ACORN National
Americans for Fairness in Lending
Consumer Action
Consumer Federation of America
Consumers Union
National Association of Consumer Advocates
National Consumer Law Center
National Consumers League
National Fair Housing Alliance
Public Citizen
U.S. PIRG
Woodstock Institute

March 17, 2009

The Honorable Luis Gutierrez
United States House of Representatives
Washington, DC 20515

Dear Representative Gutierrez:

Consumer Federation of America, ACORN National, Americans for Fairness in Lending, Consumer Action, Consumers Union, National Association of Consumer Advocates, National Consumer Law Center, National Consumers League, National Fair Housing Alliance, Public Citizen, U.S. PIRG, Woodstock Institute, and the state and local organizations listed below write in opposition to H.R. 1214, the "Payday Loan Reform Act of 2009." Although this bill shares the same title as H.R. 2871 in the last Congress, it will have the exact opposite impact on consumers. Last session's bill banned loans that involve soliciting cash-strapped consumers to write unfunded checks or to sign over electronic access to bank accounts for quick credit. H.R. 1214, by contrast, condones that predatory loan model and will stall or stop the significant progress that has been made at the state level to curb usurious lending.

H.R. 1214 provides Congressional consent to single payment loans of 390 percent APR for two weeks or 780 percent APR for one week. The loan cap of fifteen cents per dollar loaned in H.R. 1214 authorizes lenders to charge $60 for a typical $400 loan, which is due in one pay cycle. This means that, for the typical borrower with nine loans per year, H.R. 1214 authorizes lenders to collect $540 in finance charges for a $400 loan taken out over an 18-week period.

The bill also purports to limit borrowers to one loan at a time from a single lender and limits borrowers to one extended repayment plan every six months. These provisions will not stop this product from being a debt trap for borrowers because they are easily evaded by the industry. They also fail to address the fundamental problem with the payday lending model--requiring the borrower to repay the entire principle and interest from a single paycheck in just two weeks--that ensures the typical borrower cannot pay back a loan without needing to take out another. In states that have adopted these and other provisions, regulators report an average of 9 loans per borrower each year, with the typical payday loan user engaging in more than one transaction every month.

Lenders can easily evade renewal bans by simply putting the borrower in a series of back-to-back transactions where the borrower pays back the initial loan and then takes out a new loan immediately thereafter. In states with renewal bans, about half of subsequent transactions are opened the same day a previous loan is paid off, and almost 90 percent of subsequent transactions are opened during the same pay period. In addition, borrowers would not be precluded from taking a loan from one lender to pay off an existing payday debt at another payday lending store. With a one loan at a time limitation and a renewal ban provision, it is still possible for borrowers to be indebted to a payday lender every day of the year.

Despite their promise of helping borrowers manage their payday debt, payment plans have also been found largely ineffective in the states in which they have been enacted. A review of regulator data finds that less than five percent of eligible transactions actually take advantage of this option, and at least one state regulator has documented various ways lenders evade these plans.

The industry has largely supported these and other reforms at the state level because they know they are ineffective at stopping the repeated borrowing on which they rely. In states which already employ the greatest measures to curb repeat borrowing, lenders still generate 90 percent of their revenues from borrowers with five or more loans a year, and nearly two-thirds of total revenues from borrowers with 12 or more loans a year. Reforms, such as a two-digit interest rate cap, extending the minimum loan term on all payday loans to allow borrowers several pay periods to repay, and limiting borrowers to five payday loans each year, that might threaten payday lenders' ability to trap borrowers in debt have been opposed by the payday lending industry, which contends these meaningful protections would put them out of business.

Legalizing payday lending at triple digit rates runs counter to President Obama's promise to cap payday lending and other loans at 36 percent annual rates and to existing protections provided by Congress to Service members and their families. In 2006, Congress outlawed loans that are based on holding checks or debit authorization for future payment at the request of the Department of Defense. Our organizations have also endorsed legislation introduced by Senator Durbin (S. 500) to cap rates for all forms of consumer credit at 36 percent, including interest and fees. Last fall, voters in both Ohio and Arizona soundly rejected payday loan industry ballot initiatives that would have continued payday lending at 390 percent APR or higher, despite the fact that they were bombarded with industry messages about "reforms" similar to the provisions of HR 1214.

