

Congress of the United States
Washington, DC 20515

August 22, 2013

The Honorable Eric Holder
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

The Honorable Martin J. Gruenberg
Chairman
Federal Deposit Insurance Commission
550 17th Street, NW
Washington, D.C. 20429

Dear Attorney General Holder and Chairman Gruenberg:

It has come to our attention that the Department of Justice (DOJ) and Federal Deposit Insurance Corporation (FDIC) are leading a joint agency effort that, according to a DOJ official, is intended to “change the structures within the financial system...choking [online short-term lenders] off from the very air they need to survive.”¹ Your efforts to stop banks from processing these lawful transactions would destroy many legitimate, legally compliant companies and small businesses, and adversely impact tens of millions of low-income American families who depend on short-term credit provided by online lenders because they do not qualify for traditional loans or credit cards.

More than one in four American households conducts some or all of their financial transactions outside the mainstream banking system, according to the results of the FDIC's 2011 National Survey of Unbanked and Underbanked Households. If the government cuts off underserved consumers' credit options, it will force many Americans who live paycheck-to-paycheck to turn to unregulated and unsafe alternatives that are much more expensive than currently available short-term credit products.

We are especially troubled by reports that the DOJ and FDIC are intimidating some community banks and third party payment processors with threats of heightened regulatory scrutiny unless they cease doing business with online lenders. As a result, many banks and payment processors are terminating relationships with many of their long-term customers who provide underserved consumers with short-term credit options.

We understand that, as with any industry, there are bad actors in online and nondepository lending. We support your efforts to protect consumers with disclosure rules that protect consumers by giving them full information. We also believe in strong enforcement of existing laws designed to prevent abusive lending. However, it is highly inappropriate to pre-judge an entire industry, or significant portions of it. Your current actions would eliminate the basic processing services that legitimate lenders rely upon to serve millions of Americans. A much more targeted approach is required.

¹ Alan Zibel and Brent Kendall, *Prosecutors Target Firms that Process Payments for Online Payday Lenders, Others*, Wall Street Journal, Aug. 8, 2013, at A1.

Regulators must be especially careful not to impose undue restrictions on online credit services because many underserved consumers find it more convenient to go online than to drive to a storefront lender, and they enjoy the convenience and privacy that only the Internet can provide. These competitive advantages have made internet lending a nationwide and global business.

Underserved consumers need more access to innovative and better-suited financial products and services, not less. Federal banking regulators such as the FDIC should focus on finding creative, realistic ways to help low-income families make ends meet, instead of cutting off access to legal online lenders.

Your actions to “choke off” short-term lenders by changing the structure of the financial system are outside your congressional mandate. With the enactment of the Dodd-Frank Act, Congress acknowledged the need for short-term credit products and did not try to limit online lender’s or storefront operators’ ability to offer such products.

Dodd-Frank also included a specific provision designed to prohibit the Consumer Financial Protection Bureau (CFPB) from imposing rate limitations on short-term loans. Neither Dodd-Frank, nor any other legislation passed by Congress, has given the DOJ, FDIC or any other federal agency the authority to “take away the very air” that online lenders “need to survive.”

Given the threat that the overreaching actions taken by your agencies pose to low-income American families who depend on short-term, online credit to pay their bills and feed their families, we ask that you promptly suspend any activities that could deny any lawfully operating lenders access to the payments system. Additionally, we strongly encourage your agencies to immediately stop any actions designed to pressure banks and payment processors to terminate business relationships with lawful lenders.

We take the actions of your agencies very seriously and look forward to a detailed and prompt response. Additionally, we request that your agencies contact Chris Brown of Rep. Luetkemeyer’s staff (ChrisBrown@mail.house.gov or 202.225.2956) or Lara Driscoe of Rep. Yoder’s staff (LaraDriscoe@mail.house.gov or 202.225.2865) to arrange a staff briefing on this matter.

Thank you in advance for your consideration and timely response.

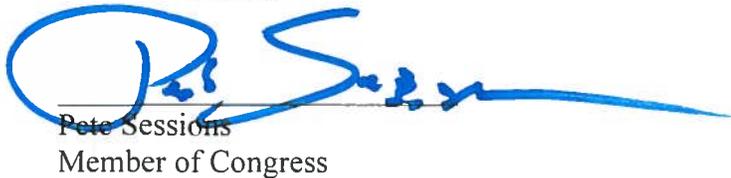
Sincerely,



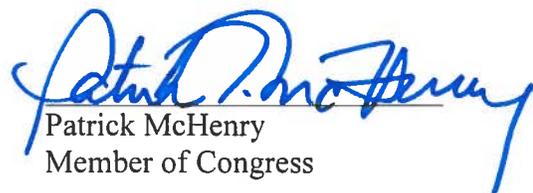
Blaine Luetkemeyer
Member of Congress



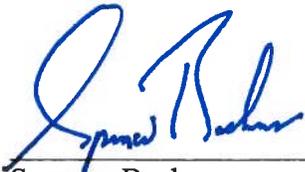
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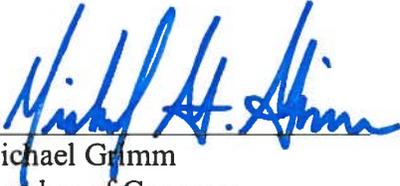
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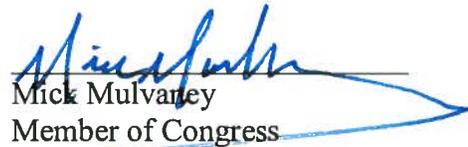
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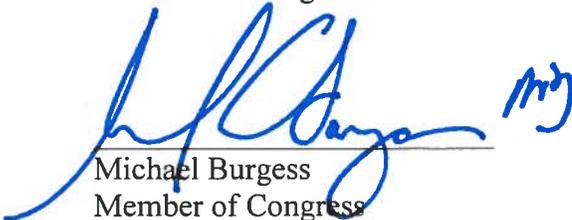
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