Durbin, Democratic Senators warn CFPB against repeal of rule cracking down on predatory payday lending schemes

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WASHINGTON – Today, U.S. Senate Democratic Whip Dick Durbin (D-IL) and 42 of his Senate colleagues sent a letter to Consumer Financial Protection Bureau (CFPB) Acting Director Leandra English and Office of Management and Budget (OMB) Director Mick Mulvaney urging them to end any efforts to undermine and repeal the CFPB's payday lending rule, which represents an important step in reining in predatory business practices by payday lenders nationwide that are designed to exploit the financial hardships facing millions of hardworking families.

"We understand that the CFPB is delaying the rule by granting waivers to companies who would otherwise be taking steps to begin complying with the rule, and that the Bureau may be offering the payday loan industry an opportunity to undermine the rule entirely. We view these actions as further efforts to undermine the implementation of this important consumer protection rule," Durbin and the Senators wrote.

Congress created the CFPB to protect Americans from unfair, deceptive and abusive lending practices. Predatory lenders often target hardworking borrowers who find themselves in need of quick cash—often for things like necessary car repairs or medical emergencies—by charging them excessive interest rates and hidden fees that trap them in long-term cycles of debt. Nearly 12 million Americans use payday loans each year, incurring more than $9 billion annually in fees. The vast majority of payday loans are renewed so many times that borrowers end up paying more in fees than the amount they originally borrowed. This predatory business model exploits the financial hardship facing millions of hardworking American families. The CFPB developed the payday lending rule over the course of five years and reviewed more than 1 million public comments.

“The CFPB’s role in serving as a watchdog for American consumers while making our financial markets safe, fair, and transparent continues to be of critical importance. To this end, we urge you to end any efforts to undermine and repeal this critical consumer protection,”the Senators continued.

The letter also called into question efforts at the CFPB to dismiss ongoing enforcement actions against predatory lenders, calling such actions antithetical to the CFPB’s mission of serving as a watchdog for American consumers.

Joining Durbin on today’s letter include U.S. Senators Jeff Merkley (D-OR), Sherrod Brown (D-OH), Kamala Harris (D-CA), Elizabeth Warren (D-MA), Chris Van Hollen (D-MD), Ed Markey (D-MA), Mazie Hirono (D-HI), Dianne Feinstein (D-CA), Tim Kaine (D-VA), Catherine Cortez Masto (D-NV), Jeanne Shaheen (D-NH), Kirsten Gillibrand (D-NY), Ron Wyden (D-OR), Brian Schatz (D-HI), Martin Heinrich (D-NM), Tina Smith (D-MN), Ben Cardin (D-MD), Tammy Duckworth (D-IL), Bernie Sanders (I-VT), Patty Murray (D-WA), Maggie Hassan (D-NH), Mark Warner (D-VA), Cory Booker (D-NJ), Tom Udall (D-NM), Chris Coons (D-DE), Sheldon Whitehouse (D-RI), Angus King (I-ME), Patrick Leahy (D-VT), Tom Carper (D-DE), Gary Peters (D-MI), Debbie Stabenow (D-MI), Chris Murphy (D-CT), Amy Klobuchar (D-MN), Tammy Baldwin (D-WI), Joe Donnelly(D-IN), Michael Bennet (D-CO), Doug Jones (D-AL), Jack Reed (D-RI), Maria Cantwell (D-WA), Bob Casey (D-PA), and Bill Nelson (D-FL).

Full text of the letter is available below:

March 27, 2018

Leandra English

Acting Director, Consumer Financial Protection Bureau

1700 G Street N.W.

Washington, D.C., 20552

Mick Mulvaney

Director, Office of Management and Budget

725 17th Street N.W.

Washington, D.C., 20503

Dear Ms. English and Mr. Mulvaney:

We write to express concern regarding the announcement that the Consumer Financial Protection Bureau (CFPB) will begin the process of reconsidering and eventually repealing the Bureau's recently finalized Payday, Vehicle Title, and Certain High-Cost Installment Loans rule, also known as the "payday lending rule." We view this action as well as the dismissal of ongoing enforcement actions against predatory lenders as antithetical to the CFPB's mission.

Research has shown that short-term payday loans trap consumers in high-interest debt for long periods of time and can result in serious financial harm, including increased likelihood of bankruptcy. Nearly 12 million Americans use payday loans each year, incurring more than $9 billion in fees. While short-term loans may help families facing unexpected expenses, predatory short-term loans with interest rates exceeding 300 percent often leave consumers with a difficult decision: defaulting on the loan or repeated borrowing. According to the CFPB, nearly 80 percent of payday loans are renewed within 14 days, and at least 27 percent of borrowers will default on their first loan. The CFPB also found that nearly 20 percent of title loan borrowers have had their vehicles seized by the lender when they are unable to repay this debt. The majority of all payday loans are renewed so many times that borrowers end up paying more in fees than the amount they originally borrowed. This predatory business model exploits the financial hardships facing hard working families, trapping them into long-term debt cycles.

The recent financial crisis, during which Americans lost more than $19 trillion in household wealth demonstrated clearly the need for a federal agency whose sole mission is to protect American consumers in the financial marketplace. Congress created the CFPB, granting it the authority to crack down on these types of predatory lending practices.

After conducting a five-year study and reviewing more than 1 million public comments, the CFPB used this vested authority to issue a rule in October 2017 requiring payday and car title lenders to ensure that consumers have the ability to repay each loan and still manage to meet their basic living needs and major financial obligations without needing to borrow again over the next 30-day period. This commonsense requirement is coupled with protections that provide consumers with reasonable repayment options common with other types of credit.

We stand with a majority of our constituents in supporting the final rule and oppose efforts to repeal or undermine the final rule, which protects consumers from predatory payday, title loan, and high-cost installment lenders. Bipartisan polling shows that the CFPB's action to curb predatory lending reflects the will of the vast majority of

Americans. According to a 2017 survey, 73 percent of Americans support the CFPB's rule requiring payday lenders to make sure that consumers have the ability to repay before extending a loan.

We understand that the CFPB is delaying the rule by granting waivers to companies who would otherwise be taking steps to begin complying with the rule, and that the Bureau may be offering the payday loan industry an opportunity to undermine the rule entirely. We view these actions as further efforts to undermine the implementation of this important consumer protection rule.

We are also troubled by the CFPB's recent enforcement actions related to payday lending. The CFPB recently decided to drop a lawsuit filed by the Bureau in 2017 against four payday lending companies in Kansas. These companies were being sued for flouting state laws by running illegal payday lending operations, including charging interest rates between 440 percent and 950 percent. The CFPB also is reportedly halting, without any explanation, a nearly four-year CFPB investigation into allegations that a South Carolina-based payday loan company engaged in deceptive lending practices.

The CFPB's role in serving as a watchdog for American consumers while making our financial markets safe, fair, and transparent continues to be of critical importance. To this end, we urge you to end any efforts to undermine and repeal this critical consumer protection.

Sincerely,