Federal legislation to authorize payday lending, instead of prohibiting the predatory small loan terms, is particularly counterproductive when the economy is in recession and families can least afford triple-digit rates. A growing body of research demonstrates that taking out payday loans is harmful to borrowers. Using payday loans doubles the risk a borrower will end up in bankruptcy within two years, doubles the risk of being seriously delinquent on credit card payments, and makes it less likely that consumers can pay other bills and get healthcare. Payday loan use also increases the likelihood that consumers' bank accounts will be closed involuntarily. Given the lower bank account penetration rate for minority consumers, this product undermines progress being made to bring unbanked consumers into mainstream financial services.

Although the bill does not preempt stronger state rate caps, it would send a message approving usurious lending at triple-digit rates. The practical impact of Congressional passage of this bill will be to stop the progress of reform in the states. No state has legalized payday lending since 2005. Since then Ohio, Oregon, New Hampshire, and the District of Columbia have either capped rates at low levels or repealed payday lending outright. The Arkansas Supreme Court recently overturned the state's payday loan law for violating the state's constitutional usury cap.

We recognize your long-standing interest in protecting consumers and urge you not to proceed with H.R. 1214. Please let us know if you would like more information.

Sincerely,

Jean Ann Fox
Consumer Federation of America

Lauren Saunders
National Consumer Law Center (on behalf of its low income clients)

Ira Rheingold
National Association of Consumer Advocates

Maude Hurd
ACORN

Pamela Banks
Consumers Union

Edmund Mierzwinski
US Public Interest Research Group

Sally Greenberg
National Consumers League

Jim Campen
Americans for Fairness in Lending (AFFIL)

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Stephen Stetson, Alabama Arise
Leslie Kyman Cooper, Arizona Consumers Council
Karin Uhlich, Center for Economic Integrity, Arizona
Al Sterman, Democratic Processes, Inc., Arizona
Alan Fisher, California Reinvestment Coalition
Nancy Halpern Ibrahim, Esperanza Community Housing Corporation, California
Jim Gordon, Consumer Federation of California
Lynn Drysdale, Consumer Law Unit, Jacksonville Area Legal Aid, Inc., Florida
Bill Newton, Florida Consumer Action Network
Dan McCurry, Chicago Consumer Coalition, Illinois
Lynda DeLaforgue, Citizen Action/Illinois
Brian Imus, Illinois PIRG
Karen Harris, Community Investment Unit, Sargent Shriver Center on Poverty Law, Illinois
Victor Elias, Child and Family Policy Center, Coalition Against Abusive Lending, Iowa
Reverend Larry McGuire, Community of Christ, Inter-Religious Council of Linn County, Iowa
Richard Seckel and Anne Marie Regan, Kentucky Equal Justice Center
Charles Shafer, Maryland Consumer Rights Coalition
Paul Schlaver, Consumer Assistance Council, Massachusetts
Joanne Fox, Massachusetts Consumer Coalition
Paul Schlaver, Massachusetts Consumer Council
Janet Domenitz, MASSPIRG
Ron Elwood, Legal Services Advocacy Project, Minnesota
Michael Ferry, Gateway Legal Services, Inc., Missouri
Kathy Clancy, Mayor's Commission on Human Rights, Springfield, Missouri
Ruhi Maker, Empire Justice Center, New York
Barbara van Kerkhove, Greater Rochester Community Reinvestment Coalition, New York
Florence M. Rice, Harlem Consumer Education Council, Inc., New York
Josh Zinner, Neighborhood Economic Development Advocacy Project, New York
Julia Fitzgerald, Neighbors Helping Neighbors, New York
Russ Haven, New York Public Interest Research Group (NYPIRG)
Deb Howard, Pratt Area Community Council, New York
Bill Faith, Coalition on Homelessness and Housing in Ohio
Walter F. Brown, Oregon Consumer League
Corky Neale, Memphis Responsible Lending Coalition, Tennessee
Irene Leech, Virginia Citizens Consumer Council
LaTonya Reed, Virginia Interfaith Center for Public Policy
Dana Wiggins, Virginia Partnership to Encourage Responsible Lending
James W. Speer, Virginia Poverty Law Center
Danielle Friedman, Alliance to Prevent Predatory Lending, Washington
Maya Baxter, Statewide Poverty Action Network, Washington
Jill Miles, Office of West Virginia Attorney General
Peter M. Koneazy, Legal Aid Society of Milwaukee, Inc., Wisconsin

CC: Representative Yvette D. Clarke
Representative Keith Ellison
Representative Maurice D. Hinchey
Representative Gregory W. Meeks
Representative Albio Sires
Representative William Lacy Clay
Representative Raul M. Grijalva
Representative Kendrick B. Meek
Representative David Scott
Representative Edolphus Towns
Representative Gary L. Ackerman
Representative Bennie G. Thompson

House Financial Institutions and Consumer Credit Subcommittee