



**Americans for Financial Reform**  
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March 28, 2014

The Honorable Richard Cordray  
Director  
Consumer Financial Protection Bureau  
1700 G Street NW  
Washington DC 20220

Dear Director Cordray,

Americans for Financial Reform and the more than 100 undersigned consumer, civil rights, labor and community organizations write to urge the Consumer Financial Protection Bureau to issue a strong rule to address unfair, deceptive or abusive practices in the payday and small dollar loan market. In particular, it is essential that any rule encompass the longer-term, multi-payment products that are already evolving in an attempt to evade expected CFPB rules. We fear that an unduly narrow rule would have little impact on curbing debt trap abuses and could potentially do more harm than good.

The fundamental problem with payday loans is that they are made without regard to the borrower's ability to repay the loan while meeting other expenses. Traditional single-payment payday loans have several elements that undermine the incentive that responsible lenders have to ensure proper underwriting. The high rate, short term, balloon payment structure, and preauthorized repayment device all contribute to a product that is unaffordable and yet ensures that the lender will be repaid.

A small dollar loan rule should target as many of these elements as possible, whether or not they are all present together. The payday loan industry is already in the process of changing the structure of its products in an effort to evade coming rules, without altering the fundamental problems of a dangerous product made without regard to borrowers' ability to pay.

Lenders should not be able to evade the rules by offering high-rate longer term loans that still lack proper underwriting and are still secured by a post-dated check, the electronic equivalent, or other automated repayment methods. Indeed, in many ways it is this repayment device that is the most pernicious element of payday loans, because it ensures ability to collect even when the lender makes loans that borrowers cannot afford to repay. Just like the wage garnishments prohibited in the Federal Trade Commission's Credit Practices Rule, preauthorized payment methods that are used as a method to collect rather than a convenience for the borrower are unfair, deceptive and abusive.

We see several potential dangers in a rule that is too narrow. Lenders will merely evolve and consumers may get little protection. Payday lobbyists will push states to carve larger holes in their usury caps and to authorize longer and larger high-cost loans secured by post-dated checks or other repayment devices.<sup>1</sup> State legislatures and others could misinterpret the CFPB's actions and get the message that protections to ensure responsible lending focused on ability to repay are not necessary for loans that do not have short terms or balloon payments.

The result could be lending that creates an even deeper debt trap for borrowers and causes even more harm. Some consumers may be induced to take out larger loans for longer periods of time with the payday renewals built in to the original loan's terms. New practices will become entrenched and more difficult to address with a new rule than it would have been to head off predictable evasions at the outset. State law changes could also have ramifications beyond payday loans as protections for installment loans, auto loans and other products could be undercut.

Many of our groups have been engaged in the fight against payday lending for decades. If the payday industry can too easily evade new rules without making their products safer, we will have merely put off the battle for another day, while also risking the potential that the problem will become worse, not better.

It is also important to note that the first formal step that the Bureau is likely to undertake in the rulemaking process is to convene panels under the Small Business Regulatory Flexibility Act (SBRFA). At that early stage, it is especially important for the Bureau to explore a broader rule, even if as one of a couple of alternatives. A potential rule can always be narrowed, but it would be truly unfortunate if the SBRFA process had the result of foreclosing the CFPB's ability to prevent evasions as more information about the harms of new payday-like products becomes available and during the later public comment process.

We also observe that the Bureau has the authority to prevent predictable evasions at the outset and does not need to let problems emerge, grow and become substantial enough to document. We note in this regard that holding post-dated checks or authorizations for electronic debits as part of the loan application is not part of the standard business model of most responsible, longer term small dollar loans. But it is a predictable, and indeed already occurring, evolution of payday loans offered without regard to borrowers' ability pay.

Thank you for your continuing efforts to protect consumers. We appreciate the extensive work that the Bureau is doing to help ensure meaningful, defensible reforms that have been so long in coming in the small dollar loan market.

Yours very truly,

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<sup>1</sup> In many states, payday loan authorization statutes are exceptions to usury statutes.

