

**Congress of the United States**  
**Washington, DC 20515**

April 8, 2016

The Honorable Richard Cordray  
Director  
Bureau of Consumer Financial Protection  
1700 G Street, NW  
Washington, D.C. 20552

Dear Director Cordray:

We write to you today regarding the Bureau of Consumer Financial Protection's ("Bureau") efforts to regulate short-term, small dollar credit products. Specifically, we are concerned with the Bureau's disregard for state and tribal sovereignty and the existing state-based regulatory framework.

As you know, of the 50 states, the legislatures of 35 have affirmatively enacted small dollar, short-term lending laws of varying permutations of protections, including and up to outright bans. The remaining 15 states also address the issue, either by affirmatively declining to enact an authorizing law to govern the industry, or choosing to regulate via more widely applicable caps on lending interest rates. In fact, no state lacks the authority to enact, repeal, or amend its own short-term, small dollar lending laws in order to provide greater protections to its consumers.

Unfortunately, on numerous occasions the Bureau has publicly highlighted its disregard for the current state-based regulatory framework. For example, in an April 23, 2015 hearing in the Financial Institutions and Consumer Credit Subcommittee, Acting Deputy Director Dave Silberman said, "We have not thought about a state that doesn't have the authority." In a March 15, 2016 letter to House Financial Services Committee Chairman Jeb Hensarling you stated, "That is not how we approach these issues." Your regulatory posture ignores the popular voice of states and sovereign Indian tribes that have carefully crafted laws to balance consumer protection and access to credit.

Over the last several years, numerous elected state officials from both parties have written to you expressing concern with the Bureau's efforts. Specifically, they have highlighted concerns with the Bureau's efforts to preempt state laws by setting a federal legal floor. Curiously, the CFPB has, on numerous occasions, refused to concede that it will be preempting any state laws. In testimony on March 16, 2016 before the Financial Services Committee you stated "I don't think we intend to preempt state law." Further, you disagreed with Indiana Attorney General Zoeller's characterization of your efforts as preemption. Yet your own definition of preemption, expressed in testimony at the same hearing, would fit the situation before us today. You said, "Preemption is when the federal government overrides state law and invalidates state law." By setting a federal legal floor, you will override and invalidate state laws that are less restrictive than your federal legal floor. You should recognize this principle from your days as a state attorney general as "conflict preemption". Unfortunately, you have failed to adequately engage state and tribal officials to hear their concerns and ensure your rulemaking respects past efforts in all 50 states and lands held in trust for the benefit of federally-recognized Indian tribes.

To ensure that the perspective of elected state and tribal officials are adequately considered, we respectfully request that the Bureau convene a forum or roundtable comprised of these elected state and tribal officials before any proposed regulation is introduced. A forum of this type will ensure that the Bureau carefully considers the perspectives of these officials as it relates to market trends, access to credit issues, and state regulatory models and experiences. To move forward with a proposed regulation before such forum is held would be irresponsible and disrespectful to the principles of the 10<sup>th</sup> Amendment of the United States Constitution. Please inform us of your plans to convene such a forum by Friday, April 20, 2016.

Sincerely,



Randy Neugebauer  
Member of Congress



Mick Mulvaney  
Member of Congress