September 12, 2013

Mr. Greg Carmichael
President and Chief Operating Officer
Fifth Third Center
38 Fountain Square Plaza
Cincinnati, OH 45263

Dear Mr. Carmichael,

We write to express our concerns regarding Fifth Third Bank (the Bank)'s Early Access product and to ask that the bank implement necessary changes to address sustained use of the product, particularly in light of the Federal Reserve Board's recent supervisory statement addressing deposit advance loans dated April 25, 2013.[1]

Early Access is a payday loan structured just like loans from payday loan stores, carrying a high cost combined with a short-term balloon repayment directly from the borrower's checking account. The Consumer Financial Protection Bureau (CFPB)'s analysis of thousands of bank payday loans found that bank payday loans also function as loans from payday stores, leading to the same cycle of repeat loans and debt. The CFPB found that borrowers average 14 bank payday loans annually that keep them indebted for a significant portion of the year. Fourteen percent of borrowers took out an average of 38 loans averaging $200 each in one year.[2] At Fifth Third Bank, this would equate to $760 in interest—or, based on the average 12-day loan term the CFPB found, 300 percent in annual percentage rate terms.

Research has long shown that the cycle of debt created by payday loans causes serious financial harm to borrowers, including increased likelihood of bankruptcy, paying credit card debts and other bills late, delayed medical care, and loss of basic banking privileges because of repeated overdrafts. Over a quarter of bank payday borrowers are Social Security recipients, whose benefits banks sometimes seize to repay payday loans before they can be put toward healthcare, prescription medicines, or other critical expenses.

Bank-issued payday loans like Early Access undermine state law in the states that have prohibited or imposed meaningful restrictions on payday loans in recent years, or that have never allowed payday loans to be part of their marketplace. They also undermine provisions of the Military Lending Act aimed at protecting service members from payday loans. Seventy-seven members of Congress from both the Senate and House of Representatives recently urged the Department of Defense to expand the Military Lending Act to leave no question that bank payday loans are covered.

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[1] Federal Reserve Board, *Statement on Deposit Advance Products*, April 25, 2013, *available at* http://www.federalreserve.gov/bankinforeg/caletters/CALetter13-07.pdf.

[2] Consumer Financial Protection Bureau, *Payday Loans and Deposit Advance Products: A White Paper of Initial Data Findings*, April 24, 2013, *available at* http://files.consumerfinance.gov/f/201304_cfpb_payday-dap-whitepaper.pdf.

On April 25 of this year, the Federal Reserve, Fifth Third Bank's federal prudential regulator, issued a supervisory statement emphasizing the "significant consumer risks" the deposit advance product poses and highlighting the CFPB's findings of sustained and harmful repeat usage. The Board advised that examiners thoroughly review bank payday products for compliance with laws prohibiting unfair and deceptive practices. The statement also underscored that the product is subject to state law.

The CFPB's findings make clear that, as it currently functions—leading to a cycle of repeat loans for even the average borrower, even while it is structured and marketed as a short-term product—the bank payday product is indeed unfair and deceptive and is thus not compliant with the Bank's prudential regulator's supervisory expectations. To bring the product into compliance, we ask that you begin underwriting the borrower's ability to repay the loan without reborrowing and limit the product to a maximum of one every two statement cycles per borrower or discontinue the product.

We look forward to your response and are available to meet with you to discuss this matter.

Sincerely,

National Signatories:

Alliance for a Just Society
Americans for Financial Reform
Center for Responsible Lending
Consumer Action
Consumer Federation of America
Green America
Greenlining Institute
The Leadership Conference on Civil and Human Rights
NAACP
National Association of Consumer Advocates
National Consumer Law Center, on behalf of its low income clients
National People's Action
PICO National Network
Right to the City
Sargent Shriver National Center on Poverty Law
U.S. Public Interest Research Group

State and Local Signatories:

Action NC
Alliance for a Just Society
Arkansans Against Abusive Payday Lending (AAAPL)
California Reinvestment Coalition
Coalition of Religious Communities

Communities Creating Opportunity, Kansas City
Consumer Credit Counseling Service of Greater Greensboro, NC
Consumers for Auto Reliability and Safety
Credit Counseling Agencies of NC Association, NC
Delaware Community Reinvestment Action Council, Inc.
Durham Congregations Associations and Neighborhoods, NC
Financial Pathways of the Piedmont, NC
Financial Protection Law Center, NC
Florida Consumer Action Network
Good Work, NC
Green America
GRO - Grass Roots Organizing, statewide
Illinois People's Action
Iowa Citizens for Community Improvement
Jefferson City Congregation Uniting, Jefferson City
Jesuit Social Research Institute, Loyola University New Orleans.
Kentucky Domestic Violence Association
Kentucky Equal Justice Cente
Legal Services of Southern Piedmont, NC
Metropolitan Congregations United, St. Louis
Metropolitan Organization for Racial and Economic Equality (MORE2), Kansas City
Missouri Citizen Education Fund, statewide
Missouri Faith Voices, statewide
Missouri ProVote, statewide
Missourians Organizing for Reform and Empowerment (MORE), St. Louis
North Carolina Justice Center
North Carolina Latino Coalition
North Carolina State AFL-CIO
Northside P.O.W.E.R
Northwest Coalition for Responsible Investment
OnTrack Financial Education & Counseling, NC
PICO United Florida
Pisgah Legal Services, NC
Reinvestment Partners (Durham, NC)
Southwest Center for Economic Integrity
Tennessee Citizen Action
The Greenlining Institute
Virginia Citizens Consumer Council
Virginia Poverty Law Center
Vocal NY

cc: Zixta Martinez, Associate Director, External Affairs, Consumer Financial Protection Bureau
Chris Vaeth, Assistant Director, Office of Community Affairs, Consumer Financial Protection Bureau

Sandra Braunstein, Director, Consumer and Community Affairs Division, The Board of Governors, Federal Reserve System