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To: Hon. Richard Cordray
Director
Consumer Financial Protection Bureau
1700 G Street, NW
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From:
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Re: Docket No. CFPB-2016-0025

Director Cordray,

I applaud the Consumer Financial Protection Bureau (CFPB) for releasing a strong proposed payday and car title lending rule to reign in the worst abusive practices of this industry. This is a critical step forward for the 12 million Americans caught in the debt cycle each year[1] and the more than 90 million Americans in states with strong payday protections. However, the rule must be made stronger to ensure that it ends the debt trap once and for all.

As a United Church of Christ Conference Minister with the MT-NWy Conference, my faith teaches me that we must love and support our neighbors, not exploit the poor in their most desperate moments. Usury is wrong and I am standing with religious leaders from all faith traditions across the country to ask you to end the abusive lending practices so common in the payday and car title lending industry today and protect states like Montana who've already put reasonable interest caps in place.

In Montana, we have taken action to stop predatory payday lending. Here, and in the 13 other states and the District of Columbia that have banned payday lending by adopting rate caps of 36% or less, we have seen the enormous positive impact of ending the cycle of payday and car title debt and desperation. Despite industry claims, low-income families are better off financially and the bans haven't reduced access to credit.[2] Since 2010 when Montana capped interest rates, we've saved an estimated

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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] *North Carolina Consumers After Payday Lending: Attitudes and Experiences with Credit Options*, Center for Community Capital at the University of North Carolina, 2007, http://www.nccob.gov/public/docs/News/Press%20Releases/Archives/2007/NC_After_Payday.pdf

$20,750,969 in payday fees and $16,476,272 in car title fees every year. That is $37,227,241 that stays in the pockets of hard-working families and grows our local economy.

We have fought off countless attempts by the industry to weaken our protections and target our citizens with their high-cost predatory loans. I strongly support the inclusion of explicit support for state usury limits within the preamble of the proposed rule. The Bureau's acknowledgement that state rate caps are the most effective tool for protecting consumers will be important in halting industry efforts to roll back protections by arguing a CFPB stamp of approval on high interest rates.

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. Anything 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.

When borrowers are unable to make ends meet after a balloon 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 loans should be extended from 30 days to at least 60 days. In addition, a provision should be added that caps total indebtedness to 90 days per year for short-term loans. These additions make sense and will help the rule stay consistent with the FDIC's 2005 guidelines on payday lending. It is also 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 borrower's 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. Each year, the industry continues to try to roll back or weaken protections in Montana. It is critically important that the Bureau issues a strong nationwide rule to help us defend the predatory lending protections my community fought to enact.

The harm caused by these exploitative and abusive loan products in other states is clear. More than half of payday borrowers today end up paying more in fees and interest than they originally borrowed. They are nearly twice as likely to file for bankruptcy[4] as people in similar financial situations and more than 92 percent more likely to become delinquent on their credit cards.[5] 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. In Montana, we've succeeded in ending the debt trap and we are counting on the CFPB to stand strong and keep industry lobbyists from eroding those protections.

A strong federal rule on payday and car title lending is essential to ensure that our protections remain in place. The current proposal is a good start, but it must be strengthened to be effective. My faith teaches me that we must put people over profits and protect vulnerable families from deception, coercion and abuse. I urge the CFPB to enact the strong rule our families deserve.

Sincerely,

Marc I. Stewart

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[3] Consumer Financial Protection Bureau (CFPB). 2013. "Payday Loans and Deposit Advance Products: A White Paper of Initial Data Findings." CFPB: http://1.usa.gov/1aX9lev

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

[5] 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.