June 24, 2015

Sent Via E-mail

California Department of Business Oversight
Attn: Dan Warren, Legal Division
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RE: INVITATION FOR COMMENTS (PRO 04/08)

The signatories listed below write this letter in response to the Department of Business Oversight's Invitation for Comments on Proposed Rulemaking under the California Deferred Deposit Transaction Law (PRO 04/08).

The undersigned are in support of the DBO's most recent changes to the draft text, which would help protect consumers from some of the most dangerous payday loan practices, including electronic access to a borrower's checking account, and the extension of multiple loans to the same consumer at one time. The changes would clarify the legally permitted payment method by which payday loans can be secured in California, and would provide the Department with a sorely needed enforcement mechanism to ensure industry compliance with the Deferred Deposit Transaction Law's "one loan at a time" provision.

1. **Payday loans are dangerous and harmful.** Payday loans are designed to create a long term debt trap. Because payday lenders do not underwrite to determine whether borrowers have the ability to repay the loans, the typical California borrower gets trapped in debt and takes an average of 7-10 payday loans per year. Academic researchers studying payday lending have found that taking a payday loan leads to significant economic harms even beyond the debt trap for payday borrowers, including higher default rates, more credit card or other delinquencies, more overdrafts and loss of bank accounts.

2. **We support the prohibition by regulation of the use of electronic fund transfers, including Automated Clearing House transactions; prepaid debit cards; debit cards; remotely created checks; remotely created purchase orders; and credit cards in a deferred deposit transaction for any purpose, including in the origination, funding or repayment of a payday loan.** We agree that these modes of transaction are not permitted under existing law, which refers only to "a transaction whereby a person *defers depositing a customer's personal check*," and that the Department, therefore, is right to clarify that the CDDTL does not authorize these alternative payment methods. By restricting the use of these transactions, the DBO will help put a check on the unlawful expansion of payday loans that has occurred in recent years, and will limit the population of payday loan consumers who might be harmed by the payday loan debt trap.

3. **We support the Department's proposal to establish a common industrywide database for tracking payday loan transactions, and enforcing violations of the**

CDDTL. The short-term, high-cost, balloon payment structure of payday loans already poses significant financial risk for consumers. The extension of multiple payday loans by different lenders to the same consumer only worsens the consumer's financial situation, and makes it more difficult for the consumer to spring the payday loan debt trap. California law specifically provides that a lender shall not make a payday loan to someone who already has one outstanding, but the regulator has not had the ability to enforce this historically. A database would enable licensees to determine whether the loan applicant already has an outstanding payday loan across the spectrum of lenders, and is a necessary tool to enforce the existing statute. The DBO has the authority to establish the data in furtherance of its enforcement and oversight responsibilities.

We urge the Department to proceed with these changes, and we appreciate the Department's leadership.

Sincerely,

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