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

[DATE HERE]

Re: Advanced Notice of Proposed Rulemaking Docket No. CFPB-2019-0006: Payday, Vehicle Title, and Certain High-Cost Installment Loans

Dear Director Kraninger,

We, the undersigned, are writing to urge you to reconsider the Consumer Financial Protection Bureau's (CFPB) decision to delay the implementation of its 2017 Final Rule regulating payday lending, and its recent proposal to eliminate the underwriting standards contained therein. The proposed changes will leave consumers vulnerable once again to the predatory lending practices the CFPB spent years attempting to curb, and the delay in the 2017 Final Rule's implementation will leave current borrowers less protected and cost consumers tens of millions of dollars in additional fees. The process that led to the 2017 Final Rule relied on hundreds of hours of conversations with community and non-profit groups, borrowers, and lenders themselves.

While the regulatory framework envisioned in the 2017 Final Rule was incomplete, key provisions like the "ability to pay" standard and common-sense restrictions on re-borrowing for certain short-term loans put meaningful limits on some of the most outrageous practices of the payday lending industry.[1] The removal of these provisions would have serious consequences -- pushing the working poor further into debt traps and widening the racial wealth gap. We condemn in the strongest terms these efforts to delay and weaken regulations on payday lending. We ask that the CFPB remain true to its mission, abandon these misguided rule changes, and instead lead an inclusive process that would further expand, not limit, protections for consumers.

The payday lending industry claims their services are essential to give low-income or, "subprime" borrowers with poor credit, access to the money they need to pay their bills or deal with emergencies. In reality, payday lenders capitalize on moments of financial instability to keep people trapped in debt for years. The business model of these lenders, in fact, is built on the hope that borrowers will need to keep taking out additional payday loans to pay off the previous one. A 2013 CFPB study found that 75% of payday loans annually go to borrowers with 11 or more payday loans.[2]

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[1] Payday, Vehicle Title, and Certain High-Cost Installment Loans, 82 Fed. Reg. 54472, 54555 (Nov. 17, 2017).
[2] CFPB, *Payday Loans and Deposit Advance Products*, April 2013. https://files.consumerfinance.gov/f/201304_cfpb_payday-dap-whitepaper.pdf; see also, CFPB, *Supplemental Findings On Payday, Payday Installment, Vehicle Title Loans, and Deposit Advance Products*, June 2016. https://files.consumerfinance.gov/f/documents/Supplemental_Report_060116.pdf.

Payday loans are typically taken out by consumers who are already in significant financial distress and are unable to pay for basic living expenses. Research by the Pew Charitable Trust found that 7 in 10 borrowers use payday loans for basic recurring expenses like rent and utilities.[3] Many of our financial coaches see the burden caused by payday loans firsthand, like in the case of Marissa, a financial coaching customer in Denver, Colorado.

She found herself stuck in a debt trap created by the crushing interest payments of five payday loans. Marissa turned to payday loans for support after she was unable to settle over $50,000 in outstanding debts, and mounting medical bills had caused her to lose her apartment. The exorbitant interest rates on her payday loans and lack of flexible payment plans pushed her even further into debt. Collection agencies for the lenders harassed her and threatened to garnish her income -- despite Social Security Disability Income (SSDI) and Veteran's Benefits being her only sources of income, neither of which can be legally garnished. Marissa's story is just one example of the millions of borrowers that the CFPB will leave unprotected if the proposed rule changes go into effect.

In an attempt to reduce the likelihood that payday loans would put borrowers in these endless "debt traps," the CFPB's 2017 rules instituted new underwriting standards requiring that lenders assessed a borrower's ability to repay the loan under the offered terms. This was done under the CFPB's authority, granted by the Dodd-Frank Act, to prevent abusive, deceptive, or unfair practices, and with the express concern that the payday lending industry was not adhering to the same lending standards used by other traditional creditors.[4] At the time, the Bureau rightfully pointed out that these lax underwriting practices were an essential part of what makes the payday lending industry profitable. When borrowers are unable to keep up with astronomical interest rate payments on one loan, in many cases it is payday lending staff who encourage customers to just re-borrow to cover the amount that was due.[5]

In 2016, the CFPB found that over 85% of payday loans are re-borrowed within 30 days, and research from the Center for Responsible Lending finds that borrowers pay collectively over $8 billion dollars annually in fees associated with payday loans.[6] Americans have overwhelmingly negative views of the payday lending industry, and one poll conducted by Pew found that 75% of respondents believed more regulation of the industry -- including the ability to pay standards --

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[3] The Pew Charitable Trusts, "Payday Loan Facts and the CFPB's Impact," updated: May 2016. https://www.pewtrusts.org/en/research-and-analysis/fact-sheets/2016/01/payday-loan-facts-and-the-cfpbs-impact

[4] CFPB, 2017

[5] CFPB, *Payday Loans and Deposit Advance Products*, April 2013.

