Habitat for Humanity®
of Charlotte

August 16, 2016

Hon. Richard Cordray, Director
Consumer Financial Protection Bureau
1700 G Street NW
Washington, DC 20552

Subject: **Habitat for Humanity of Charlotte**
Comments on Proposed Rulemaking
Payday, vehicle title, and certain high-cost installment loans
Docket number CFPB-2016-0025 or RIN 3170-AA40

Dear Director Cordray,

Habitat for Humanity of Charlotte files this comment in response to the Consumer Financial Protection Bureau's proposed rule on payday, vehicle title, and certain high cost installment loans. Thank you for the opportunity to submit comments on this important subject.

Habitat for Humanity of Charlotte is a 501(c)(3) non-profit ministry building new homes and repairing existing homes for those in our community who make less than 60% of area median income. We sell and repair our homes at no profit, and finance our new home sales at 0% interest. We have been an affiliate of Habitat for Humanity since 1983, have served over 1632 families (1250 homeownership and 382 critical home repair), and we are also one of seventy affiliates in the state of North Carolina.

In 1995 subprime lenders began targeting our homeowners attempting to convince them to take out home equity loans. As you know, our homeowners accrue significant equity immediately with their 0% mortgages After witnessing that several of our homeowners were not acquainting themselves with all of the terms and conditions of the loans, and the implications resulting from failure to comply with these terms and conditions, we instituted a 0% forgivable 2nd mortgage in the amount of the difference in the sale price of our home and the appraised price. As a result of this 2nd mortgage, potential lenders needed to inquire about the balance of the 2nd mortgage in the process of completing their due diligence. This inquiry regarding the second mortgage balance alerted us of our homeowner's intentions, and allowed us to conduct some financial counseling with them, before they decided to enter into this type of loan. In many instances we learned that our homeowners were being encouraged to enter to loans that were not based at all on an ability to repay. In one instance our homeowner's interest rate on the 2nd mortgage accelerated from 7% to 32% in the event of a late payment. These loans were not written for the mutual benefit of the homeowner and the lender, but were structured to enable the lender to gain control of the property in a rapidly improving neighborhood.

It was at this point that I began to get more interested in other types of secured and unsecured loans that were being marketed to low income households. I can tell you that no applicant will be extended credit with us if they have an active payday loan or car title loan. At this time we are seeing car title loans and pay day loans as an impediment to our homeowner's ability to maintain financial stability, and an increasing number of applicants are being denied approval because of these types of loans. This data is only available to us from the homeowners and applicants who choose to share this information with us; for as you know, these types of financing companies do not submit data to credit reporting agencies.

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I am writing to ask you to strengthen your proposed national payday rule. *Weaknesses in your proposed rule sanction dangerous loan products and will not stop the debt trap.* This is bad for North Carolina and bad for every other state in the country. Strong interest rate caps are the best way to regulate high-cost lending. Since the Consumer Financial Protection Bureau (CFPB) is prohibited by statute from setting a rate cap, it is extremely important that we protect and maintain our North Carolina rate cap and other state lending protections.

Though your final rule would not preempt our much stronger North Carolina rate cap, weaknesses in your final rule would present a direct threat to our state consumer protections by sanctioning harmful loans that are illegal in our state. These weaknesses and loopholes in your proposed rule could be seen as giving the green light to payday lenders trying to come back into our state.

In North Carolina, we are much too familiar with abusive payday loans. Payday lenders started making 400% annual percentage rate (APR) debt trap loans here in 1997. Seeing the harm caused by these loans, our NC General Assembly made payday loans illegal again in 2001. And, five years later, our Attorney General and Commissioner of Banks forced the last payday lenders out of the state. Hundreds of North Carolina organizations publicly oppose payday lending and have worked hard to keep payday and other high-cost loans out of our state.

According to recent research from the Center for Responsible Lending, since there are no payday or car title storefronts in our state, North Carolinians save over $457 million every year, $255 million saved in fees not paid to payday lenders and $202 million saved in fees not paid to car title lenders. These savings benefit individual consumers and the state economy as a whole.

We are very concerned that weaknesses in the CFPB's proposed rule sanction dangerous loan products and will not stop the debt trap.

We ask that the CFPB's final rule build on, rather than undermine, our strong state protections and strengthen our ability to enforce our state law against lenders making illegal loans.
We ask the CFPB to reaffirm the importance of state rate caps and declare that loans made in violation of our state laws are unfair, deceptive and abusive, which would give us additional enforcement tools.

We also ask the CFPB to close loopholes that undermine the ability-to-repay standard, specifically:

- **Require an ability-to-repay determination on every loan, with no exceptions.** Since the CFPB cannot set a rate cap, a strong ability-to-repay test is critically important. This basic principle though must be applied to every loan – with no exceptions and no room for future evasion. As currently written, the proposed rule contains dangerous loopholes. For example, the proposal allows six 400% payday loans a year without any consideration of ability-to-repay, six unaffordable loans too many. The rule also exempts longer-term payday loans with high origination fees from the ability-to-repay test. These loopholes must be closed.
- **Close the "business as usual" loophole.** The proposed rule must be strengthened to ensure that people have enough money to live on after paying back the loan. The rule falls short by allowing lenders to simply continue "business as usual", making loans to borrowers who cannot afford the loan but have not defaulted in the past. Low default rates are not evidence of ability to repay, since lenders hold a super lien against the borrower's checking account (with a post-dated check) or car title.

- **Strengthen protections against flipping, particularly for long-term loans.** The proposed rule does not go far enough to stop borrowers from flipping from one unaffordable loan to the next. The CFPB should do more to ensure that short-term debt does not become unaffordable long-term debt. It is critically important to strengthen the protections against repeatedly refinancing longer-term loans, allowing debt to pile up and borrowers to continue to be stuck in a debt trap.
- **Cover all loans that give lenders extra leverage to collect their payments,** such as loans with a super lien against the borrower's checking account, secured by personal property, or with a right to garnish wages.

We are thankful that one loophole has already been closed – an exemption from the proposed ability to repay test, included in the CFPB's preliminary outline, if loan payments are less than 5% of a borrower's income. Examining income only is not enough to determine if a loan is affordable.

We call on the CFPB to close the remaining loopholes and issue the strongest rule possible to stop the harmful debt trap of unaffordable payday loans. Unless these loopholes are closed, we are extremely concerned that your final rule will not stop the debt trap in states where these loans are still legal. This is bad policy for those states and will be pushed as bad policy in North Carolina as well.

Thank you for this opportunity to comment. If you have any questions regarding my comments, please do not hesitate to contact me at 704-716-7068..

Sincerely,

Bert Mee

Director of Strategic Initiatives
Habitat for Humanity of Charlotte