

United States Senate

WASHINGTON, DC 20510

May 14, 2014

Hon. Richard Cordray
Director
Consumer Financial Protection Bureau
1700 G Street NW
Washington, DC 20552

Dear Director Cordray:

Thank you for your attention to the issue of payday lending. We have been pleased with the efforts of the Consumer Financial Protection Bureau (CFPB) to examine the small-dollar lending market since some of us first contacted the CFPB regarding this issue. As CFPB prepares rules governing the small dollar lending market, we urge you to move forward with reforms that ensure consumers can repay any borrowing they make and also to include critical consumer protections for the online lending market.

Payday loans that hurt rather than help consumers struggling to pay their bills are predatory and deceptive. Recent CFPB findings show that over 80 percent of payday loans are rolled over or renewed within 14 days, and a separate survey shows that only 14 percent of payday borrowers are able to repay the average payday loan. These results clearly indicate that these products are not designed to provide emergency financial relief to consumers.¹ Sadly, the evidence shows that these loans trap consumers in a cycle of debt in which consumers end up owing more than the initial loan amount, an appalling practice that exploits the financial hardship of hard working families and exhibits a deeply flawed business model that does not consider borrowers' ability to repay the loan. The CFPB was established precisely to crack down on these types of predatory practices and to provide strong consumer financial protections our families need and deserve. We urge you to swiftly take action.

We also encourage you to learn from the experience of the jurisdictions that have already established important consumer protections for their small-dollar lending markets. For example, Oregon law includes a minimum loan term, fee and renewal limitations, and a waiting period between loans. One analysis of the impact of Oregon's full set of reforms showed a \$165 million

¹ Consumer Financial Protection Bureau, *CFPB Data Point: Payday Lending*, March 2014, available at http://files.consumerfinance.gov/f/201403_cfpb_report_payday-lending.pdf; Pew Charitable Trusts, *How Borrowers Choose and Repay Payday Loans*, February 2013, available at http://www.pewstates.org/uploadedFiles/PCS_Assets/2013/Pew_Choosing_Borrowing_Payday_Feb2013.pdf; A Pew Charitable Trust survey shows that 69 percent of borrowers turn to payday lanes for ordinary living expenses, not for extraordinary expenses: *Who Borrows, Where They Borrow, and Why*, July 2012, available at http://www.pewstates.org/uploadedFiles/PCS_Assets/2012/Pew_Payday_Lending_Report.pdf.

reduction in loan fees in the first four years of implementation.² Although your authorities may differ from that of the states, one especially critical lesson is that laws should apply not only to payday loans but also to auto title loans and other consumer loans. This broad scope of coverage has been essential to ensuring that regulating predatory payday lending does not create opportunities for similarly harmful products disguised in different formats. We urge the CFPB to follow a similarly broad approach for any rules it crafts in the small dollar lending market.

While predatory lending has been significantly curtailed in places that have cracked down on small dollar loans, it has not entirely gone away, in part due to the growth of online payday lending. *The Wall Street Journal* has reported that online payday lending grew to \$18.6 billion in 2012, 10 percent more than in 2011, and that online payday lending now accounts for around 40 percent of all payday loans.³ Moreover, online payday lending is just as predatory as its storefront cousin. A survey of 20 online payday lender websites found that a typical two-week \$500 loan comes with an average cost of \$125 or 652 percent APR.⁴ Furthermore, online lenders may be actively creating practical obstacles to law enforcement. Unscrupulous online lenders are also able to exploit loopholes in the payment system to force repayment of loans even when a borrower tries to stop the payment or even close the bank account. Other complexities include the dominant use of lead generators, who solicit and auction online payday applications to the highest bidder. These practices create consumer confusion, aggravate opportunities for fraud, and undermine law enforcement against illegal online lending.

In constructing proposed rules for the small dollar lending market, we encourage you to address the challenge of online payday lending and to support the efforts of states and tribes that have acted to protect consumers. The proposals set forth in the Stopping Abuse and Fraud in Electronic (SAFE) Lending Act (S.172) are designed to do precisely that, and we urge you to consider them closely. They would give CFPB support to states and tribes that are seeking to enforce their own laws, particularly against those entities that may be difficult for states or tribes to reach. They also would include limits on online lead generators and additional protections for consumers from abusive withdrawals of funds. We believe that many of these proposals can be implemented through CFPB regulation. Moreover, it is also critical here to take a holistic approach to the small-dollar lending market and ensure that rules are not too narrowly constructed so as to push deceptive or abusive practices from one form into another. Consultation with key stakeholders, including tribes, is also imperative.

Predatory payday lending has taken advantage of the fragile financial position of far too many hard working families. We encourage the CFPB to move as quickly as possible to propose rules that put a stop to predatory small-dollar lending practices, while preserving safer, more affordable alternatives.

² The analysis also included the impact of Oregon's 36% usury cap. Economic Fairness Oregon, *Payday Lenders Lose Interest; Oregon Consumers Pocket Savings: A look at the impact of the Oregon Payday Loan Reform Act*, May 2013, available at <http://www.economicfairnessoregon.org/downloads/Payday%20Report%20Final.pdf>

³ Alan Zibel and Brent Kendall, "Probe Turns Up Heat on Banks," *WALL STREET JOURNAL*, August 7, 2013, available at <http://online.wsj.com/article/SB10001424127887323838204578654411043000772.html>

⁴ Consumer Federation of America, *CFA Survey of Online Payday Loan Websites*, August 2011, available at <http://www.consumerfed.org/pdfs/CFAsurveyInternetPaydayLoanWebsites.pdf>

Sincerely,

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