City of Cincinnati

Yvette Simpson
President Pro Tem

October 5, 2016

Re: Docket No. CFPB-2016-0025

Director Cordray,

I applaud the Consumer Financial Protection Bureau (CFPB) for releasing a proposed payday and car title lending rule to rein in the most abusive practices of this industry. This is a critical step forward for the 12 million Americans caught in the debt cycle each year[1], but the rule must be made stronger to ensure that it ends the debt trap once and for all.

As President Pro Tem of Cincinnati City Council, I have seen firsthand the devastating impact that predatory payday and car title lending has on struggling families, on small businesses and on Cincinnati's economy overall. I hear the stories from families who've lost their car, their ride to work and even their home because of the payday loan debt trap. When families are already struggling to make ends meet, the outrageous interest rates, averaging a staggering 667% APR in Ohio[2], make most current payday and car title loans virtually impossible to repay and still meet a family's basic needs. Yet, the direct access to bank accounts, back dated checks or access to a car title that payday lenders demand mean that families are left with little choice but to re-borrow and go deeper into a cycle of debt and desperation.

At the heart of the proposed rule is a common sense principle – lenders must determine whether or not a consumer has the ability to repay the loan without hardship or re-borrowing. This is a strong and critically important principle and I strongly support it. It is basic underwriting and should be applied to every covered loan with no exceptions. Any thing less is to allow a business model that depends on coercion and re-borrowing to continue. Applying the ability to repay standard to every covered loan levels the playing field for payday lenders, online lenders and banks alike. It is a common sense protection that will go a long way towards ensuring that loans are affordable and don't set borrowers on a path to financial ruin and distress. No responsible lender would consider making a loan without basic underwriting and the same standard must apply to the small dollar and car title loans.

As it is currently written, the proposed rule contains several troubling exceptions to this standard. Currently, up to six high-cost payday loans could be exempted from the ability to repay standard, leaving borrowers in debt for much of the year. The rule also creates exemptions for some longer-term loans with high origination fees. Even a single unaffordable loan can have a devastating financial impact on borrowers. The ability to repay standard should apply to every loan with no exceptions.

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[1] Pew Safe Small-Dollar Loans Research Project (2012). "Payday lending in America: Who borrows, where they borrow, and why.

[2] Center for Responsible Lending. *U.S. Payday Interest Rates calculated on a Typical Loan.* 2016.

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When borrowers are unable to make ends meet after a payment, they are often forced to open a new loan or refinance an existing loan, allowing debt to mount ever higher. The proposed rule does not go far enough to prevent this cycle of loan flipping. The waiting period between short-term loans should be expended from 30 days to 90 days to protect against long-term indebtedness and stay consistent with the FDIC's 2005 guidelines on payday lending. The CFPB's new research found that 89% of payday loans in Ohio are taken with 60 days of the previous loan being repaid.[3] 73% of all payday loans in Ohio are taken on the same day as the previous loan was repaid. In addition, it is critically important to strengthen the protections against repeat refinancing of longer-term loans. If loans can be repeatedly refinanced, debt will continue to pile up and borrowers will once again be stuck in a debt trap.

The rule also does not go far enough to ensure that borrowers can really meet their basic needs after repaying their loan. Requirements for determining ability to repay must be tied to reality and lenders must not be allowed to use low default rates as evidence that a loan is affordable. Payday and car title loans are built on coercion – borrowers give up access to their accounts or their car titles and payday lenders can snatch payments directly or threaten to take a borrowers car if a payment is not made. Time and time again, my office hears about families who have gone hungry, gone without medicine or paid hundreds in overdraft fees after a loan payment was taken out of their account. Low default rates in the payday and car title industry are evidence of coercion – not evidence that loans are affordable. This is little more than business as usual for predatory lenders and this loophole must be closed.

The payday, installment and car title loan industries have proven adept at exploiting loopholes and continuing to use deceptive and abusive lending practices. In the wake of the Military Lending Act, the Bureau's own investigation found that the payday lending industry slithered through loopholes to continue trapping active duty service members and their families in debt. Ohio is a prime example of how good regulatory intentions can be thwarted by predatory lenders taking advantage of loopholes Payday lenders now charge higher rates and drain more than twice as much money out of Ohioans' pockets than in 2008 when millions of Ohio voters affirmed, by a two-to-one margin, our legislatively enacted rate cap to reduce the cost of payday loans from 400% to 28. It is clear that the payday and car title industry are determined to continue exploiting hard-working families however they can. It is critically important that the Bureau close these loopholes in the law.

The harm caused by these exploitative and abusive loan products is clear. More than half of payday borrowers today end up paying more in fees and interest than they originally borrowed.[4]

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[3] Table 21, page 108, CFPB SUPPLEMENTAL FINDINGS ON PAYDAY, PAYDAY INSTALLMENT, AND VEHICLE TITLE LOANS, AND DEPOSIT ADVANCE PRODUCTS, http://files.consumerfinance.gov/f/documents/Supplemental_Report_060116.pdf

[4] Consumer Financial Protection Bureau (CFPB). 2013. "Payday Loans and Deposit Advance Products: A White Paper of Initial Data Findings." CFPB: http://1.usa.gov/1aX9ley

They are nearly twice as likely to file for bankruptcy[5] as people in similar financial situations and more than 92 percent more likely to become delinquent on their credit cards.[6] The Bureau's own data found that one in five car title borrowers lose their car – often even after having paid the original principal back. As struggling families get caught in a cycle of debt and desperation, the ripple effects are felt throughout our community. Families struggling with debt often must turn to local governments and social services for support while payday lending funnels millions out of our local economy. In Ohio, payday and car title lenders along are stripping over $500 million dollars in fees out of our economy[7].

The Bureau's proposed rule is an important step forward for millions of Americans and for the people of Cincinnati's struggling to escape the debt trap, but it must be strengthened to be effective. As a nation, we must put people over profits and protect vulnerable families from deception, coercion and abuse by poor-quality lending products. I urge the CFPB to enact the strong rule our families deserve.

Sincerely,

Yvette Simpson

Yvette R. Simpson
President Pro Tem
Cincinnati City Council

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[5] Skiba, P.M. and Tobacman, J. (2008). "Do payday loans cause bankruptcy?" SSRN working paper.

[6] Campbell, D., Jerez, A.S., and Tufano, P. (2011) Bouncing out of the banking system: An empirical analysis of involuntary bank account closures. Harvard Business School; Agarwal, S., Skiba, P.M. and Tobacman, J. (2009). "Payday loans and credit cards: New liquidity and credit scoring puzzles?" NBER Working Paper.

[7] Standaert, D. *The Buckeye Burden: An Analysis of Payday and Car Title Lending in Ohio.* Nov. 2015.