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| September 23, 2016

The Honorable Richard Cordray
Bureau of Consumer Financial Protection
1700 G St. NW
Washington, DC 20552

RE: Proposed rulemaking on payday, vehicle title and high-cost installment loans

Docket number: CFPB-2016-0025

Dear Director Cordray:

Thank you for the opportunity to submit comments on the Consumer Financial Protection Bureau's (CFPB) proposed rule on payday, car title and high-cost installment loans. The rule offers critical steps toward reducing the harms of unaffordable loans on undeserving consumers. Consumer Action's 45-years of experience as a national consumer advocacy organization serving low-income, limited-English and underserved populations informs our conviction that the proposed rule must be strengthened in order to stop the "debt trap" that often ensnares borrowers..

Consumer Action receives complaints weekly from consumers coast-to-coast who have become trapped in a debt spiral by predatory lenders. The egregious behavior of these lenders illustrates why it is critical to have a comprehensive rule that applies to all varieties of high cost payday and car title loans.

We've received complaints from individuals who took out payday loans with triple digit interest rates, and paid those loans off, but continued to be the target of aggressive debt collection tactics or inexplicable withdrawals from their bank accounts, in some cases for years.

In one case, a Maryland resident who borrowed a mere \$1,000 from the tribally-owned Michigan-based lender reported that the high cost lender roped her into an unnecessarily lengthy *8-year* interest-compounding payment plan. A North Carolina woman took out a \$600 installment loan in April of 2016. She arranged to pay the loan back over the next two months through an automatic debit of her bank account. When the two months ended, however, the payday lender informed the consumer that it would *continue* to debit her account through September of 2016, only this time with an interest rate of over 770 percent. "I didn't sign this type of agreement," the aggrieved consumer told Consumer Action.

As it stands, the CFPB's proposal would do much to hamper these objectionable practices, but not enough to halt them altogether. The proposal would rightly require lenders to apply an ability-to-repay test to ensure that a loan is affordable without having to re-borrow or default.. We applaud the CFPB for

acknowledging that examining income alone is not sufficient for lenders to determine if a borrower can afford to repay a high-cost loan. For a loan to be deemed “affordable” lenders must account for – and verify-- enough funds availability for borrowers to continue to pay for basic living expenses, including rent, groceries, childcare and regular medical costs.

While the Bureau’s affordability test is essential, the proposed rule contains dangerous exceptions that would allow lenders to defy the entire intent of the rule.

The proposal would exempt six payday loans per lender per year from the affordability standard.. Even *one* high-interest payday loan threatens to bury consumers in long-term, recurring debt . We urge you to require that the ability-to-repay standard apply to *every* loan, no exceptions.

The CFPB must also close the loophole that proposes to allow payday lenders to evaluate their practices based on their peers. The CFPB should not rely on payday lenders to determine whether they are offering affordable products based on other predatory lenders’ default rates.

To keep desperate borrowers from turning to one unaffordable loan after another to pay off existing predatory loans, and to prevent lender loan flipping, the CFPB should mandate a 60 day “cooling off” period, rather than the 30 days currently proposed, before a consumer can incur more short-term debt. Without this protection, consumers can easily become trapped in ten or more short-term loans a year. Consistent with FDIC guidelines, the CFPB should ensure that short-term loan indebtedness does not exceed a total of 90 days every 12 months.. On long term loans, prohibiting more than one refinancing, would help prevent a cycle of debt.

Many abusive loans and practices still fall outside of the scope of the proposed rules. Lenders can still reach into a borrower’s bank account and forcibly seize a loan payment, garnish a borrower’s wages; leverage a car title without warning; and even take their personal property.. Clearly, *all* loans secured by a bank account or car title should be covered by the CFPB’s rule.

Lastly, the final rule should support stronger state laws that ban high cost payday lending for their citizens.

We thank you for the opportunity to comment. For further clarification on these comments please contact Linda Sherry at linda.sherry@consumer-action.org or (202) 544-3088.

Sincerely,

Linda Sherry

Consumer Action
Director, National Priorities