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SENIOR DEMOCRATIC WHIP

Congress of the United States
House of Representatives
Washington, DC 20515-0920

PLEASE RESPOND TO:

☐ 2353 RAYBURN BUILDING
WASHINGTON, DC 20515-0923
TELEPHONE: (202) 225-1313
FAX: (202) 225-1171

☐ 2701 W. OAKLAND PARK BOULEVARD
SUITE 200
FT. LAUDERDALE, FL 33311
TELEPHONE: (954) 733-2800
FAX: (954) 735-9444

☐ TOWN OF MANGONIA PARK
MUNICIPAL CENTER
1755 EAST TIFFANY DRIVE
MANGONIA PARK, FL 33407
TELEPHONE: (561) 469-7048

www.alceehastings.house.gov

August 12, 2016

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

Dear Director Cordray:

I write regarding the Consumer Financial Protection Bureau's (CFPB) proposed rulemaking regarding payday lending (CFPB-2016-0025). Millions of Americans rely on short-term, small dollar credit in order to make ends meet. As the rule's comment period is currently ongoing, I must make it emphatically clear that should this rule be implemented in its current form, access to this vital source of credit will be severely curtailed, with potentially devastating effects on the hardworking Americans that the rule is supposedly meant to assist.

Five-and-a-half percent of all Americans have used a short-term loan in the past; for those individuals, access to short-term credit is not a luxury, but a necessity, in some cases to keep the lights on, ensure a child has school supplies, or to cover healthcare costs. Short-term, small dollar credit helps working class Americans cover an unexpected expense, emergency, or get by when an income fluctuates, such as in Florida, where many workers' earnings swing depending on the travel season.

Given the importance of having access to this form of credit, I was disheartened to see reports that the CFPB's proposed rule is likely to shutter as much as 80 percent of the payday loan industry. Compounding this issue is the fact that there is no legal, viable alternative for Americans to turn to when the need arises to have access to short-term, small dollar credit. I am not alone in this concern. Drew Breakspear, Commissioner of the Florida Office of Financial Regulation also expressed this concern in a letter to you last year (see attached), stating that the CFPB's proposal will "probably eliminate access to small loans and credit, and will force consumers to turn to more expensive and potentially unlicensed financial service providers, subjecting them to greater risks of financial fraud."

One specific concern is the rule's onerous ability to repay (ATR) requirement. As I understand this requirement, the ATR provision will force lenders to forecast a borrowers'

financial status to determine the borrowers' ability to repay the loan. In making this determination, the lender must consider a long list of factors, including income, housing costs, and major financial obligations. This requirement is both invasive to the borrower and will add significant costs to the underwriting process.

Not only will good-faith actors in the payday industry not be able to complete this requirement without incurring significant costs, both community banks and credit unions have signaled that this burdensome requirement will cause them to likewise abandon the marketplace, further restricting consumer access to short-term credit. In a letter to you dated June 27, 2016 (see attached), the Independent Community Bankers of America (ICBA) and the Credit Union National Association (CUNA) stated that this burdensome ATR requirement "would make it an abusive and unfair practice for a lender to make a covered short-term or longer-term loan without determining upfront that the consumer will have the ability to repay the loan[.]" They go on to say that the complex nature of the rule "will lead community banks and credit unions to curtail or eliminate existing products and remove incentives to innovate or develop new consumer-friendly, short-term products and small dollar loans." The provisions of this rule, by increasing underwriting costs in order to intrude into every aspect of a borrowers' finances and lifestyle, will effectively prohibit short-term, small-dollar loans, leaving consumers with no alternative but, as Commissioner Breakspear outlined, to turn to unlicensed and unregulated options.

I support the CFPB's efforts to ensure that hardworking Americans are protected from unscrupulous actors in the short-term credit industry. However, ironically, with this proposed rule, I fear that the CFPB may end up hurting the very consumers the Bureau is trying to protect. Predatory or abusive lending practices have no place in our marketplace. Yet, just as important as preventing bad actors in an industry from harming consumers, is the need of consumers to have access to the products they need to make it through tough financial situations. It is my sincere hope that as the CFPB moves forward with this rulemaking, the Bureau is able to work with industry and consumer groups to craft a more balanced rule, weighing the need to protect consumers with the need of consumers to have access to credit.

Sincerely,

Alcee L. Hastings
Member of Congress

FLORIDA OFFICE OF FINANCIAL REGULATION

www.FLOFR.com

DREW J. BREAKSPEAR
COMMISSIONER

June 1, 2015

The Honorable Richard Cordray, Director
United States Consumer Financial Protection Bureau
1700 G Street, NW
Washington, D.C. 20552

Dear Director Cordray:

I am writing regarding the Consumer Financial Protection Bureau's (CFPB) recently published "Outline of Proposals under Consideration and Alternatives Considered" regarding future proposed rules to regulate payday lenders, vehicle title and similar small-dollar loans. As commissioner of Florida's Office of Financial Regulation, I continue to champion consumer protection while promoting smart, efficient and effective regulation of Florida's financial services industry.

The current CFPB proposal would probably eliminate access to small loans and credit, and will force consumers to turn to more expensive and potentially unlicensed financial service providers, subjecting them to greater risks of financial fraud and identity theft. The expectation is that the proposed regulatory regime would force many payday lenders to close. This would cause the loss of thousands of jobs across Florida. Many Floridians use the services provided by payday lenders. Lack of access would leave many destitute and desperate.

