## Center for Economic Integrity – New Mexico

For Immediate Release
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**Draft CFPB Proposal to Stop the Payday Lending Debt Trap Is On the Right Track But Contains Dangerous Loophole**

Yesterday the Consumer Financial Protection Bureau released a working draft of a proposal to rein in abusive low-dollar 'storefront' lending schemes such as payday, auto title and installment loans. The draft, presented at a field hearing in Richmond, VA, would, in addition to other provisions, require lenders to verify before making a loan, that a borrower has the capacity to pay the loan back on time, without re-borrowing, and still cover their basic necessities like rent, food and utilities.

However, a loophole in the Draft Proposal could still allow for abusive practices. For example, the proposal would allow short-term lenders to make up to six loans to the same borrower with interest rates that average 400 percent, without assessing whether the borrower can in fact afford the loan. This scenario places the borrower in the position of having to refinance or 'roll over' their loan, securing an additional loan in order to make the payment on the previous loan.

"Back-to-back loans are not a side effect of payday and similar storefront loans, they are the business model of this industry" states Mikki Anaya, Director of the New Mexico office of the Southwest Center for Economic Integrity and a member of the Stop the Debt Trap Campaign: http://stopthedebttrap.tumblr.com, which fights to end abusive lending. "In addition to keeping the borrower stuck in the high interest rate debt trap, in the back-to-back loan business model, a vast majority of all fees generated by the storefront lender are paid out of the pockets of borrowers who take out several loans in one year", Anaya added.

Payday lenders market their products as short-term quick fixes but in New Mexico, payday loans are rolled over an average of 5.8 times so that the average loan of $377 with a term of 23 days actually ends up being a 133 day loan with a repayment cost of $827 for an average APR of 322%. (Source: Data & extrapolations from Dept. of Regulation & Licensing Financial Division Website).

Anaya made the following statements regarding the CFPB's Proposal:
"The Proposal unveiled by the Consumer Financial Protection Bureau takes an important step toward reining in a wide range of abusive lending products but also includes a gaping loophole that in essence puts a government stamp of approval on unaffordable back-to-back loans with interest rates that average near 400 percent. The Center for Economic Integrity urges the CFPB and Director Cordray to reconsider and remove this loophole from the Proposal.

In addition to not putting an end to the payday loan debt trap, this gaping loophole opens the door for creative manipulation and exploitation of the rules for the purpose of continuing business as usual, something payday lenders have a history of doing. A perfect example of this is seen in how some in the industry circumvented the Department of Defense's efforts to cap loan rates to members of the military by making loans for three months and a day to get around rules governing three-month loans.

The proposed ‘affordability’ standard requiring lenders to assure that borrowers have the capacity to pay the loan back before they write the loan is smart and would require small-dollar lenders to do business the same way we expect responsible banks and mortgage lenders to – by making good loans. If adopted, this simple change would help end the cycle of debt.

As the CFPB moves forward to protect consumers, we hope that it removes the standard allowing the first six loans and applies a strong affordability standard to the first loan and to every loan. Only with consistent, airtight standards that require lenders to assure that loans are affordable, will protections work to stop debt trap lending, keep hard-working Americans from being lured into financial quicksand, and maintain and grow a strong, responsible, low-dollar loan market.

At the same time, in spite of the New Mexico state Legislature’s failure to pass the rate cap legislation which was introduced this past session and their disregard for the will of the people, with 86% of New Mexicans surveyed favoring a 36% rate cap, (Public Policy Polling, New Mexico Survey Results, Jan 2014), we must continue our work to enact and enforce what the Consumer Financial Protection Bureau cannot –rate caps that end usury once and for all”.

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The Center for Economic Integrity is a nonprofit organization founded in 2001 to build economically strong communities for all and opposes unfair corporate practices.