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May 15, 2019

The Honorable Kathleen Kraninger
Director
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552

Re: Proposal to Rescind Provisions of the Payday, Vehicle Title, and Certain High-Cost Installment Loans Final Rule

Dear Director Kraninger,

I write to express my opposition to the Consumer Financial Protection Bureau's ("Bureau" or "CFPB") proposal to rescind key provisions of the Payday, Vehicle Title, and Certain High-Cost Installment Loans final rule.

The rule's "ability-to-repay" provision, which the Bureau now seeks to roll back, deems it "an unfair and abusive practice" for a lender to make "balloon-payment loans without reasonably determining that the consumers will have the ability to repay the loans according to their terms."[1] Rescinding this common-sense provision—to require lenders to practice basic due diligence before making a high-interest loan—would be a betrayal of CFPB's mandate to protect consumers from risky financial products, and a gift to the payday lending industry, whose lobbyists have sought for years to weaken rules designed to protect vulnerable borrowers from spiraling debt traps.[2]

I represent the 7th District in New Jersey, a state with strong rules in place to protect consumers from payday lenders, including a 30 percent annual interest rate cap (the national average for payday loans is nearly *400 percent*).[3] But the state in which one lives should not determine whether one is protected from these sorts of risky products. The CFPB must exercise its mandate

[1] Consumer Financial Protection Bureau: Unofficial Redline of the Reconsideration NPRM's Proposed Amendments to the Payday Lending Rule: https://files.consumerfinance.gov/f/documents/cfpb_payday_unofficial-redline-2019-proposed-amendments.pdf
[2] Rappeport, Alan. "Payday Rules Relax on Trump's Watch After Lobbying by Lenders." The New York Times. February 02, 2018. https://www.nytimes.com/2018/02/02/us/politics/payday-lenders-lobbying-regulations.html
[3] "Payday & Other Small Dollar Loans." Center for Responsible Lending. https://www.responsiblelending.org/issues/payday-other-small-dollar-loans

to protect all Americans from the payday lending industry, whose profitability depends on its loans being unaffordable to borrowers.[4]

This is about more than just payday lending, though. It is about whether this Administration is committed to the principle of fairness in the marketplace; whether it believes there should be a cop on the beat to protect everyday consumers from bad actors. The precipitous decline in the volume of enforcement actions during your tenure leads me to question whether the CFPB is indeed following through on its objective to protect consumers and aggressively enforce the law.[5]

I urge the Bureau to preserve the existing payday lending rule and to rededicate itself to using the tools at its disposal to protect American consumers.

Thank you for the opportunity to comment on this important matter.

Sincerely,

Tom Malinowski
Member of Congress

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[4] "Understanding the CFPB Proposal for Payday and Other Small Loans." The Pew Charitable Trusts. July 2015. https://www.pewtrusts.org/-/media/assets/2015/07/cfpb-primer.pdf?la=en&hash=7FA87EDC077290C4DE41A478BFF3C69DAAFAAA31

[5] Peterson, Christopher. "Dormant: The Consumer Financial Protection Bureau's Law Enforcement Program in Decline." Consumer Federation of America. March 12, 2019. https://consumerfed.org/wp-content/uploads/2019/03/CFPB-Enforcement-in-Decline.pdf