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October 7, 2016

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

Dear Director Cordray:

We, the undersigned, are a collection of consumer protection, credit counseling, civil rights, affordable housing, faith-based and community service organizations. Through our ongoing work and advocacy, we represent the interests of thousands of families, veterans and individuals stuck in a cycle of debt throughout the state of Georgia. We write this letter to express our interest in the Consumer Financial Protection Bureau's (CFPB) recent proposed rule on payday, vehicle title, and certain high-cost installment loans.

We are pleased that, at its core, this proposal establishes a strong ability-to-repay standard, a fundamental tenet of responsible lending practices. Further, we are encouraged that the rule contains anti-evasion language to ensure compliance with its provisions. However, dangerous loopholes in the proposed rule could provide payday lenders a license to creep back into our state, eroding protections developed through decades of work that save Georgia consumers millions of dollars each year.

Georgia has taken significant steps to reign in predatory payday lending through the enforcement of strong usury caps. We are concerned that a weak federal rule will undermine these strong protections and further embolden predatory payday lenders to lobby our Legislators for re-entry into our market. That's why these loopholes must be closed.

### **History of predatory lending in Georgia**

Payday lending and similar industries have a long history in our state. At the turn of the 20<sup>th</sup> century, Georgia stopped lenders from using assignments of future wages as security and from rolling over debt –both common practices at the time. In response, lenders began buying future wages outright



and finding ways around the roll-over ban. In the 1950's, Georgia fired back by instituting its first usury caps for small dollar loans. It also required small lenders to register with the state's Office of the Industrial Loan Commissioner.

Unfortunately, these regulations could not stop payday lenders from unearthing other ways to circumvent the law. In the 1990s, lenders began securitizing personal checks and using the "rent-a-bank" model to subvert Georgia's usury laws. Finally, in 2004, Georgia created an entirely new chapter of the criminal code that effectively outlawed payday lending. This chapter imposed severe criminal penalties for exceeding the state's usury caps.

Less than ten years later, payday lenders tested the scope of these penalties. The Georgia Office of the Attorney General received complaints that out-of-state lenders were making payday loans through the internet. The Attorney General's Office was able to fend off these financial predators by threatening to enforce our strict criminal penalties. This incident shows that strong laws against payday lenders can protect consumers even with the mere threat of enforcement.

### **This rule must uphold our current protections**

We understand that the CFPB does not have the authority to place a cap on interest rates. However, we hope that, within its authority, the CFPB will finalize as strong a rule as possible, including provisions that:

#### **Build on, rather than undermine, our strong state protections and strengthen our ability to enforce our state law against lenders making illegal loans.**

- Reaffirm the importance of state rate caps;
- Make it an unfair, deceptive, and abusive practice (federal UDAAP violation) to offer or make loans that violate state interest caps and other state protections; and
- Make it a federal UDAAP violation to facilitate illegal loans through payment processing, lead generating, and advertising.



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**Close loopholes that undermine the ability-to-repay standard:**

- **Dangerous exceptions to the ability-to-repay requirement:** The proposal exempts six 400% payday loans from the ability-to-repay requirement altogether. It also exempts longer-term payday and car title loans with high fees.
- **Weak protections against loan flipping:** Lenders could continue putting borrowers in 10 or more short-term payday loans in a year. Protections against loan flipping for longer term loans are also weak.
- **The “business as usual” loophole:** The proposed rule does not go far enough to be sure that, after repaying the loan, the borrower will have enough money to live on without re-borrowing. It allows lenders to say that because they have seized money from a borrower’s bank accounts in the past, the borrower has the ability to repay. Low default rates are not evidence of ability-to-repay, since lenders hold a super lien against the borrower’s checking account (with a post-dated check) or car title.

If these weaknesses and loopholes are not closed, your final rule may threaten our state’s consumer protections by giving legitimacy to predatory products and practices. However, if strengthened, this rule has the potential to protect many Georgia families from some of the most abusive tactics employed by vehicle title and high-cost installment lenders in our state.

We urge the CFPB to adopt a strong rule that would help, not hinder, Georgia’s ability to enforce our current consumer protections by closing potentially harmful loopholes and including provisions that reinforce our state’s current laws.

Respectfully,

Liz Coyle  
Executive Director  
Georgia Watch  
lcoyle@georgiawatch.org

On behalf of the signatory organizations (attached).



Letter to Dir. Cordray on Payday Lending Rule

On behalf of these Georgia organizations:

Atlanta Neighborhood Development Partnership, Inc.  
The Center for Working Families  
The Community Foundation for Greater Atlanta  
Georgia Budget and Policy Institute  
Georgia NAACP  
Georgia Watch  
Georgia Rural Urban Summit  
YWCA of Greater Atlanta  
Fulton Atlanta Community Action Authority