## **National Signatories**

Americans for Financial Reform  
Center for Responsible Lending  
Consumer Action  
Consumer Federation of America  
Consumers for Auto Reliability and Safety  
Consumers Union  
The Leadership Conference on Civil and Human Rights  
NAACP  
National Association of Consumer Advocates  
National Community Reinvestment Coalition  
National Consumer Law Center (on behalf of its low income clients)  
National Consumers League  
National Foundation of Credit Counselors  
National People's Action  
Public Citizen  
U.S. PIRG  
Woodstock Institute

## **State and Local Signatories**

ACTION Housing, Inc. (Pittsburgh, NC)  
Action NC  
Alabama Appleseed Center for Law & Justice (Montgomery, AL)  
Alabama Arise  
Arizona Community Action Association  
Arkansans Against Abusive Payday Lending  
Arkansas Community Organizations  
Asian Law Alliance (San Jose, CA)  
Bethel New Life (Chicago, IL)  
Bucks County Women's Advocacy Coalition (Doylestown, PA)  
California Church IMPACT  
California Reinvestment Coalition  
CCCS of Greater Greensboro (Greensboro, NC)  
Center for Economic Integrity (Tucson, AZ)  
Chicago Community Loan Fund (Chicago, IL)  
Chicago Consumer Coalition (Chicago, IL)  
Citizen Action/Illinois (Chicago, IL)  
Coalition on Homelessness & Housing in Ohio (COHHIO) (Columbus, OH)  
Communities Creating Opportunity (Kansas City, MO)  
Community Legal Services of Philadelphia (Philadelphia, PA)  
Consumer Assistance Council, Inc. (Hyannis, MA)  
Crossroads Urban Center (Salt Lake City, UT)  
Delaware Community Reinvestment Action Council, Inc. (Wilmington, DE)  
Economic Fairness Oregon (Portland, OR)  
Financial Pathways of the Piedmont (Winston-Salem, NC)

Financial Protection Law Center (Wilmington NC)  
Florida Consumer Action Network  
Georgia Watch  
Gowen Consulting (Decatur, AL)  
Grass Roots Organizing (Mexico, MO)  
Greater Birmingham Ministries (Birmingham, AL)  
Heartland Alliance for Human Needs and Human Rights (Chicago, IL)  
Housing Alliance of Pennsylvania  
Illinois Asset Building Group  
Illinois People's Action  
Innovative Changes of Portland Oregon  
Jacksonville Area Legal Aid, Inc. (Jacksonville, FL)  
Kentucky Coalition for Responsible Lending  
Kentucky Domestic Violence Association  
Kentucky Equal Justice Center  
Kentucky Youth Advocates  
Keystone Research Center (Harrisburg, PA)  
Law Foundation of Silicon Valley and Mission Asset Fund  
Legal Aid of Manasota, Inc. (Manasota, FL)  
Legal Aid Society of Milwaukee, Inc.  
Legal Assistance Resource Center of Connecticut, Inc.  
Legal Services of Southern Piedmont (Winston-Salem, NC)  
Maryland CASH Campaign  
Maryland Consumer Rights Coalition  
Metropolitan Congregations United (St. Louis, MD)  
Mississippi Center for Justice  
Missouri Faith Voices  
Monsignor John Egan Campaign for Payday Loan Reform (Chicago, IL)  
New Economy Project (New York)  
New Hampshire Legal Assistance  
New Jersey Citizen Action  
New Mexico Voices for Children  
North Carolina A. Philip Randolph Institute  
North Carolina Council of Churches  
North Carolina Justice Center  
North Carolina State AFL-CIO  
North Side Community Federal Credit Union (Chicago, IL)  
Northwest Side Housing Center (Chicago, IL)  
Ohio Poverty Law Center  
OnTrack Financial Education and Counseling (Asheville, NC)  
Oregon Consumer League  
Oregon Food Bank  
Organizing Neighborhoods for Equality: Northside (Chicago, IL)  
OSPIRG (Portland, OR)  
Pennsylvania Council of Churches  
Philadelphia Unemployment Project

