Policy Matters Ohio

3631 Perkins Avenue
Cleveland, OH 44114
216.361.9801

125 E. Broad Street
Columbus, OH 43215
614.221.4505

www.policymattersohio.org

Statement from Policy Liaison Kalitha Williams of Policy Matters Ohio for Ohio Consumer Advocates on the Consumer Financial Protection Bureau proposed rule on payday lending on Monday, June 6, 2016.

For too long, excessive fees of payday and car-title lenders have undermined the financial stability of Ohio families. The Center for Responsible Lending reported that payday and car-title lenders drain over $500 million annually from Ohio families. We have a storied history in our state of unsuccessful attempts to regulate payday lenders. We've passed bi-partisan reform legislation and approved a ballot by two-to-one margins to regulate the industry, but the industry found loopholes to circumvent both of these common-sense attempts to control exploitative loans . In 2014, a state Supreme Court ruling sided with payday lenders.

We welcome the efforts of the Consumer Federation Protection Bureau to rein in the industry. Last Thursday's proposed rule will impact traditional payday, car-title and installment loans. Provisions of the rule will help borrowers, but there are weaker areas that need to be strengthened.

The better components include requiring lenders to consider a borrower's ability to repay the loan and providing new protections for borrower's bank accounts. These high cost loans are made with little or no underwriting to determine if the consumer can afford them. Borrowers spiral into a debt trap when they can't pay back the loan in full, and are forced to keep refinancing and incurring staggering fees. In 2014, the CFPB reported that 80% of payday loans are refinanced within 14 days. The principle of ensuring a consumer can pay back the loan and meet household expenses is core tenet to the proposed rule. Payday lenders collect payments by electronic withdrawals from the borrower's account or post-dated checks. When there is not enough money in the account, this practice has left consumers paying steep overdraft fees or even having their bank accounts closed. The CFPB's own research found that half of online payday loan borrowers racked up fees. Their average fees were $185. The proposed rule would require lenders to send a written notice to borrowers notifying them of the upcoming withdrawal. It would also limit the lender to two attempts to collect payment from a borrower's accounts.

But there are areas where the proposed rule needs to be strengthened:

- **Requiring the ability-to-repay criteria on every loan.** The proposed rule has exceptions that could allow a consumer to take out up to six loans before this provision is required. One unaffordable loan can have dire consequences to Ohio families.
- **Increasing protections against loan flipping**. The CFPB's initial proposal required a 60-day cooling off period for short-term loans sequences of three consecutive loans, now it's been cut in half to 30 days before another loan can be offered. This increases the time that a borrower stays in debt. More protections are needed to limit long-term loan refinancing, which can incur even higher fees than short-term loans.
- **Closing the so-called "business as usual loophole".** The proposed rule allows lenders to use past payment seizures (using account debits or post-dated checks) as evidence that a borrower is able to repay. Borrowers have no choice in these transactions and may be left with little to pay their household expenses, which defeats the spirit of the requirement

We’re thankful to the CFPB for working to protect consumers from payday lender abuses. The proposed rule offers important protections. However, we believe more can be done to make the rule stronger. We will continue to work with the CFPB to develop a rule that will guard the financial stability of Ohio families.