April 11, 2016

Stop the Debt Trap of Long-Term Payday and Car Title Loans
The Honorable Richard Cordray, Director
Consumer Financial Protection Bureau
1700 G Street NW
Washington, DC 20552

Re: Long-term Loan Portion of the Payday and Car Title Rulemaking

Dear Director Cordray:

The undersigned organizations urge the Bureau to establish a strong rule addressing payday, car title, and similar loans. In this letter, we focus on the long-term portion of the rule. We are concerned about the migration of payday and car title lenders to long-term loans that keep borrowers trapped in prolonged unaffordable debt. This migration is already well underway in the states where long-term, high-rate loans are permitted, and lenders are already aggressively seeking authorization of these loans in states where it is not. A rule that does not prevent unaffordable lending in the long-term space will only fuel the migration and will permit ongoing, and in some cases even greater, harm to the communities we represent.

Long term payday and car title loans carry the same hallmark abuses as balloon loans, with the potential to inflict even greater harm. Lenders target subprime consumers with loans that carry an extraordinarily high cost combined with extraordinary leverage: the lender's access to the borrower's bank account and/or car title. Together, these features mean lenders lack an incentive to ensure consumers' ability to repay the loan while meeting other expenses.

An installment loan is not necessarily affordable just because the payment is smaller than a balloon payment or because the payment may seem relatively small in light of this month's verifiable income and expenses. The longer a high-cost loan, the greater the likelihood that the payment will become an unsustainable burden. This is particularly true because an increasing body of research documents the volatility of consumers' income and expenses, especially for lower income consumers who are juggling part-time jobs, work in fields that do not guarantee them a steady income, and do not have sufficient resources to handle new or unexpected expenses.

Delinquencies, defaults, and repossessions are high in the long-term loan space. In Virginia in 2014, the portion of high-cost installment loan borrowers 60 days late on their loans was nearly one-third; for car title lender TitleMax in Missouri, it was 23%. Car repossession rates were 15% in Virginia and 18% for TitleMax Missouri. Over the first half of 2015, Cash America had more Texas installment loan balances delinquent than current. Check 'n Go has a 16% default rate in California. Elevate Credit, Inc., which makes both closed-end (Rise) and open-end (Elastic) loans (total weighted average effective APR of 176%), reports 43-51% net charge-offs as a percentage of revenues for its entire portfolio, and a 29% default rate on its closed-end loans in California. Elevate has stated that it does not plan to significantly bring its charge-off rates down, but rather expand its consumer base and revenues – essentially planning for a high revenue, high default business model, even with the CFPB's rulemaking pending.

Refinancings – a strong sign of inability to repay – are also high in this market. In New Mexico, 68% of car title loans (averaging 222% APR) were refinanced, renewed, or extended. In Texas, the volume of car title loans (averaging 200%+ APR) refinanced is almost as much as the amount originated each year; more than 20% are refinanced less than halfway into the loan. A refinancing typically provides the consumer with cash out to handle expenses and even the loan payment. Refinancing a high-cost loan is an extremely strong indicator that the borrower has been unable to repay the loan on its original terms without reborrowing.

Finally, many loans are designed to extract substantial payments from borrowers for an extended period of time with little progress in repaying the loan. These loans make it more difficult for borrowers to escape high rate loans (i.e., with a tax refund or help from family), increase the likelihood that the consumer will not have the capacity to handle an unplanned income drop or expense, and confound consumers who believe that their payments are making progress in repaying their loans. After a year of payments on a $2000 2-year loan from CashCentral (Checksmart subsidiary) in Missouri (185% APR), the borrower has paid over $3500 but has repaid only about $250 and still owes $1750. Interest-only payments, such as on Big Picture Loans (formerly Castle Payday), only make matters worse: Halfway through the term of a 22-month $1,000 loan (788% APR), the borrower has paid $6,935 but has paid down the loan by only $190.

To address the above concerns, it is critical that the CFPB require every lender to design, underwrite and service its loans to ensure that the great majority of borrowers can repay the loans, on their original terms, without reborrowing while meeting other expenses. Specifically, we urge the following:

1. Require stronger underwriting.

-After determining the borrower's income, housing expenses and current obligations, require that the lender determine that the borrower has sufficient residual income to pay the new debt payments and other ordinary expenses. Require that this determination be based on reliable third party information regarding the amount of income needed to pay these expenses.

-For long-term loans, especially those longer than six months, car title loans, and open-end loans, require additional residual income and robust verification of historic and current income and expenses.2. Limit refinancings. Treat refinances as evidence of inability to repay unless 75% of principal has been paid on the previous loan. Prohibit refinancing a loan a third time.

3. Prevent design features that substantially inhibit affordability. Prevent deception and debt traps by requiring payments to make reasonable progress toward repayment of principal, and prohibit interest-only and other irregular amortization on covered loans.

4. Prevent bait-and-switch into long-term loans. Prevent lenders from using "bait-and-switch" tactics to move borrowers from short-term or non-underwritten loans into long-term loans without at least a 60-day cooling off period.