Pisgah Legal Services (North Carolina)  
Project IRENE (Chicago, IL)  
Public Justice Center (Baltimore, MD)  
RAISE KY (Kentucky)  
Reinvestment Partners (North Carolina)  
Rhode Island State Council of Churches  
RI Coalition for the Homeless  
SEIU Missouri/Kansas State Council  
Southern Poverty Law Center (Montgomery, AL)  
Sunnyvale Community Services (Sunnyvale, CA)  
Tennessee Citizen Action  
Texas Appleseed  
The Collaborative of North Carolina  
The Community Empowerment Fund (Chapel Hill, NC)  
The Reinvestment Fund (Mid-Atlantic, US)  
The Rhode Island Coalition for Payday Lending Reform  
The Women's Fund of Greater Birmingham  
United Way of York County, PA  
UUPLAN - Unitarian Universalist PA Legislative Advocacy Network  
Vehicles for Change (DC, MD, VA)  
Virginia Citizens Consumer Council  
Virginia Poverty Law Center  
Washington Statewide Poverty Action Network  
Working Partnerships USA (San Jose, CA)  
YWCA Central Alabama  
Zonta Club of Birmingham, Alabama

## **Following are the partners of Americans for Financial Reform.**

*All the organizations support the overall principles of AFR and are working for an accountable, fair and secure financial system. Not all of these organizations work on all of the issues covered by the coalition or have signed on to every statement.*

- AARP
- A New Way Forward
- AFL-CIO
- AFSCME
- Alliance For Justice
- American Income Life Insurance
- American Sustainable Business Council
- Americans for Democratic Action, Inc
- Americans United for Change
- Campaign for America's Future
- Campaign Money
- Center for Digital Democracy
- Center for Economic and Policy Research
- Center for Economic Progress
- Center for Media and Democracy
- Center for Responsible Lending
- Center for Justice and Democracy
- Center of Concern
- Center for Effective Government
- Change to Win
- Clean Yield Asset Management
- Coastal Enterprises Inc.
- Color of Change
- Common Cause
- Communications Workers of America
- Community Development Transportation Lending Services
- Consumer Action
- Consumer Association Council
- Consumers for Auto Safety and Reliability
- Consumer Federation of America
- Consumer Watchdog
- Consumers Union
- Corporation for Enterprise Development
- CREDO Mobile
- CTW Investment Group
- Demos
- Economic Policy Institute
- Essential Action
- Green America

- Greenlining Institute
- Good Business International
- HNMA Funding Company
- Home Actions
- Housing Counseling Services
- Home Defender's League
- Information Press
- Institute for Agriculture and Trade Policy
- Institute for Global Communications
- Institute for Policy Studies: Global Economy Project
- International Brotherhood of Teamsters
- Institute of Women's Policy Research
- Krull & Company
- Laborers' International Union of North America
- Lawyers' Committee for Civil Rights Under Law
- Main Street Alliance
- Move On
- NAACP
- NASCAT
- National Association of Consumer Advocates
- National Association of Neighborhoods
- National Community Reinvestment Coalition
- National Consumer Law Center (on behalf of its low-income clients)
- National Consumers League
- National Council of La Raza
- National Council of Women's Organizations
- National Fair Housing Alliance
- National Federation of Community Development Credit Unions
- National Housing Resource Center
- National Housing Trust
- National Housing Trust Community Development Fund
- National NeighborWorks Association
- National Nurses United
- National People's Action
- National Urban League
- Next Step
- OpenTheGovernment.org
- Opportunity Finance Network
- Partners for the Common Good
- PICO National Network
- Progress Now Action
- Progressive States Network
- Poverty and Race Research Action Council
- Public Citizen
- Sargent Shriver Center on Poverty Law
- SEIU
- State Voices
- Taxpayer's for Common Sense

- The Association for Housing and Neighborhood Development
- The Fuel Savers Club
- The Leadership Conference on Civil and Human Rights
- The Seminal
- TICAS
- U.S. Public Interest Research Group
- UNITE HERE
- United Food and Commercial Workers
- United States Student Association
- USAction
- Veris Wealth Partners
- Western States Center
- We the People Now
- Woodstock Institute
- World Privacy Forum
- UNET
- Union Plus
- Unitarian Universalist for a Just Economic Community

