October 7, 2016

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

Re: Pennsylvania organizations comments on proposed rulemaking on payday, vehicle title, and certain high-cost installment loans
Docket No: CFPB-2016- 0025 or RIN 3170-AA40

Dear Director Cordray:

We, the undersigned Pennsylvania organizations, applaud the Consumer Financial Protection Bureau for taking a critical step to protect consumers across the country by proposing the first federal regulations to address payday, car title, and high-cost installment loans.

We represent a broad cross section of Pennsylvania residents, including veterans, seniors, faith leaders, neighborhood development agencies, and social service providers. We write to urge you to strengthen your proposed rule to end debt-trap lending nationwide once and for all. We are deeply concerned that as the CFPB works to rein in payday lending abuses in other states, it inadvertently will expand them into states like ours.

Pennsylvania has one of the strongest laws in the country to guard against predatory lending, with a strict cap on fees and interest for consumer loans. Our residents are among the 90 million Americans who live in states free of high-cost payday lending and the host of harms it brings. Our experience demonstrates that individuals and communities are better off without these unaffordable, predatory loans.

Although Pennsylvania has never legalized high-cost payday and car title loans, payday lenders have employed a variety of schemes to set up shops in our communities. Victims reported heartbreaking stories confirming what research has shown: payday loans cause borrowers to fall behind on other bills, including their rent and their mortgages, and to overdraft and eventually lose their bank accounts. Payday lending also impacts communities, creating strains on food pantries and charitable relief services. Fortunately, courts and regulators effectively stopped debt-trap lending in Pennsylvania, bringing relief to consumers and communities in our state. Annually, our citizens save $489,497,834 that would otherwise be spent on fees to float unaffordable payday and car title loan debt.[1] The savings from our rate cap benefit not only individual people and communities but the state economy as a whole.

In response to effective enforcement of our state law, payday lenders have been working aggressively and relentlessly to bring their predatory loans into our state by lobbing for legislation to weaken our state law. Our battles to keep predatory payday lending out of Pennsylvania have been fierce. The payday lenders have tried to disguise their legislative proposals to legalize high-cost loans by repeatedly rebranding payday loans as “short-term loans,” “micro-loans,” or “a fresh start,” and by falsely promoting their legislation as consumer protection. In addition, as reported by the *Philadelphia Inquirer*, the payday lenders have employed unfair tactics, including sending “cease and desist” letters – on no legal basis – to faith leaders who spoke out against legalizing payday lending, and bringing our budget process to a halt

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[1] Center for Responsible Lending, "States without Payday and Car-title Lending Save $5 Billion in Fees Annually," 2016, http://www.responsiblelending.org/sites/default/files/nodes/files/research-publication/crl_payday_fee_savings_jun2016.pdf

by sneaking language into the fiscal code that falsely stated that both chambers of the General Assembly intended to legalize high-cost lending.

A diverse coalition has been working tirelessly to keep the Commonwealth's safeguards in place. Based on our experience, we know that the payday lenders will exploit any weaknesses in the national payday lending rule as justification for legalizing their loans in our state.

Already, the payday lenders are using the proposed CFPB rule as leverage to weaken our state law. They are peddling state legislation to legalize their loans based on provisions in the proposed rule that would permit high-cost, unaffordable, long-term payday loans, and implying that the CFPB has given its "seal of approval" to these loans.

That is why it is critical for the CFPB to adopt the strongest possible final rule that will end abusive, debt-trap lending. We believe a strong national rule on payday lending could and should bolster and support our existing state protections, while also providing important new protections to Americans who live in states that have legalized predatory lending.

We understand that is a difficult task given that the CFPB does not have the ability to cap the rates on these loans. We commend the CFPB for recognizing in the proposed rule the importance of state fee and interest rate caps by specifically noting that they provide stronger protections to consumers. We also are grateful that the proposed rule makes clear that the federal rule does not preempt our stronger state law.

But we urge you to strengthen the proposed rule because it is filled with loopholes that would allow lenders to continue exploiting borrowers in states without strong interest rate caps. We support the fundamental principal of the proposed rule: That a lender must ensure that a borrower has the ability to repay the loan without having to borrow again, while still being able to cover basic living expenses. We cannot support any exceptions to that standard. Payday lenders are notorious for exploiting regulatory loopholes to continue making debt-trap loans. In addition, any exception risks sending the message that the CFPB has sanctioned a whole-category of high-cost predatory loans as desirable and safe, when in fact they are harmful and dangerous to borrowers.

