KAY R. HAGAN
NORTH CAROLINA

SUITE SD-521
DIRKSEN BUILDING
WASHINGTON, DC 20510
(202) 224-6342

United States Senate

WASHINGTON, DC 20510

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Richard Cordray
Director, Consumer Financial Protection Bureau
1801 L St. NW
Washington DC 20220

Director Cordray,

We applaud you for tackling the issue of short-term, small dollar lending early in your term as the Director of the Consumer Financial Protection Bureau (the "Bureau"). Congress created the Bureau to protect Americans from unfair, deceptive and abusive lending practices. We are glad to see the Bureau started with payday lending.

We have fought tirelessly to protect borrowers from abusive payday lending. Payday lenders prey on desperate individuals who find themselves in need of quick cash—often for things like a necessary car repairs or medical care.

Lenders market payday loans as short-term advances, but triple digit interest rates have been shown to trap borrowers in a long-term cycle of debt that can extend beyond a single pay period. Payday lenders recognize that their products are meant to be short-term and acknowledge that repeated or frequent use can create financial hardship for borrowers. Industry data, however, shows that payday loans rarely remain short-term. According to the Center for Responsible Lending, over 60 percent of payday loans go to borrowers with 12 or more transactions per year and 24 percent of payday loans go to borrowers with 21 or more transactions per year.

During the 111th Congress, we introduced the Payday Lending Limitation Act of 2010 (S.3245) to tackle the debt spiral that frequent or repeated use of payday loans can trigger. The bill limited rollovers and prohibited creditors from issuing new payday loans to borrowers with six loans in the previous 12 months or 90 days aggregate indebtedness. It would have ensured that payday loans are consistent with its marketing–"short term."

We appreciate that the Bureau's examination guidance raised the issue of "sustained use."[1] However, the examination guidance took a disclosure-based approach to "sustained use," instead of adopting more stringent measures that would reduce the prevalence of rollovers that trap borrowers in a spiral of debt. The Bureau has broad authority over financial institutions, and yet the Bureau did not bar this unfair, deceptive and abusive practice.

While we applaud you for tackling this issue, we would urge the Bureau to take steps to address the practice of sustained use in a more robust fashion or, in the event that statutory limitations prevent you from doing so, to provide Congress with guidance as to authorities the Bureau needs to more robustly regulate short-term, small dollar loans. It is imperative that we protect consumers from taking on endless, long-term debt that can cause immense financial hardship as a result of loans that were sold as short-term.

Sincerely,

Kay R. Hagan
United States Senator

Richard Durbin
United States Senator

Charles Schumer
United States Senator

[1] The examination guidance defined sustained use as follows: "When a borrower cannot repay a loan by its due date, lenders may allow the borrower to modify or "roll over" the loan by paying an additional fee to extend the loan term. A lender may also engage in a transaction in which a borrower uses the proceeds from a new loan to satisfy and pay off an older loan. If these transaction types are prohibited by state law, a borrower may be asked to repay one loan before opening a new loan. This is often called a back-to-back transaction. All of these borrowing patterns may constitute sustained use. Note that in some instances, lenders may allow borrowers to convert a balloon payment into an installment plan.