June 4, 2015

The Honorable Richard Cordray
Director
Consumer Financial Protection Bureau
1700 G Street NW
Washington, DC 20552

Re: Rulemaking addressing payday lending

Dear Director Cordray:

We write regarding the Consumer Financial Protection Bureau’s (CFPB) efforts to study and address payday lending practices. We support the CFPB’s initial steps towards releasing a proposed rule and urge you to issue the strongest possible rules to end the damaging effects of predatory lending.

Small-dollar, short-term loans with astronomical interest rates that pull consumers into a cycle of debt are predatory. These loans have high default rates, including after the borrower has already paid hundreds or thousands of dollars because of triple-digit interest rates. Notably, the typical borrower of a two-week loan is in debt for more than half the year.\(^1\) In addition, longer term high-cost installment loans with smaller payments than lump-sum payday loans can result in high default or refinancing rates, high rates of bounced payments and other harmful consequences. Even if consumers do not default on these loans, high interest rates, preauthorized payment methods and aggressive debt collection efforts often cause a cascade of devastating financial consequences that can include lost bank accounts, delinquencies on credit cards and other bills, and bankruptcy.

Predatory lenders should not be able to continue unfair, deceptive, and abusive acts or practices that are designed to trap borrowers in a cycle of debt. A CFPB study found that 75 percent of loan fees on payday loans came from consumers with more than 10 transactions over a twelve-month period.\(^2\) This is a business model rooted in preying on individuals and families that have no ability to repay, and the CFPB has a critical opportunity to protect consumers by issuing strong rules. We hope that the Bureau will do so, while also taking into account and respecting states that have strong laws currently in place and building on their efforts to protect consumers from predatory lending.

In finalizing proposed rules, we urge you to focus on meaningful measures to ensure a consumer’s ability to repay. In the outline of the proposals being considered, the CFPB wrote

that it "believes that the failure to make an ability-to-repay determination results in many consumers taking out unaffordable loans."[3] Ability-to-repay is a fundamental element of responsible lending; however, predatory lenders, particularly those with direct access to a consumer’s checking account, have not prioritized this standard. Lending in the absence of an effective ability-to-repay determination, and monitoring of how loans perform in practice, causes substantial harm to consumers. We urge you to give this standard appropriate consideration in the proposed rules.

We appreciate your attention to this issue and hope you will soon issue strong rules to address the predatory lending practices that will only continue to harm consumers without swift action.

Sincerely,

Jeffrey A. Merkley
United States Senator

Richard J. Durbin
United States Senator

Christopher A. Coons
United States Senator

Tammy Baldwin
United States Senator

Sherrod Brown
United States Senator

Elizabeth Warren
United States Senator

Al Franken
United States Senator

Tom Udall
United States Senator

Mazie K. Hirono
United States Senator

Amy Klobuchar
United States Senator

Ron Wyden
United States Senator

Richard Blumenthal
United States Senator

Edward J. Markey
United States Senator

Dianne Feinstein
United States Senator

Martin Heinrich
United States Senator

Bernard Sanders
United States Senator
Jack Reed
United States Senator

Barbara Boxer
United States Senator

Maria Cantwell
United States Senator

Jeanne Shaheen
United States Senator

Sheldon Whitehouse
United States Senator

Angus S. King Jr.
United States Senator

Debbie Stabenow
United States Senator

Patrick Leahy
United States Senator

Christopher S. Murphy
United States Senator

Tim Kaine
United States Senator
Charles E. Schumer
United States Senator

Kirsten E. Gillibrand
United States Senator

Cory A. Booker
United States Senator

Gary C. Peters
United States Senator

Benjamin L. Cardin
United States Senator

Patty Murray
United States Senator

Brian Schatz
United States Senator