We urge that the CFPB to make the following adjustments to its proposed rule:

- **Require a meaningful "ability to repay" standard that applies to all loans, without exceptions.**
  Since the CFPB cannot set a rate cap, the rule should require lenders to verify a borrower's ability to repay every loan, considering both income and expenses. The proposed rule contains dangerous loopholes to this standard. For example, the proposal allows six triple-digit APR payday loans a year to be made without any ability-to-repay determination. <u>This is six unaffordable loans too many</u>. In addition, the rule exempts longer-term payday loans with high origination fees from its proposed ability-to-repay test. These loopholes must be closed.

- **Close loopholes in the rule that allow lenders to continue "business as usual."**
  The rule must be strengthened to ensure that people have enough money to live on after paying back the loan. The proposed rule falls short by allowing lenders to simply continue "business as usual," making loans to borrowers who cannot afford them but have not defaulted in the past. Low default rates are not evidence that the loan is affordable because the lender has access to the borrower's bank account, or car title, leading to the lender getting paid back first on the borrower's payday.

- **Strengthen the protections against loan flipping.**

The proposed rule does not go far enough to stop lenders from flipping borrowers from one unaffordable loan to the next. The rule should ensure that borrowers cannot be stuck in two-week loans for three months or more, and prevent serial flipping of long-term loans.

- **Strengthen the enforceability of existing, stronger state consumer lending laws.**
  The rule should provide that a violation of state usury or other consumer protection lending laws is an unfair, deceptive and abusive act or practice under federal law, as a federal court recently found in the CFPB's action against the lender CashCall.

We are concerned that weaknesses in the proposed rule will be seen as sanctioning high-cost loans that are illegal in our state. Pennsylvanians strongly oppose predatory payday lending and other forms of high-cost lending that traps borrowers in long-term debt. We call on you to issue a stronger national rule that in no way undermines Pennsylvania's strong protections against abusive payday lending practices – a strong rule that will benefit people everywhere.

Respectfully,

ACTION Housing, Inc.

Advantage Credit Counseling Service, Inc.

AIM Angels In Motion

Bucks County Women's Advocacy Coalition

Ceiba

Clarifi

Community Action Association of Pennsylvania

Community Action Committee of the Lehigh Valley

Community Legal Services of Philadelphia

Family Service of Chester County

Habitat for Humanity Pennsylvania

Health, Education, and Legal Assistance Project (HELP: MLP)

Homeownership Counseling Association of Delaware Valley

Housing Alliance of PA

Just Harvest: A Center for Action Against Hunger

Keystone Opportunity Center, Inc.

Keystone Progress

Keystone Research Center

Lancaster Lebanon Habitat for Humanity

Lutheran Advocacy Ministry in Pennsylvania

Making Work Pay PA Coalition

Military Officers Association of America, Pennsylvania Council of Chapters

Montgomery County Community Action Development Commission

Neighborhood Allies

NeighborWorks Western Pennsylvania

Open Hearth, Inc.

PathWays PA

Pennsylvania AFL-CIO

Pennsylvania Council of Churches

Pennsylvania Public Interest Research Group (PennPIRG)

Pennsylvania Utility Law Project

Pennsylvania War Veterans Council, Inc.

Philadelphia Unemployment Project

Philadelphians Organized to Witness, Empower & Rebuild (POWER)

Pittsburgh Community Reinvestment Group

Planned Parenthood Pennsylvania Advocates

PRO-ACT Public Policy hosted by The Council of Southeast Pennsylvania, Inc.

Public Interest Law Center

Reinvestment Fund

Southwest (Philadelphia) Community Development Corporation

Tabor Community Services

THE ONE LESS FOUNDATION

The Philadelphia Association of Community Development Corporations

The Society of Saint Vincent de Paul - Diocesan Council of Pittsburgh

The Society of Saint Vincent de Paul Philadelphia

Unitarian Universalist Pennsylvania Legislative Advocacy Network (UUPLAN)

United Methodist Advocacy in Pennsylvania

United Way of Erie County

United Way of York County, PA

Urban Affairs Coalition