INFiN℠ A Financial Services Alliance

April 11, 2022

<u>Submitted via Federal E-rulemaking Portal (www.regulations.gov)</u>
Comment Intake —Fee Assessment
Consumer Financial Protection Bureau
1700 G Street NW
Washington, DC 20552

RE: Request for Information Regarding Fees Imposed by Providers of Consumer Financial Products or Services; Docket Number CFPB–2022–0003

Dear Director Chopra:

This comment letter is submitted on behalf of INFiN, A Financial Services Alliance ("INFiN"), in response to the Consumer Financial Protection Bureau's ("Bureau") Request for Information Regarding Fees Imposed by Providers of Consumer Financial Products or Services, regarding fees that the Bureau believes are not subject to competitive processes that ensure fair pricing, published in the Federal Register on February 2, 2022 (the "RFI").[1] INFiN appreciates the opportunity to comment in response to the RFI.

INFiN, A Financial Services Alliance

INFiN is the leading national trade association representing the diverse and innovative consumer financial services industry. INFiN's membership includes more than 350 companies operating approximately 8,000 locations throughout the United States and online.[2] As discussed below, INFiN members offer critical access to financial services to millions of Americans, particularly middle-income working families, who are often underserved by banks and credit unions and who value the wide range of services provided by community-based financial service providers. Consumers choose these providers because they are affordable, offer integrated services through multiple convenient channels, and deliver services in a transparent and regulated environment.

The consumer financial services offered by INFiN members include check cashing, money orders, pre-paid cards, electronic bill payments, ATM access, government benefit and payroll payments, tax preparation, deposit acceptance services, and small-dollar loans including payday, installment, and auto title loans, among others. These simple, popular financial solutions play an integral role in the financial lives of millions of American households, helping them to manage their financial obligations and challenges and

[1] *Request for Information Regarding Fees Imposed by Providers of Consumer Financial Products or Services*, 87 Fed. Reg. 5801 (February 2, 2022).
[2] For more information visit www.infinalliance.org.

providing essential financial inclusion and stability. Millions of hardworking consumers, particularly middle-class families, choose to use consumer financial services because these products and services match their needs, and they are highly satisfied with the way in which their transactions are conducted.

The COVID-19 pandemic and current economic climate have further highlighted the critical role consumer choice and consumer access to credit play in helping Americans cope with unexpected income or expense shocks. By providing a source of credit to consumers with low credit scores and no viable alternatives, small-dollar loans expand financial choices and allow individuals to better manage their cash flow in the face of volatile income and expenses. Moreover, non-bank financial service providers such as INFiN members have been designated by the U.S. Treasury Department and by governors and regulators across the country as essential and part of the nation's critical infrastructure. During the initial period of COVID-19, INFiN members remained open to serve consumers even while many more traditional financial institutions, such as banks and credit unions, closed branches or operated on limited days and hours. The performance of the industry under these circumstances demonstrates the valuable services provided to consumers who trust and choose to use them.

INFiN members take CFPB's concerns about fees paid by consumers and the need for transparency in financial transactions seriously and, in fact, share those concerns. The products and services offered by INFiN members are accessible, convenient, and affordable. Fees charged by INFIN members are disclosed up front in accordance with the multiple federal and state laws, INFiN Best Practices[3], and other disclosure requirements. The types of fees referenced, and concerns raised, in the CFPB's RFI are not present in small-dollar loans and other products offered by INFIN members.

I. Small-Dollar Loans Do Not Involve "Junk Fees," Fees are Disclosed Clearly Prior to the Transaction

INFiN Members are Regulated at the State and Federal Levels. The most fundamental aspect of INFiN members is that they are licensed and regulated in the jurisdiction in which their customers reside and, as such, are subject to consumer protection laws throughout the U.S. As licensed and regulated financial service providers, INFiN members are accessible to regulators and law enforcement for supervision, examination, and enforcement.

