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March 29, 2016

The Honorable Debbie Wasserman Schultz  
United States House of Representatives  
Washington, DC 20515

Dear Representative Wasserman Schultz:

On behalf of The Leadership Conference on Civil and Human Rights, a coalition of more than 200 national advocacy organizations, **we write to urge you to withdraw your cosponsorship of H.R. 4018, the "Consumer Protection and Choice Act."** We understand that you have heard from many advocates, both within Florida and throughout the country, about the troubling approach taken by this bill. Given the serious harm payday lending causes to the communities we represent,<sup>1</sup> and after reviewing H.R. 4018, we must align ourselves with the concerns that have been raised.

H.R. 4018 would impose a two-year moratorium on any rulemaking by the Consumer Financial Protection Bureau (CFPB) that would regulate "deferred presentment transactions" – better known as, but not limited to, so-called "payday loans." After these two years, it would exempt any state from CFPB payday lending regulation if the state has enacted a regulatory system that is similar to the one that currently exists in Florida.

Regardless of the motives behind the 2001 compromise on payday lending in Florida, it is clear that the law has failed to eliminate the fundamental problem: lenders verify that borrowers have a source of income that can be used to repay loans, but they do not verify that borrowers can *afford to repay* their loans while still meeting their other financial obligations such as rent, food, and utilities. As a result, borrowers all too often get stuck in a vicious debt trap, in which they have little choice but to take out additional loans to make ends meet. This often results in the long-term "churning" of loans that generate additional fees for lenders but which cause borrowers to fall even deeper into financial distress.

A May 2012 study of the Florida system by Veritec found that consumers took out an average of 8.8 payday loans between June 2011 and May 2012, and nearly a third of them took out more than 12 loans that year. Consumers who took out 12 or more loans during the year accounted for 62.4 percent of the transactions that were reviewed.<sup>2</sup> The fees for these "churned" loans, over the course of a year, can add up as high as the equivalent of a 300% APR. This is hardly a model for other states to follow, and it certainly does not justify overriding the CFPB's upcoming rulemaking in this area.

<sup>1</sup> In Dec. 2013, the national membership of The Leadership Conference on Civil and Human Rights unanimously approved a resolution calling for increased regulatory oversight of payday lenders. Available at <http://www.civilrights.org/press/2014/payday-lending-resolution.html>

<sup>2</sup> Florida Trends in Deferred Presentment: State of Florida Deferred Presentment Program Through May 2012, Veritec Solutions LLC (May 2012). Available at <http://geerservices.net/veritecs.com/wp-content/uploads/2013/07/2012-FL-Trend-Report1.pdf>



Our concerns with H.R. 4018 go beyond the language of the bill itself. As was the case with H.R. 1737, which aims to overturn the CFPB's guidance to prevent racial discrimination in auto finance, H.R. 4018 also represents a troubling attack on the ability of the CFPB to do its job. While it is certainly the role of Congress to set policy goals, as it did with the passage of the Dodd-Frank Wall Street Reform and Consumer Protection Act, the whole point of establishing the CFPB was to allow the details of those policies to be worked out in a forum that is less vulnerable to the political manipulation and inaction that we witnessed in the years before the 2008 financial crisis. The CFPB now gives consumers a stronger voice than they have in Congress or through other financial regulatory agencies, and unnecessary attempts by Congress to micromanage its work will undermine the very core of Dodd-Frank's consumer reforms – and will ultimately strengthen the hand of those who opposed the creation of the CFPB all along.

The CFPB has repeatedly shown it is willing to listen to industry concerns and to calibrate its policies in response. It does so on the basis of hard evidence, however, and not on the basis of a politicized process in which the interests of vulnerable consumers are given short shrift because they do not have the resources to be heard. If unintended consequences arise from the CFPB's rulemaking on small-dollar lending, CFPB Director Richard Cordray should be given a chance to refine them through the careful and fact-based process he has utilized in other areas of consumer finance.

In closing, we hope you will reconsider your position on H.R. 4018, and remove your name from the list of cosponsors. Thank you for your consideration. If you have any questions, please contact either of us or Senior Counsel Rob Randhava at (202) 466-3311.

Sincerely,

Wade Henderson  
President & CEO

Nancy Zirkin  
Executive Vice President