[6] Diane Standaert and Delvin Davis, "Payday and Car Title Lenders Drain $8 Billion in Fees Every Year," *Center for Responsible Lending*. https://www.responsiblelending.org/sites/default/files/nodes/files/research-publication/crl_statebystate_fee_drain_may2016_0.pdf

was needed. The same respondents approved of the core elements of the 2017 Final Rule by a 3-1 ratio.[7]

The Bureau's proposal comes against the backdrop of the current administration's attempts to weaken the Community Reinvestment Act (1977). If successful, these connected developments would have an immensely disparate impact on low-income communities of color that have been historically excluded from access to traditional financial services and are frequently targeted by payday lenders and other alternative financial services companies like check cashers. Over 40% of the low- to moderate-income people the Clinic and our partners serve across the country report being unbanked, and 36% report being credit invisible. African American and Latino customers for whom we have data are much more likely to report not owning a bank account or having no credit history, leaving them especially reliant on non-traditional sources of lending. The Center for Responsible Lending found that payday loan storefronts in Michigan are concentrated in census tracts that have more African-Americans and Latinos. Statewide, they found an average of 5.6 payday storefronts per 100,000 people, but in census tracts that are over 25% African-America there are 7.6 payday storefronts for every 100,00 people.[8]

Our analysis of Home Mortgage Disclosure Act (HMDA) data for the Sunset Park neighborhood of Brooklyn, where the head offices of The Financial Clinic are located, shows that out of over 1,700 loans originated between 2007-2017, only around a third went to LMI borrowers, and only 20% to LMI borrowers of color. Communities of color across the nation are not able to access the capital they need to purchase homes, start businesses, manage emergencies, or invest in their future. The persistence of payday lending is just one demonstration of the need for access to credit in LMI communities, but we reject the idea that predatory lenders are the only source of that capital.

Earlier this year, Colorado joined the list of states that instituted the CFPB's recommended 36% annual interest rate cap on payday loans. This move will save borrowers in Colorado an estimated $50 million a year in lower interest and fees. Claims that these regulations will limit consumers' access to credit are simply untrue: they will only limit consumers' access to unsafe and predatory credit. Lenders that cannot comply with the most basic consumer protections should not be allowed to profit off vulnerable consumers. Access to more reliable and transparent credit options -- like low-cost personal loans, payday loan alternatives from community development credit unions, and safer products from mainstream financial institutions -- is consistently expanding. These products, and others like them, are where we should look for the credit and capital our communities need to thrive, not to lenders whose business model is to prey on the vulnerable.

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[7] The Pew Charitable Trusts, "CFPB Proposal For Payday and Other Small Loans: A Survey of Americans," https://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2015/07/cfpb-proposal-for-payday-and-other-small-loans

[8] Delvin Davis and Lisa Stifler, "Power Steering: Payday Lenders Targeting Vulnerable Michigan Communities" *Center for Responsible Lending*. August 2018. https://www.responsiblelending.org/sites/default/files/nodes/files/research-publication/crl-michigan-paydaylending-aug2018.pdf

We urge you to weigh the ample evidence the CFPB collected in support of drafting the 2017 Final Rule that demonstrated how the payday lending industry strips wealth from our communities. The Bureau has proven that payday lenders wrongfully trap the most vulnerable consumers in often inescapable cycles of debt and distress. The effects of removing underwriting provisions, and delaying the implementation of the rule itself, on consumers cannot be understated. The working poor will be driven further into poverty while communities of color, doubly at risk by proposed changes to the Community Reinvestment Act, will be further pushed toward unscrupulous payday lenders -- exacerbating inequality and widening the egregious racial wealth gap in America.

Thank you for the opportunity to submit these comments.