INFiN℠ A Financial Services Alliance

July 26, 2021

The Honorable Sherrod Brown
Chairman
U.S. Senate Committee on Banking,
Housing and Urban Affairs
Washington, D.C. 20510

The Honorable Pat Toomey
Ranking Member
U.S. Senate Committee on Banking,
Housing and Urban Affairs
Washington, D.C. 20510

Re: Fee and Interest Rate Cap Legislation

Dear Chairman Brown and Ranking Member Toomey:

On behalf of INFiN, a Financial Services Alliance, we are writing to voice strong opposition to the proposed legislative measures seeking to impose a cap on fees and interest that may be charged on consumer loans, and in particular proposed bills seeking to impose a cap of 36 percent (collectively the "Bills"). [1] These bills would deny millions of U.S. consumers access to the regulated, short-term, small-dollar credit on which they occasionally rely, and would decimate a regulated industry that employs tens of thousands of Americans throughout the United States.

The proposed national interest rate cap legislation embodies the ineffectual restrictions on consumer credit, adopted in the name of consumer protection, that never work – unless the goal is to eliminate regulated credit options. Under such a rate cap, consumers' need for credit will not disappear. Instead, they will be left to face the hefty costs and consequences associated with unmet bills, late payments, or illegal loans, as has been the case under every similar restriction.

Consumers' Need for and Satisfaction with Short-Term, Small-Dollar Credit

Many hard-working families across the country struggle to make ends meet and live paycheck to paycheck. The Federal Reserve reported nearly four in 10 American adults do not have $400 to cover an unexpected expense without selling something or borrowing money.[2] **In today's credit market, regulated consumer financial services providers such as INFiN members provide hardworking, middle-income consumers with critical access to credit when other financial institutions do not fully serve them.** This has been especially important during the pandemic; it is why the federal government, and the governments of all 50 states, designated our members' operations as essential.[3] While fewer people are currently choosing small-dollar loans, it is

---

[1]About INFiN. www.infinalliance.org

[2] The Federal Reserve. (2020) Report on the Economic Well-Being of U.S. Households in 2020. Accessed at: https://www.federalreserve.gov/publications/2021-economic-well-being-of-us-households-in-2020-dealing-with-unexpected-expenses.htm

[3] See Cybersecurity & Infrastructure Security Agency, Guidance on the Essential Critical Infrastructure Workforce, available at https://www.cisa.gov/publication/guidance-essential-critical-infrastructure-workforce, and Statement by Steven T. Mnuchin on Essential Financial Services Workers, issued March 24, 2020, available at https://home.treasury.gov/news/press-releases/sm956.

1909 K Street, NW, 4th Flr., Washington, DC 20006 ■ o. 202-327-9708 ■ www.infinalliance.org

important that those who do need such loans now, and in the future, are able to access regulated forms of credit from transparent and licensed lenders.[4]

Borrowers across the country appreciate regulated small-dollar loans for their simplicity, cost-competitiveness, and transparency. In research from Global Strategy Group (D) and Tarrance Group (R), 94 percent of those surveyed felt that small-dollar loans can be a sensible decision when consumers are faced with unexpected expenses, and 96 percent said they fully understood how long it would take to pay off their loan and the finance charges they would pay before taking out the loan.[5] Regulated small-dollar loans are also the subject of very few consumer complaints. In 2020, just 0.3 percent of consumer complaints received by the Consumer Financial Protection Bureau ("CFPB"), our industry's federal regulator, were about small-dollar lenders.[6]

Regulated Small-Dollar Lending and Impact of a Rate Cap

INFiN strongly believes that a regulated small-dollar lending market is in the best interest of consumers, balancing access to credit with critical consumer protections. Nearly every aspect of our industry is regulated at the state and federal levels, from limitations on fees, loan term, and renewals to mandatory disclosures, licensing, and extended payment plan options. INFiN members operate in strict compliance with all applicable laws.

Our members disclose fees as both a dollar amount and an annual percentage rate (APR), so that borrowers can compare our services with other credit options. However, APR does not reflect the cost of a short-term loan, but rather the cost of borrowing that loan every two weeks for a year. The loans offered by our members are repaid in a matter of weeks, not years.

