April 13, 2021

Mr. Dave Uejio
Acting Director
Consumer Financial Protection Bureau
1700 G Street N.W.
Washington, DC 20552

Re: Payday and Car Title Lending: The Bureau's commitment to racial justice compels it to repeal the 2020 rule and require ability-to-repay protections for payday and car title lending

Dear Acting Director Uejio:

We, the undersigned civil rights and consumer organizations, write to underscore the severe harm that payday and car title lenders continue to inflict by trapping borrowers in unaffordable loans targeted at low-income communities and communities of color. We urge the Bureau to move swiftly to reconsider the 2020 rule that repealed the critical, common-sense protections established by the 2017 Payday Lending Rule.[1] Without these important safeguards, exploitative practices that continue to curtail the economic contributions of communities of color in this country will persist.

[1] National Association for Latino Community Asset Builders (NALCAB) is challenging the Bureau's 2020 repeal rule in NALCAB v. CFPB, No. 20-cv-3122 (D.D.C.). Counsel for NALCAB in that matter (William R. Corbett, Yvette Garcia Missri, and Rebecca K. Borné from the Center for Responsible Lending and Rebecca Smullin, from Public Citizen Litigation Group) contributed to the drafting of this letter.

Payday and car title lenders structure and market their financial products to trap borrowers that do not have the ability to repay, therefore keeping them in a cycle of debt. Offered without meaningful underwriting, these high-cost, short-term financial products make repayment very difficult and lead to reborrowing. The Bureau's own research shows that more than 75% of all payday loan fees are charged to borrowers trapped in 10 or more loans a year.[2] The Bureau also found that 85% of payday loans are reborrowed within 30 days, suggesting the borrower did not have the ability to repay them.[3] These unscrupulous lenders succeed when their customers fail.

These debt traps cause borrowers profound harms and research has long shown that they are, in fact, predatory. Payday lenders are a scourge in Latino and Black communities and disproportionately target predominately Black and Latino neighborhoods. A study by the Center for Responsible Lending found that payday lenders in California are eight times more likely to be in located in predominately Black and Latino neighborhoods than in white neighborhoods. Even after accounting for income and other potential confounding factors, California payday lenders are still more than twice as likely to be located in communities of color. Communities of color are a critical economic engine for our nation.[4] Draining earnings from these communities through predatory lending practices only weakens our national economy.

The targets of these predatory financial products are often low-income consumers, earning $30,000 per year or less. They are financially distressed and among those least likely to be able to repay a balloon payment loan on their next pay day.[5]

Unaffordable payday and car title lending causes harm to entire communities. Borrowers turn to friends and family to escape unaffordable payday loan debt. These debt traps can also destroy hopes of economic advancement. Instead of aiding in asset building—providing paths to savings, funding education, purchasing a home, or starting a business—these debt traps can prevent people from even reaching the starting line. The Bureau's 2020 repeal rule did not dispute the harms the Bureau had earlier found unaffordable payday and car title loans cause, yet it allows those harms to persist.

The 2010 Dodd-Frank Wall Street Reform and Consumer Protection Act (P.L. 111-203) established the Consumer Financial Protection Bureau to implement and enforce federal consumer financial law while ensuring that consumers can access financial products and services that are fair, transparent, and competitive. The ability-to-repay protections

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[2] 82 Fed. Reg. 54,472, 54,484 (Nov. 17, 2017).
[3] 82 Fed. Reg. 54,472, 54,554 (Nov. 17, 2017).
[4] https://www.jec.senate.gov/public/_cache/files/2d162187-e1cc-4629-a39e-7f0853194280/jec-hispanic-report-final.pdf
[5] 82 Fed. Reg. 54, 472, 54,556-58 (Nov. 17, 2017).

of the 2017 rule were intended to stop the debt traps that payday and title lenders create. Today, with no such protections, unaffordable payday and car title lending is alive and well. Enabling this lending, through the 2020 repeal rule, is a departure from the very purpose for which the Bureau was created.

We appreciate that the rulemaking process takes time. We appreciate that the Bureau, under its inaugural leadership, spent many years attempting to address unaffordable payday and car title lending, and that it remains unaddressed still. We also know that equity demands that this work continue. We urge the Bureau to immediately undertake review and repeal of the 2020 repeal rule and to stop payday and car title lenders from lending without regard to ability to repay.

Sincerely,

National Association for Latino Community Asset Builders
Americans for Financial Reform Education Fund
Center for Responsible Lending (CRL)
National Alliance of Community Economic Development Associations
National CAPACD
National Consumer Law Center (on behalf of its low-income clients)
National Community Reinvestment Coalition (NCRC)
The Leadership Conference on Civil and Human Rights
UnidosUS