

Congress of the United States

Washington, DC 20510

January 31, 2018

Ms. Leandra English
Acting Director
The Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552

The Honorable Mick Mulvaney
Director
Office of Management and Budget
725 17th Street, NW
Washington, DC 20503

Dear Acting Director English and Director Mulvaney,

We write regarding the CFPB's recent actions to benefit payday lenders. In the last month, the CFPB halted implementation of the agency's final rule preventing abusive payday lending (the "Payday Rule"); announced its intention to initiate a rulemaking process that appears designed to weaken the Payday Rule; voluntarily dismissed a case against four payday lenders who had allegedly misled customers and charged interest rates approaching 1000%; and halted an investigation into a high-cost installment lender whose abusive business practices trapped its customers into years of debt. These actions have unwound years of careful CFPB work – all to benefit an industry that has close ties to Mr. Mulvaney and that has contributed more than \$60,000 to his political campaigns.

For too long, some payday, auto title, and installment lenders have taken advantage of American workers who need a little extra money to pay an unexpected medical bill or fix their car. In a report prepared for the Payday Rule rulemaking, CFPB found that most payday loan borrowers can't afford to pay the loan back and 80 percent of them roll the balance over into a new payday loan within 14 days of it coming due, racking up a new set of fees.¹ Half of all payday loans are made to borrowers who roll over their loans at least nine times.² For too many families, one unexpected expense or tight week traps them in a cycle of debt that lasts months or years.

The rule finalized by the CFPB last October was carefully balanced to end that cycle of debt while ensuring that borrowers retain access to needed credit. In the preamble to the rule, CFPB noted that "lenders that make covered short-term loans have developed business models that deviate substantially from the practices in other credit markets by failing to assess consumers' ability to repay their loans according to their terms and by engaging in harmful

¹ http://files.consumerfinance.gov/f/201403_cfpb_report_payday-lending.pdf

² http://files.consumerfinance.gov/f/201403_cfpb_report_payday-lending.pdf

practices in the course of seeking to withdraw payments from consumers' accounts.³ To address these concerns, the rule requires many lenders to underwrite their loans and ensure that a borrower can repay most or all of their balance on time while still being able to afford basic living expenses and other financial obligations.⁴ It also prevented lenders from repeatedly trying to debit funds from borrowers' bank accounts if there are insufficient funds to pay the loan, which racks up unnecessary and unfair fees and sometimes leads to the closure of the account.⁵

The CFPB spent five years honing the Payday Rule, conducting research and reviewing over one million comments from all types of stakeholders: from payday lenders, to state regulators, to faith leaders.⁶ This work produced a targeted and balanced rule that will keep many American families from falling into debt traps and gained the support of faith leaders and civil rights groups across the country.

On January 16, 2018 – the day the rule was to go into effect – the CFPB announced that it “intends to engage in a rulemaking process so that the Bureau may reconsider the Payday Rule,” and that it would “entertain waiver requests” from entities subject to the rule’s requirements.⁷ That announcement came just weeks after Mr. Mulvaney told reporters in December that, after a briefing with CFPB legal staff, he had concluded that only Congress could control the fate of the Payday Rule because “it was fairly far out the door by the time” he took control of the agency.⁸

Two days after it suddenly reversed course on the Payday Rule, the CFPB filed notice in a trial court in Kansas to “voluntarily dismiss[]” its case against four installment lenders: Golden Valley Lending, Inc., Silver Cloud Financial, Inc., Mountain Summit Financial, Inc., and Majestic Lake Financial, Inc.⁹ In the complaint the CFPB filed last April in the case, it alleged that these online installment lenders attempted to collect loans that were void under state law.¹¹ The loans offered by these companies had APRs between 440% and 950%, and were not appropriately disclosed to customers. Many states have laws governing installment lenders, including interest rate caps that are below the rates charged by these companies, making the loans void. The companies nonetheless attempted to collect in an abusive and unlawful manner.

Likewise, on January 22, 2018, the World Acceptance Corporation announced in a press release that it had been informed by the CFPB that “the investigation into the company’s marketing and lending practices ha[d] been completed.¹²” The CFPB had opened an

³ <https://www.federalregister.gov/documents/2017/11/17/2017-21808/payday-vehicle-title-and-certain-high-cost-installment-loans>

⁴ <https://www.consumerfinance.gov/about-us/newsroom/cfpb-finalizes-rule-stop-payday-debt-traps/>

⁵ <https://www.consumerfinance.gov/about-us/newsroom/cfpb-finalizes-rule-stop-payday-debt-traps/>

⁶ <https://www.consumerfinance.gov/about-us/newsroom/cfpb-finalizes-rule-stop-payday-debt-traps/>

⁷ <https://www.consumerfinance.gov/about-us/newsroom/cfpb-statement-payday-rule/>

⁸ <https://www.americanbanker.com/news/cfpbs-mulvaney-backs-congressional-repeal-of-payday-lending-rule>

⁹ *Consumer Financial Protection Bureau v. Golden Valley Lending, Inc. et al.*, 17-cv-221-JAR, ECF No. 101 (D. Ks, Jan. 18, 2018).