5. Enforcement and future rulemaking:

-For purposes of examination and enforcement, view a combined high level of defaults, refinancings, bounced and late payments, and high debt collection costs as evidence of lending without regard to ability to repay.

-Warn lenders that the rule is not intended to address all unfair, deceptive or abusive -practices and that the CFPB will address other such practices through supervision, enforcement and/or a future rulemaking.

6. Broaden scope. Include loans secured by any personal property and unsecured loans where the lender retains the right to garnish wages.

We appreciate your consideration of our concerns, and we would be happy to discuss them further.

Sincerely,

A Call to College
Alabama Appleseed
Alabama Arise
Alaska Public Interest Research Group
Allied Progress
Americans for Financial Reform
Arizona Community Action Association
Arkansans Against Abusive Payday Lending
Asheville Area Habitat for Humanity
Asian Law Alliance
Baltimore Neighborhoods, Inc
Bingham Crisis Center
Bucks County Women's Advocacy Coaltion
California Reinvestment Coalition
CAMEO - California Association for Micro Enterprise Opportunity
CASA of Oregon
Catholic Charities of Northern Kansas
Center for Economic Integrity
Center for Responsible Lending
CFED
CFORM/Covenant Community Development Corporation

Chicago Community Loan Fund
Citizen Action/Illinois
COHHIO
Community Foundation of Greater Birmingham
Community Housing Solutions
Community Legal Services in East Palo Alto
Community Legal Services of Philadelphia
Community Voices Heard
Consumer Action
Consumer Federation of America
Consumers for Auto Reliability and Safety
Consumers Union
Courage Campaign
Covenant House
Delaware Community Reinvestment Action Council, Inc.
Empire Justice Center
Empowering and Strengthening Ohio's People (ESOP)
Faith in Texas
First Presbyterian Church of Birmingham
Florida Alliance for Consumer Protection
Georgia Rural Urban Summit
Gowen Consulting
Habitat for Humanity of Greater Memphis
Habitat for Humanity of Ohio
Heartland Alliance
HFLA of Northeast Ohio
Homeowners Against Deficient Dwellings
HomeOwnership Center of Greater Dayton
Housing Action Illinois
Housing and Economic Rights Advocates
Housing Help Inc.
Idaho Community Action Network
Illinois Asset Building Group
Illinois Peoples Action
Indiana Assets & Opportunity Network
Indiana Association for Community Economic Development
Integra Home Counseling, Inc.
Iowa Citizens for Community Improvement
ISAIAH MN
Jesuit Social Research Institute
Kentucky Equal Justice Center

Law Foundation of Silicon Valley
Leadership Conference for Civil and Human Rights
Main Street Alliance
Maine Center for Economic Policy
Massachusetts Consumer Assistance Council
Massachusetts Consumers Council
Mississippi Center for Justice
Missourians Organizing for Reform and Empowerment (MORE)
Montana Organizing Project, a project of Alliance or a Just Society
Mountain State Justice
NAACP
National Advocacy Center of the Sisters of the Good Shepherd
National Association of Social Workers, West Virginia Chapter
National Consumer Law Center (on behalf of its low income clients)
National Council of La Raza
National People's Action
National Rural Social Work Caucus
Native American Development Center
Neighborhood Housing Services of Greater Cleveland
NETWORK, A National Catholic Social Justice Lobby
New Jersey Citizen Action
NH Citizens Alliance
North Carolina Consumers Council
North Carolina Council of Churches
North Carolina Justice Center
North Dakota Economic Security and Prosperity Alliance
Nuestra Casa de East Palo Alto
Ohio CDC Association
Ohio Poverty Law Center
Oregon Consumer League
Paradise Baptist Church
Partners For Self Employment Inc.
Partners In Community Building, Inc.
PathWays PA
PennPIRG
Pennsylvania Council of Churches
PICO National Network
Policy Matters Ohio
Progressive Leadership Alliance of Nevada
ProgressOhio
Public Good Law Center

Public Justice Center
Public Law Center
Redeemer Hospitality Mission
Reinvestment Partners
Renaissance Entrepreneurship Center
Sacred Pipe Resource Center
SC Appleseed Legal Justice Center
Society St. Vincent de Paul, Archdiocese of Philadelphia
Southern Poverty Law Center
Statewide Poverty Action Network
Sunflower Community Action
Sunnyvale Community Services
Tennessee Citizen Action
Texas Appleseed
The Land Office
The One Less Foundation
Together Baton Rouge
Together Louisiana
Tuscaloosa Citizens Against Predatory Practices
United Action for Idaho
United Church of Christ Justice and Witness Ministries
United Vision for Idaho
United Way of Greater Houston
United Way of Metropolitan Dallas
USAction
Virginia Citizens Consumer Council
Virginia Organizing
Virginia Partnership to Encourage Responsible Lending
Virginia Poverty Law Center
Voices for Children in Nebraska
Washington Community Action Network
WashPIRG
West Virginia Center on Budget and Policy
West Virginia Citizen Action Group
West Virginia Healthy Kids and Family Coalition
West Virginians for Affordable Health Care
WI Manufactured Home Owners Association
WISPIRG
Woodstock Institute