Under the 36 percent interest rate caps proposed, a lender's revenue on a $100 loan would be just $1.38 – less than 10 cents a day on a two-week loan. No business – not a credit union, not a bank, not a fintech provider – can lend money at that rate without being subsidized by other products or outside funding. In every state with a comparable APR cap, small-dollar lenders have been forced to close hundreds of stores – costing thousands of employees their jobs and leaving consumers with fewer regulated financial services options in their communities. Further, there is no economic or academic rationale to the arbitrary 36 percent price cap; it has never been independently researched or verified as a workable price point across credit products.

Consequences for Consumers

Without access to loans from licensed lenders, consumers in need of credit will suffer the consequences of unmet financial obligations or be forced to resort to more expensive or less regulated options. Further, while some programs from other providers are touted as "alternatives"

---

[4] Veritec Solutions. (2021) Update: COVID-19 Impact Study on Small-Dollar Lending. Accessed at: https://www.veritecs.com/2021-update-covid-19-impact-study-on-small-dollar-lending/
[5] Global Strategy Group & Tarrance Group. (2016) Borrower and Voter Views of Payday Loans. Accessed at: https://www.cfsaa.com/files/files/GSG%20Tarrance%20CFSA%20Borrower%20and%20Voter%20Survey-Analysis.pdf
[6] Consumer Financial Protection Bureau. (2021) Consumer Response Annual Report: January 1 – December 31, 2020. Accessed at: https://files.consumerfinance.gov/f/documents/cfpb_2020-consumer-response-annual-report_03-2021.pdf

to small-dollar loans, these options are not always broadly available and typically involve a variety of restrictions and confusing, costly fees. While they provide another choice for consumers, they do not ensure widely accessible, regulated consumer credit.

In the absence of regulated small-dollar loans, unregulated options fill the void. Online, unregulated lenders based outside of the U.S., outside the jurisdiction of state and federal regulators, offer loans that involve higher costs and none of the consumer protections that regulated companies provide, such as full disclosure of all loan terms, fair collection practices, or extended payment plans. North Carolina, Georgia, Oregon, and South Dakota are just a few of the states that have reported substantial increases in the number of residents borrowing illegal, unregulated loans after implementing outright or effective small-dollar loan bans, including through rate caps.

The Military Lending Act

In addition to the foregoing, we respectfully note that it is not appropriate to expand the application of the Military Lending Act's (MLA) 36 percent rate cap for U.S. servicemembers to all consumers**. As a result of this rate cap, members of the military and their families lost access to some forms of credit, as regulated lenders – including members of INFiN – stopped lending to servicemembers.** Reports from military aid societies suggest many servicemembers have instead turned to costlier, less regulated options, from overdraft fees to unlicensed lenders. Civilian consumers should not be subjected to the same fate. Further, the research that informed the MLA rate cap was subsequently determined to be flawed by researchers at the Government Accountability Office (GAO) and in academia, and the justifications of military readiness do not apply to the civilian population.[7, 8] Importantly, regardless of the fate of the proposed national rate cap, servicemembers will still enjoy the protections provided by the MLA.

Eliminating regulated short-term, small-dollar loans, as this proposed legislation would do, will do little to address U.S. consumers' need for credit or to ease the challenges they face. As you consider this legislation, INFiN is committed to working with you to identify ways to balance financial inclusion and consumer protection alongside access to regulated credit options. Thank you for your consideration of our position.

Respectfully submitted,

Edward D'Alessio
Executive Director

[7] U.S. Government Accountability Office. (2007) Military Personnel: DOD's Predatory Lending Report Addressed Mandated Issues, but Support Is Limited for Some Findings and Recommendations. Accessed at: https://www.gao.gov/assets/gao-07-1148r.pdf

[8] Carter, S. & Skimmyhorn, W. (2016) Much Ado about Nothing? New Evidence on the Effects of Payday Lending on Military Members. Accessed at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3505440