make ends meet from paycheck to paycheck. The last thing Massachusetts 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 issues a weak payday lending rule. We already have strong regulations that protect our consumers, and we support the CFPB in extending a strong ruling that could expand the kind of protections we have to the whole country.

A strong rule should, at a minimum:

- **Bolster the enforceability of existing state consumer protections, such as usury**

laws. The CFPB rule should provide that violation of state usury or other laws is an unfair, deceptive and abusive act and practice (UDAAP). The CFPB rule should also 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 through payment processing, lead generating, and advertising are engaging in unfair, deceptive, and abusive practices.

- **Require a meaningful “ability to repay” standard based on income and expenses, without exceptions or safe harbors.** A weak rule, particularly one 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 many years.
- **Affirm state interest rate caps and avoid sanctioning high-cost loans.** The CFPB rule should affirm that state interest rate caps are a simple and effective way to help ensure ability-to-repay, and it should avoid lending legitimacy to covered loans by suggesting that they are safe or responsible products.
- **Guard against extended periods in unaffordable loans with respect to longer-term loans.** The CFPB rule should require more stringent underwriting for longer-term loans, discourage loans where payments do not make significant progress toward principal, and address serial refinancing.
- **Prohibit abusive bank account access by payday lenders.** The CFPB 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.

Massachusetts 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 Massachusetts 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 non-authorizing states such as Massachusetts.

For all these reasons, we urge you to issue a strong rule that in no way undermines Massachusetts’s clear ban on payday lending, and that will also enhance Massachusetts’s protections against abusive payday lending practices. Indeed, a strong

¹rule will benefit people everywhere.

Respectfully,

The Midas Collaborative

Lawrence Community Works

Citizens for Adequate Housing

Cambridge Neighborhood Apartment Housing Services

Cambridge Economic Opportunity Committee

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¹ (Division of Banks of Massachusetts, 2016)