Date: September 6, 2016

To: Hon. Richard Cordray  
Director  
Consumer Financial Protection Bureau

From: Jacquie Helt  
Montana State Director SEIU 775  
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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 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 State Director I work with families struggling to make ends meet every day. SEIU 775 represents many low income workers who have fallen victim to predatory lending practices. Easy credit rip offs are the last thing these workers and their families need! I am asking you to enact a rule strong enough 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. Since 2010 when Montana capped interest rates, we’ve saved an estimated $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 as people in similar financial situations and more than 92 percent
 more likely to become delinquent on their credit cards. 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. I am committed to putting people over profits and helping families find hope and opportunity, not despair and debt. We succeeded in ending the abuses of payday and car title lending in Montana, and now we are counting on strong national protections. 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,

Jacquie Helt

Jacquie Helt
Montana State Director
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