*List of State and Local Partners*

- Alaska PIRG
- Arizona PIRG
- Arizona Advocacy Network
- Arizonans For Responsible Lending
- Association for Neighborhood and Housing Development NY
- Audubon Partnership for Economic Development LDC, New York NY
- BAC Funding Consortium Inc., Miami FL
- Beech Capital Venture Corporation, Philadelphia PA
- California PIRG
- California Reinvestment Coalition
- Century Housing Corporation, Culver City CA
- CHANGER NY
- Chautauqua Home Rehabilitation and Improvement Corporation (NY)
- Chicago Community Loan Fund, Chicago IL
- Chicago Community Ventures, Chicago IL
- Chicago Consumer Coalition
- Citizen Potawatomi CDC, Shawnee OK
- Colorado PIRG
- Coalition on Homeless Housing in Ohio
- Community Capital Fund, Bridgeport CT
- Community Capital of Maryland, Baltimore MD
- Community Development Financial Institution of the Tohono O'odham Nation, Sells AZ
- Community Redevelopment Loan and Investment Fund, Atlanta GA
- Community Reinvestment Association of North Carolina
- Community Resource Group, Fayetteville A
- Connecticut PIRG
- Consumer Assistance Council

- Cooper Square Committee (NYC)
- Cooperative Fund of New England, Wilmington NC
- Corporacion de Desarrollo Economico de Ceiba, Ceiba PR
- Delta Foundation, Inc., Greenville MS
- Economic Opportunity Fund (EOF), Philadelphia PA
- Empire Justice Center NY
- Empowering and Strengthening Ohio's People (ESOP), Cleveland OH
- Enterprises, Inc., Berea KY
- Fair Housing Contact Service OH
- Federation of Appalachian Housing
- Fitness and Praise Youth Development, Inc., Baton Rouge LA
- Florida Consumer Action Network
- Florida PIRG
- Funding Partners for Housing Solutions, Ft. Collins CO
- Georgia PIRG
- Grow Iowa Foundation, Greenfield IA
- Homewise, Inc., Santa Fe NM
- Idaho Nevada CDFI, Pocatello ID
- Idaho Chapter, National Association of Social Workers
- Illinois PIRG
- Impact Capital, Seattle WA
- Indiana PIRG
- Iowa PIRG
- Iowa Citizens for Community Improvement
- JobStart Chautauqua, Inc., Mayville NY
- La Casa Federal Credit Union, Newark NJ
- Low Income Investment Fund, San Francisco CA
- Long Island Housing Services NY
- MaineStream Finance, Bangor ME
- Maryland PIRG
- Massachusetts Consumers' Coalition
- MASSPIRG
- Massachusetts Fair Housing Center
- Michigan PIRG
- Midland Community Development Corporation, Midland TX
- Midwest Minnesota Community Development Corporation, Detroit Lakes MN
- Mile High Community Loan Fund, Denver CO
- Missouri PIRG
- Mortgage Recovery Service Center of L.A.
- Montana Community Development Corporation, Missoula MT
- Montana PIRG
- New Economy Project
- New Hampshire PIRG
- New Jersey Community Capital, Trenton NJ
- New Jersey Citizen Action
- New Jersey PIRG
- New Mexico PIRG
- New York PIRG

- New York City Aids Housing Network
- New Yorkers for Responsible Lending
- NOAH Community Development Fund, Inc., Boston MA
- Nonprofit Finance Fund, New York NY
- Nonprofits Assistance Fund, Minneapolis M
- North Carolina PIRG
- Northside Community Development Fund, Pittsburgh PA
- Ohio Capital Corporation for Housing, Columbus OH
- Ohio PIRG
- OligarchyUSA
- Oregon State PIRG
- Our Oregon
- PennPIRG
- Piedmont Housing Alliance, Charlottesville VA
- Michigan PIRG
- Rocky Mountain Peace and Justice Center, CO
- Rhode Island PIRG
- Rural Community Assistance Corporation, West Sacramento CA
- Rural Organizing Project OR
- San Francisco Municipal Transportation Authority
- Seattle Economic Development Fund
- Community Capital Development
- TexPIRG
- The Fair Housing Council of Central New York
- The Loan Fund, Albuquerque NM
- Third Reconstruction Institute NC
- Vermont PIRG
- Village Capital Corporation, Cleveland OH
- Virginia Citizens Consumer Council
- Virginia Poverty Law Center
- War on Poverty - Florida
- WashPIRG
- Westchester Residential Opportunities Inc.
- Wigamig Owners Loan Fund, Inc., Lac du Flambeau WI
- WISPIRG

### ***Small Businesses***

- Blu
- Bowden-Gill Environmental
- Community MedPAC
- Diversified Environmental Planning
- Hayden & Craig, PLLC
- Mid City Animal Hospital, Pheonix AZ
- UNET