Small-dollar loans are subject to state laws that govern all aspects of the products. For example, some states cap the size of small-dollar loans at an absolute amount or as a percentage of a borrower's monthly income. Other states further regulate the industry by: limiting the number of loans a person may have outstanding at a particular time; prohibiting rolling over or renewing a loan without a "cooling-off" period (typically one or two days);

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[3] INFiN's Best Practices are available at https://infinalliance.org/Dev/Resources/Best-Practices/Dev/Content/Best-Practices.aspx?hkey=be92a443-4f3f-4b9e-8f14-a487d956346c.

granting consumers a right to rescind a loan transaction within a reasonable time; or mandating extended or other alternative repayment options.

In offering small-dollar credit products, INFiN members also comply with a myriad of applicable federal consumer financial protection laws. Federal laws applicable to small-dollar loan products include: The Dodd Frank Wall Street Reform and Consumer Protection Act ; The Truth in Lending Act; Military Personnel Financial Services Protection Act; Fair Debt Collection Practices Act; Fair Credit Reporting Act; Equal Credit Opportunity Act; and the Consumer Credit Protection Act. Taken together, all of these laws, along with the state laws creating or otherwise authorizing small-dollar loan products, serve to protect consumers from the types of harms the CFPB is concerned about at this time.

INFiN Members Provide Clear, Upfront Disclosures. Fees for small-dollar loans are clearly disclosed prior to any consumer's decision to enter a transaction. Most importantly, the federal Truth in Lending Act ("TILA") requires that all costs of credit be disclosed in a prescribed "TILA box," thereby showing the rate, finance charge, amount financed, and total to be paid. By law, tthese disclosures must be provided to the borrower prior to the transaction. INFiN members prominently display all costs of credit in easy-to-read signage in storefront locations and websites. For virtually all small-dollar loans, the governing laws require clear, upfront disclosure of all fees and charges.

No After-Purchase Fees. Once a customer enters a transaction, including any fees disclosed up-front, INFiN members charge no other fees. The types of fees the Bureau expresses concern about in the RFI are "back-end fees," which are fees imposed after a customer selects a particular product, such as late fees (imposed after a customer chooses a credit product) or overdraft fees (imposed after a customer chooses a checking account). Small-dollar lenders do not charge these "back-end fees."

INFiN Members Comply with a Detailed Set of Best Practices. INFiN members also comply with a through and detailed set of Best Practices, which embody our commitment to the customers that our members serve. INFiN's Best Practices promote transparency and offer additional and enhanced consumer protections in each transaction. With respect to the disclosure of fees and costs, the INFiN Best Practices provide, in pertinent part:

> 3. **TRUTHFUL ADVERTISING AND FULL DISCLOSURE**. A member will not knowingly advertise a financial product or service in any unfair, deceptive, or false manner. Additionally, a member will fully disclose the fees and costs of financial products and services in a clear and conspicuous manner in compliance with all state and federal laws and regulations. A member will comply with the applicable disclosure requirements of each state in which its products and services are offered and with applicable federal disclosure requirements including the Federal Truth in Lending Act and the Electronic Fund Transfer Act (Regulation E).

11. **SMALL-DOLLAR LOANS.** Members that offer small-dollar loan products ("small-dollar loans"), including single payment loan products ("single payment loans") and multi-payment products ("installment loans"), shall abide by the following additional Best Practices:

a. **REQUIRED DISCLOSURE**. For all small-dollar loans, a contract between a member and the customer must fully and completely set forth the terms of the transaction. Members shall disclose the cost of the service fee both as a dollar amount and as an annual percentage rate ("APR") in accordance with the Federal Truth in Lending Act, and other applicable law.

II. Small-Dollar Loans are Among the Least Complained About Credit Products

Consumer complaint data involving small-dollar loans illustrate that such products are among the least complained about loan products, and consumers overwhelmingly praise the flexibility they provide. For instance, in its consumer complaint report that analyzed complaint volume changes during the COVID-19 pandemic, the Bureau stated that in "March and April 2020, the Bureau's Office of Consumer Response received approximately 36,700 and 42,500 complaints, respectively — the highest monthly complaint volumes in the Bureau's history."[4] Despite the Bureau receiving a record number of consumer complaints, payday loans were one of only three product categories that showed a decrease in the number of consumer complaints.[5]

The CFPB's March 2021 consumer complaint annual report, which provides an in-depth examination of data from its consumer complaint database, revealed that **only 0.3 percent of all complaints the CFPB received in 2020 involved small-dollar (payday) lenders**, a 24 percent decline since 2019.[6] Further, the Bureau's March 2022 annual report indicated an even smaller amount of consumer complaints related to payday lending – representing only 0.2 percent of all complaints received in calendar 2021.[7]

Similarly, the Federal Trade Commission received only 5,942 consumer reports regarding payday loans in 2021 – representing just 0.10 percent of the record over 5.7 million consumer reports the FTC received last year. And, only 895 complaints – or 0.08 percent of the nearly 1.2 million complaints the Better Business Bureau received in 2020 – pertained to payday loans.