I strongly support Florida's regulatory model for payday lending, and I encourage the CFPB to consider our state's approach as your agency moves forward with the rulemaking process. Florida's regulatory policy on payday lending is a proven model that is widely considered one of the most progressive and effective in the nation. Our regulatory policy for payday lending supports economic growth while increasing access to credit and safeguarding consumers.

You recently received a letter from Florida's Congressional Delegation encouraging the use of Florida's regulatory model. I wholeheartedly agree with their comments and position. You have been kind enough to speak with me about this subject, and I would appreciate your consideration of Florida's payday lending policy as it sets a high standard for the nation.

If I can be of assistance in any way, please contact my office at (850) 410-9601.

Sincerely,

Drew J. Breakspear, Commissioner
Florida Office of Financial Regulation

101 East Gaines Street, Tallahassee, Florida • (850) 410-9601 • Fax (850) 410-9663
Mailing Address: 200 East Gaines Street, Tallahassee, Florida 32399-0370

June 27, 2016

The Honorable Richard Cordray
Director
Consumer Financial Protection Bureau
1275 First Street, NE
Washington, DC 20001

Dear Director Cordray:

On behalf of America's credit unions and community banks, and the many consumers to whom our members provide small dollar and other credit, The Credit Union National Association (CUNA) and the Independent Community Bankers of America (ICBA) are writing to express serious concerns about the Consumer Financial Protection Bureau's (the Bureau) recent proposed rule for Payday, Vehicle Title, and Certain High-Cost Installment Loans ("proposed rule"), which sweeps in many consumer-friendly products offered by our members.

While we believe predatory or abusive lending practices deserve increased scrutiny, credit unions and community banks have no history of bad behavior when offering small dollar loans. Quite the opposite, they often offer consumer-friendly short-term credit as a service to consumers. These consumers may have a one-time or unexpected need, such as a new car transmission, medical expense, or broken furnace. These loans are not one-size-fits-all; they are often tailored to meet the needs of a specific consumer.

In your remarks at the field hearing on the proposed rule in Kansas City, MO on June 2 you stated, "In particular, we are not intending to disrupt existing lending by community banks and credit unions that have found efficient and effective ways to make small-dollar loans to consumers that do not lead to debt traps or high rates of failure. Indeed, we want to encourage other lenders to follow their model."

We appreciate your recognition that our members offer small dollar loans in consumer-friendly ways, and that these products are often the best option for those in need of a small dollar loan. **However, the proposed rule, if finalized in its current form, would unquestionably disrupt lending by credit unions and community banks.** We believe the extremely complex and prescriptive nature of this more than 1300-page proposed rule and the compliance burdens resulting from it will lead community banks and credit unions to curtail or eliminate existing products and remove incentives to innovate or develop new consumer-friendly, short-term products and small dollar loans.

CUNA and ICBA plan to submit detailed comment letters outlining our specific concerns about how the proposed rule will limit credit availability from credit unions and community banks, however we wanted to immediately alert you about our broader concerns with the proposed rule.

The Underwriting and Other Requirements Are Unnecessarily Complex for Depository Institutions

The proposed rule would make it an abusive and unfair practice for a lender to make a covered short-term or longer-term loan without determining upfront that the consumer will have the ability to repay the loan, in what the Bureau calls the "full-payment test." The requirements outlined in the proposed rule, including the exceptions to the general rule, are extremely complex and prescriptive, and inconsistent with how credit unions and community banks that know their members and customers underwrite a loan that can be for a relatively small amount of money. Small dollar loans provided by credit unions and community banks do not fit into one specific category and subjecting them to a lengthy list of requirements would undoubtedly significantly reduce consumer options for these loan products.

The recognition by the Bureau of the need for consumer friendly products from depository institutions is a good first step and we truly appreciate the Bureau attempting to provide exceptions for those acting responsibly in the financial services marketplace. Nevertheless, these exceptions are overly complex and restrictive and need to be much broader in order to meaningfully achieve the goal of ensuring credit unions and community banks remain in this market.

If the Bureau's intention is for depository institutions to serve more consumers in need of short term, small dollar loans, we believe the proposed rule not only falls short of that goal but will almost certainly cause credit unions and community banks offering short term, small dollar loans and similar programs like the PAL program to exit the marketplace.

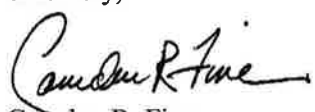
Consumers Will Lose Access to Credit Under the Proposed Rule

As noted, we have very significant concerns that the proposed rule would harm consumers in need of small dollar loans and make it difficult for credit unions and community banks to serve those consumers. As you have acknowledged, credit unions and community banks are one of the best options for consumers in need of this credit. If credit unions and community banks are regulated out of this market, we are very concerned about the options consumers will be left with, which could include unregulated and unlicensed predatory lenders.

We are hopeful that you will continue to work closely with us over the next few months to create a regulatory environment that allows community banks and credit unions to meet the needs of more members and customers, and does not eliminate more affordable and safer options.

On behalf of America's credit unions and community banks and the hundreds of millions of consumers they serve, thank you for your attention to these important concerns. We will reach out to your staff to discuss our concerns in greater detail in the near future.

Sincerely,



Camden R. Fine
President and CEO
Independent Community Bankers of America

Jim Nussle
President and CEO
Credit Union National Association