

April 5, 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 signers of 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 Jersey 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 Jersey residents are in financial distress, struggling to make ends meet from paycheck to paycheck. The last thing New Jersey 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.

A strong rule should, at a minimum:

- 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 New Jersey's existing 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.
- Bolster the enforceability of existing state consumer protections, such as New Jersey's usury law. The Bureau 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 emphasize that those who facilitate illegal loans through payment processing, lead generating, and advertising are engaging in unfair, deceptive, and abusive practices.
- 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 rule should, for example, require banks to permit account holders to close their accounts at any time for any reason, and prohibit banks from charging overdraft fees once the account holder 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 Jersey 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 Jersey 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 New Jersey.

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

Respectfully,

New Jersey Citizen Action
Affordable Housing Alliance
Anti-Poverty Network of NJ
Center for Independent Living of South Jersey Inc
CWA Local 1081
Essex County Board of Freeholders President – Britnee Timberlake
Essex County NOW
Fair Housing Council of Northern NJ
Fair Share Housing Center
First Baptist Church of Lincoln Gardens
Housing and Community Development Network of New Jersey
Jersey City Council President – Rolando Lavarro
La Casa de Don Pedro
Latino Action Network
Mayer Law Group LLC
Mayor of Maplewood
National Housing Institute
New Jersey Communities United
New Jersey Community Capital
New Jersey NAACP
New Jersey NOW
New Jersey Policy Perspective
New Jersey State Industrial Union Council
New Jersey Tenants Organization
NJ Working Families Alliance
St. Paul's Lutheran Church