¹⁰ http://files.consumerfinance.gov/f/documents/201704_cfpb_Golden-Valley_Silver-Cloud_Majestic-Lake_complaint.pdf

¹¹ *Id.*

¹² <https://www.businesswire.com/news/home/20180122006623/en/Consumer-Financial-Protection-Bureau-Investigation-World-Acceptance>

investigation into the company, which provides high cost installment loans, in 2014¹³ following public reports that it sold customers unaffordable loans and that it engaged in aggressive collection practices.¹⁴ Director Mulvaney received political donations from World Acceptance Corporation's political action committee while a member of Congress,¹⁵ including during CFPB's investigation.¹⁶

We have a number of questions about the sudden reversal of the CFPB's positions on the Payday Rule, the payday lending case and the installment loan investigation. The agency barely explained its Payday Rule reversal in a vague two-paragraph January 16 press release, and it voluntarily dismissed its case with a one-sentence filing in court and no accompanying public explanation. The agency didn't comment publicly at all about why it dropped the investigation into World Acceptance Corporation. In addition, Mr. Mulvaney has not yet answered Senator Warren's November 28th inquiry about his ethics arrangements and recusals, and we are concerned that reversing the rule and dismissing the case are connected to the nearly \$63,000 in campaign contributions that payday lenders gave to Mr. Mulvaney's campaigns, including the \$4,500 donated by World Acceptance Corporation's political action committee, while he was serving on the House Financial Services Committee.¹⁷

To allow us to better understand the rationale for this precipitous reversal by CFPB on payday loans, please provide answers to the following questions no later than February 9, 2018.

1. What caused Mr. Mulvaney to reverse his prior position that only Congress has the ability to delay or reverse the CFPB Payday Rule?
 - a. Please provided a list of CFPB personnel and OMB personnel who provided legal advice with respect to the Payday Rule prior to December 4, 2017, and a summary of the advice they provided.
 - b. Please provide a list of all the meetings where Mulvaney, Kirsten Mork, Emma Doyle, Eric Blankenstein or Brian Johnson were present and the Payday Rule was discussed, including the date, time, and other attendees at the meeting, and a summary of the content of those meetings.
2. What analysis did CFPB undertake before deciding to halt the Payday Rule on January 16? What did these analyses conclude about the impact of the decision on lenders and borrowers?
3. Did Mr. Mulvaney or other officials meet with or communicate with representatives of the payday loan industry prior to the January 18 decision to dismiss the case against Golden Valley Lending, Inc., Silver Cloud Financial, Inc., Mountain Summit Financial, Inc., and Majestic Lake Financial? If so, please provide a list of all such meetings, and a brief discussion of their content?
4. Did Mr. Mulvaney or other officials meet with or communicate with representatives of World Acceptance Corporation or the installment loan industry prior to the January 22

¹³ <https://www.americanbanker.com/news/cfpb-drops-probe-into-lender-that-gave-to-mulvaney-campaigns>

¹⁴ <https://www.propublica.org/article/installment-loans-world-finance>

¹⁵ <https://www.americanbanker.com/news/cfpb-drops-probe-into-lender-that-gave-to-mulvaney-campaigns>

¹⁶ <https://www.opensecrets.org/pacs/pacgot.php?cmte=C00370577&cycle=2014>

¹⁷ <https://www.opensecrets.org/industries/summary.php?ind=f1420&cycle=All&recipdetail=H&mem=Y>

decision to drop the investigation into the case? If so, please provide a list of all such meetings, and a brief discussion of their content?

5. Please provide all communications related to the discussion of the Payday Rule, the dismissal of the Kansas case, and the halting of the investigation into World Acceptance Corporation, including email on personal or official accounts from custodians Mulvaney, Mork, Doyle, Blankenstein or Johnson that contain the words "payday," "Small dollar," "installment," "auto," "vehicle," "Golden Valley," "Silver Cloud," "Mountain Summit," "Majestic Lake," or "World Acceptance."

Thank you for your attention to this matter.

Sincerely,

Elizabeth Han

Moxine Water

Richard Blumenfeld

Bill Z...

Jeffrey A. Murbles

Keith Ellison