CITY OF OAKLAND

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September 20, 2016

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

Re: Comments on proposed rulemaking on payday, vehicle title, and certain high-cost installment loans; Docket number CFPB-2016-0025 or RIN 3170-AA40

Dear Director Cordray:

As Mayor of the City of Oakland, California, I respectfully urge the Consumer Financial Protection Bureau (CFPB) to issue a strong federal payday lending rule that puts an end to the payday, car title, and high-cost installment loan debt trap nationwide. I appreciate the Bureau's efforts to curb these predatory practices, and we recognize that this is not an easy task. My goal is to ensure that every Oaklander is able to achieve economic security. Payday lending is a real threat to this goal, especially for low-income individuals and people of color.

In California, payday lenders charge on average 366% APR.[1] Annually, these high cost lenders drain $507,873,939 in payday fees and $239,339,250 in car title fees, a significant loss both to borrowers and to the overall state economy.[2] Furthermore, the majority of payday loans are made to repeat borrowers, as 67% of California payday loans are taken out on the same day that a previous loan is repaid, and 90% are taken out within 60 days of repayment of the previous loan.[3]

Additionally, payday and car title lenders in our state have been migrating to larger loan amounts, offering abusive high-cost longer-term loans over $2,500, structured with terms that last months to years and have no limit on interest rates.[4] A recent report by the California Department of Business Oversight found that in 2015, nearly 55% of loans between $2,500 - $4,999 had APRs of 100% or higher.[5] At these high rates, lenders have little incentive to underwrite – often leading to high rates of default - and they continue to profit despite making loans that ultimately harm borrowers.

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[1] California Department of Business Oversight, "California Deferred Deposit Transaction Law – Annual Report and Industry Survey," 2016, http://www.dbo.ca.gov/Licensees/payday_Lenders/payday_lenders.asp

[2] Center for Responsible Lending, "Payday and Car Title Lenders Drain $8 Billion in Fees Every Year", 2016, http://www.responsiblelending.org/research-publication/payday-and-car-title-lenders-drain-8-billion-fees-every-year

[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] Center for Responsible Lending, "Predatory Payday and Larger Installment Loans Overshadow Emerging Market for Smaller, Less Expensive Installment Loans in California," December 2015, http://www.responsiblelending.org/sites/default/files/nodes/files/research-publication/crl_california_payday_dec2015.pdf

[5] California Department of Business Oversight, "Annual Report, Operation of Finance Companies Licensed Under the California Finance Lenders Law," 2016, http://www.dbo.ca.gov/Licensees/Finance_Lenders/pdf/2015_CFLL_Aggregated_Annual_Report_FINAL.pdf

Payday lenders' ability to seize money directly out of borrowers' bank accounts and car title lenders' ability to threaten repossession of a borrower's car means that lenders exert extraordinary leverage over borrowers to collect payments, causing borrowers to re-borrow or default on other bills such as a rent or medical care. These high-cost unaffordable loans are detrimental to any community, but have a disproportionate impact on our African American and Latino neighborhoods. In California, payday lenders are twice as likely to be located in communities of color than in white communities, even after accounting for income.[6]
Also at risk are the state's more than 1.8 million veterans. Unlike our active duty military, our veteran families are not protected by the 36% rate limit under the Military Lending Act.

The core principle of the CFPB's proposal is the right approach – requiring lenders to ensure that a loan is affordable without having to re-borrow or default on other expenses. However, some of the details must be strengthened in order for this approach to truly work and protect Californians from predatory lenders. Specifically, the rule should apply that ability to repay standard to every, single loan where a lender can take control over a borrower's personal property – be it the borrower's checking account, car or paycheck. There should not be any exceptions. Additionally, the rule should include protections to ensure that borrowers can't be stuck in so-called two-week loans for three months or more. Finally, for the rule to be effective it must protect against repeat refinancing and other tricks and traps that are really just taking out new loans to pay off old loans.

I look forward to seeing a final rule that is as strong as necessary to protect my Oakland residents and all Californians and I appreciate the chance to offer this comment.

Sincerely,

Libby Schaaf
Mayor, City of Oakland

[6] Center for Responsible Lending, "Predatory Profiling: The Role of Race and Ethnicity in the Location of Payday Lenders in California," 2009, http://www.responsiblelending.org/sites/default/files/nodes/files/research-publication/predatory-profiling.pdf