



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

Lorelei Salas
Commissioner

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RE: Proposed Rule on Payday, Vehicle, Title and Certain High-Cost Installment Loans
Docket ID: CFPB-2016-0025
RIN: 3170-AA40

October 7, 2016

Dear Director Cordray:

The New York City Department of Consumer Affairs (“DCA”) is committed to protecting and enhancing the daily economic lives of New Yorkers to create thriving communities. Our mission reflects Mayor Bill de Blasio’s pledge to create a livable city free of income inequality. Combating inequality requires helping low income individuals reduce their debt and build good credit. In order for us to achieve these goals, we must ensure that financial products offered in the marketplace are safe and affordable.

Here in New York City, the private, non-profit, and public sectors have been working together to ensure that economically distressed communities are being offered safe and affordable products— filling the financial product gap that unscrupulous lenders argue they serve. As has been widely reported by the CFPB, as well as leading research and policy groups, such as the Pew Charitable Trusts and the Center for Responsible Lending, payday loans are not the short-term solutions they are purported to be; in fact, they are dangerous long-term debt traps.

DCA is encouraged that the CFPB is seeking to address consumer harms related to credit products and wishes to inform and strengthen the proposed rules by speaking to our experience and expertise as the nation’s largest municipal consumer protection agency.

CFPB’s Proposed Rules Should Discourage Violators of State Usury and Consumer Protection Law

New York is among states that have instituted laws to combat high cost credit. Payday lending is illegal in New York thanks to statute that sets civil usury at interest rates of more than 16 percent and criminal usury at 25 percent or higher. However, instances of usurious lending and illegal collecting of these types of loans still persist in the city. Unscrupulous actors, buoyed by tightened credit restrictions in the wake of the 2008 financial crisis, target vulnerable consumers over the phone and the Internet offering them lending options that often are in violation of state law. For example, in 2015, DCA was able to secure nearly one million dollars in restitution from a debt collection agency illegally collecting on payday loans made to city residents. While DCA was successful in seeking restitution in this instance, it underscores the prevalence of the issue, even in a state with longstanding usury law, and more troubling, highlights the brazen behavior of lenders and collectors willing to prey on our most vulnerable populations.

Any rule promulgated by the CFPB should not have the unintended consequence of weakening local law and the CFPB has an opportunity to send a clear message to institutions that violate it. Such an opportunity may be available by categorizing such behavior as committing unfair, deceptive, or abusive acts or practices (UDAAPs) as defined in the Dodd-Frank Wall Street Reform and Consumer Protection Act. The financial

penalties associated with UDAAP violations could be enough of a deterrent to effectively curb current unlawful activity and future activities meant to exploit local law.

CFPB's Proposed Rules Should Include Stringent "Ability to Repay" Provisions

There are unfortunate realities as to who predatory lenders seek to target. Nationally, we know that usurious lending disproportionately impacts those who are lower incomes, have lower educational attainment levels, and poorer financial health. Extending credit irresponsibly leads to consumers invariably being mired in a dangerous cycle of indebtedness. While DCA is pleased that the CFPB recognizes the importance of an "ability to pay" standard in its rules, it would like to make clear the importance of a thorough process.

When not unabashedly defying state law, unscrupulous lenders attempt to seize on any opportunity to exploit consumers under a guise of facilitating financial access. Just this past legislative session, the check cashing lobby tried to pass legislation in Albany that would have empowered its membership to potentially make loans subject to tenuous underwriting requirements and partner with lenders that are chartered out of state and could circumvent the state's usury cap.

DCA encourages the CFPB to require lenders to abide by strict affordability requirements. Rather than considering the viability of the check cashing industry's floundering business model, the CFPB's focus should be to ensure that lenders have the most accurate information to project a consumer's income and expenses.

Although check cashers are currently prohibited from originating these short-term loans in New York, recent legislative history has shown a desire by the industry to offer such products. Lenient "ability to repay" rules could compound an already troubling proposition for New Yorkers.

Conclusion

As agencies dedicated to consumer protection, it is our job to protect the financial health and stability of our mutual constituencies. DCA's ability to innovate and invest at individual and community levels is a consequence of progressive municipal, state, and federal policy.

Innovative services and programs spearheaded by DCA like free, professional financial counseling and the *Collaborative for Neighborhood Financial Health*, a program that brings together policymakers and community leaders to inform financial approaches, are examples of efforts that can only be reinforced by like-minded national policy.

We thank you for the opportunity to comment and share our experience.

Sincerely

A handwritten signature in black ink, appearing to read "Lorelei Salas". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Lorelei Salas
Commissioner