December 8, 2009

The Honorable Luis V. Gutierrez
Chairman
Subcommittee on Financial Institutions and Consumer Credit
House Committee on Financial Services
2266 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Gutierrez:

Consumer Federation of America and Consumers Union support your Amendment 138 to H.R. 4173 aimed at preventing payday loans from being a debt trap for borrowers and to make payday loan reform a top priority for the new Consumer Financial Protection Agency. Your legislation extends the Federal Deposit Insurance Corporation's safety and soundness standard for payday loans to all bank and non-bank lenders to help break the payday loan debt cycle that afflicts many borrowers.

We support legislation to ban loans based on unfunded checks or compulsory debits that give payday lenders first claim to a consumer's next paycheck and to establish a federal rate cap of 36 percent including loan fees. While our organizations strongly support extending these Military Lending Act protections to all Americans, your legislation is a strong interim reform to curb predatory payday lending from becoming a debt trap for consumers. The key provisions of Amendment 138 work together to protect consumers from repeat high-cost payday lending, so we would need to withdraw our support if any of these essential provisions were weakened by amendments.

Key protections in Amendment 138 include but are not limited to:

1. Covers short-term loans that cost over 36 percent inclusive of fees and closes loopholes exploited by payday lenders to evade consumer protections.
2. Limits payday loans to the FDIC guideline of 6 loans or 90-days of indebtedness per twelve-month period and provides an enforcement tool needed to make this limit effective.
3. Prohibits lenders from creating unsigned checks to extract funds from borrowers' bank accounts and closes the single payment loophole in the Electronic Fund Transfer Act.
4. Explicitly permits states to enact stronger protections, to cap rates for loans, and to prohibit payday lending, and authorizes state Attorneys General and state credit regulators to enforce the bill's protections.
5. Requires lenders to determine borrowers' ability to repay in deciding whether to extend high-cost credit.
6. Requires the CFPA to conduct a study of payday lending within the first year of operation and to propose any rules needed to further protect consumers.

Thank you for offering a strong amendment to make payday loan reform a priority for the new Consumer Financial Protection Agency and for imposing interim limits to curb repeat lending which is the hallmark of payday lending.

Sincerely,

Jean Ann Fox
Director of Financial Services
Consumer Federation of America

Pam Banks
Senior Policy Counsel
Consumers Union

cc: The Honorable Barney Frank, Chairman, House Committee on Financial Services

House Rules Committee