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[4] BUREAU OF CONSUMER FIN. PROT., COMPLAINT BULLETIN, COMPLAINTS MENTIONING CORONAVIRUS KEYWORDS 5 (2020), https://files.consumerfinance.gov/f/documents/cfpb_complaint-bulletin_coronavirus-complaints.pdf

[5] *Id.* at 6.

[6] BUREAU OF CONSUMER FIN. PROT., CONSUMER RESPONSE ANNUAL REPORT, JAN. 1- DEC. 31, 2020 , 83 (MARCH 2021), https://www.consumerfinance.gov/data-research/research-reports/2020-consumer-response-annual-report/.

[7] BUREAU OF CONSUMER FIN. PROT., CONSUMER RESPONSE ANNUAL REPORT, JAN. 1- DEC. 31, 2021, 63 (MARCH 2022), https://www.consumerfinance.gov/data-research/research-reports/2021-consumer-response-annual-report/.

III. Numerous Studies Illustrate that Consumers Understand the Nature of Small-Dollar Loans

Empirical research also shows that small-dollar loan borrowers understand the nature of the product, including that their loan indebtedness may last longer than the two-week or thirty-day initial term of the loan, and accurately predict how long it will take to repay their loans. For example, in one survey of over 1,000 borrowers who had recently repaid a small-dollar loan (without further reborrowing), a research group asked consumers if they had accurately predicted how long it would take them to "completely repay the loan."[8] Of these borrowers, 94% responded that they were able to repay their small-dollar loan in the amount of time they had expected.[9] Additionally, over 90% responded that they used small-dollar lending responsibly, carefully weighed the risks and benefits of taking out a small-dollar loan and considered the overall costs they would incur before taking out a small-dollar loan. These borrowers reported high levels of satisfaction with small-dollar lenders in general and their experience with small-dollar loans.[10]

A similar, more recent survey found the same results.[11] The majority of borrowers "completely understood how long it would take to pay off the payday loan" and "completely understood the finance charges" they would pay, and the "payday lender clearly explained the terms of the loan."[12] The overwhelming majority of small-dollar loan borrowers also reported that they "carefully thought about the risks and benefits" before taking out the loan.[13] Finally, 96% of borrowers reported that small-dollar loans had been very useful or somewhat useful to them.[14]

Likewise, in a survey of consumers who had used a small-dollar loan at least once in the preceding year, borrowers reported that they had accurately predicted how long it would take them to pay off their loan, and also reported high levels of satisfaction with the product.[15] A large majority of small-dollar loan borrowers reported the loan as costing no more than expected; 68% of borrowers repaid their loans in the same or less time than they had expected; and 77% of loan borrowers said they would use the product again.[16]

In sum, millions of consumers responsibly rely on small-dollar loans and small-dollar loan sequences as superior alternatives for meeting their credit needs. Consumers overwhelmingly praise the product and understand and appreciate the costs and risks.

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[8] Harris Interactive, Payday Loans and the Borrower Experience (Dec. 2013).
[9] Id.
[10] Id.
[11] See Tarrance Group et al., Borrower & Voter Views of Payday Loans (2016).
[12] Id. at 19.
[13] Id.
[14] Id. at 17.
[15] Rob Levy & Joshua Sledge, A Complex Portrait — An Examination of Small-Dollar Credit Consumers (Ctr. for Fin. Serv. Innovation, Aug. 2012).
[16] Id. at 21.

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Conclusion

On behalf of INFiN, thank you again for the opportunity to comment in response to the RFI. Please do not hesitate to contact us if you would like to discuss any aspect of this letter.

Respectfully submitted,

Edward P. D'Alessio
Executive Director