Testimony of

WILLIAM M. HIMPLER,

President and Chief Executive Officer,

American Financial Services Association,

before the

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,

UNITED STATES SENATE

on

Thursday, July 29, 2021,

Regarding

the hearing entitled, “Protecting Americans from Debt by Extending the Military’s 36% Interest Rate Cap to Everyone”

TESTIMONY OF WILLIAM M. HIMPLER, PRESIDENT AND CHIEF EXECUTIVE OFFICER, AMERICAN FINANCIAL SERVICES ASSOCIATION

Mr. Chairman, Ranking Member Toomey, and members of the Committee, my name is Bill Himpler, and I am the President and CEO of the American Financial Services Association (AFSA). AFSA is the national trade association for the consumer credit industry, protecting access to credit and consumer choice. I thank you for allowing me to appear today to discuss the important role that traditional installment lenders serve in the lives of millions of American consumers.

My testimony emphasizes three points. *First*, American consumers need access to responsible and affordable small-dollar credit to meet their financial needs and protect them from harmful financial disruption. *Second*, legislation imposing the Military Lending Act's (MLA) 36% Military Annual Percentage Rate (MAPR) cap on all consumers would remove important credit options. *Third*, the Committee should ensure that traditional installment lenders can continue to meet the credit needs of their customers, as they have for over a century.

First and foremost, American consumers need access to credit. The economic and employment disruption that ensued from the pandemic over the past eighteen months highlighted, in the starkest possible ways, the need for consumers to have access to responsible and affordable small-dollar credit.

In its 2019 report on the economic well-being of U.S. households, the Federal Reserve found that many adults, particularly people of color and those who have had limited opportunities for education, are inadequately prepared to withstand even small financial disruptions.[1] The Federal Reserve's survey highlighted that nearly 40% of adults shared that they would have difficulty covering an unexpected $400 expense. This is akin to the results of a survey performed by the Financial Health Network, which found that 43% of Americans turn to credit to make ends meet.[2]

Safe and responsible credit products, such as traditional installment loans, continue to provide a much-needed way for Americans, particularly those millions of consumers with non-prime credit scores, to cover these unexpected expenses. Just this week, *The Wall Street Journal* reported that some 53 million U.S. adults lack traditional credit scores because they have thin or nonexistent borrowing histories.[3]

Throughout the pandemic—indeed for more than one hundred years—traditional installment lenders have served customers with safe and affordable loans for those unexpected needs. In fact,

[1] Federal Reserve Board of Governors, Division of Consumer and Community Affairs. (2019, May) *Report on the Economic Well-Being of U.S. Households in 2018*. Retrieved from https://www.federalreserve.gov/publications/2019-economic-well-being-of-us-households-in-2018-dealing-with-unexpected-expenses.htm.
[2] Garon, Dunn, Golvala, Wilson (2018). *U.S. Financial Health Pulse*. Financial Health Network. Retrieved from https://s3.amazonaws.com/cfsi-innovation-files-2018/wp-content/uploads/2019/05/07151007/FHN-Pulse_Baseline_SurveyResults-web.pdf.
[3] Andriotis, A. (2021, July 24). FICO Score's Hold on the Credit Market Is Slipping. *Wall Street Journal.* Retrieved from https://www.wsj.com/articles/fico-scores-hold-on-the-credit-market-is-slipping-11627119003.

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consumer finance companies make more than three times as many personal loans to non-prime borrowers than credit unions, which are often cited as a small-dollar credit solution.

My second point is this—access to small-dollar credit would be dramatically hindered under a 36% MAPR cap on covered consumer loans. Experian recently estimated that nearly one in three Americans do not have a prime or excellent credit score, so the people most adversely affected would be those who need a financial lifeline on occasion.[4] When reputable small-dollar lenders are unable to serve underbanked consumers or those with less than perfect credit, such consumers are left with few options other than unregulated or illegal predatory lenders.

The Federal Reserve, a Consumer Financial Protection Bureau (CFPB) taskforce, banks, non-bank lenders, and credit unions all say the same thing: Interest rate caps at 36% or below are unworkable for reputable lending institutions and harm the people these caps are intended to protect.

- The National Commission on Consumer Finance study confirmed it;[5]
- The CFPB's Taskforce on Federal Consumer Financial Law report confirmed it;[6] and
- A Federal Reserve study on interest rate caps confirmed that few, if any, reputable lenders can afford to offer small-dollar loans capped at 36% Annual Percentage Rate (APR).[7]

More recently, the National Foundation for Credit Counseling's *2020 Military Financial Readiness Survey* of servicemembers found that active duty servicemembers were more than twice as likely to take out a cash advance or payday loan this year than in 2019, and that they used payday loans because there were few other options available to them.[8]

Even financial institutions such as credit unions, which the CFPB asserts[9] might offer such small dollar loans when other lenders can no longer do so, say rate caps are harmful to consumers and limit access to credit. "[T]he establishment of a national all-in rate cap applicable to all creditors is an unproven one-size-fits-all policy, the consequences of which will likely include reduced

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[4] Stolba, Stefan. (2021, June 7*). Fewer Subprime Consumers Across U.S. in 2021*. Experian. Retrieved from https://www.experian.com/blogs/ask-experian/research/subprime-study/.

[5] National Commission on Consumer Finance. *Consumer Credit in the United States*. Washington, DC: US Government Printing Office, 1972.

[6] Consumer Financial Protection Bureau, Taskforce on Federal Consumer Financial Law [hereinafter CFPB Taskforce]. (2021, January). *Taskforce on Federal Consumer Financial Law Report*. Retrieved from https://www.consumerfinance.gov/documents/9449/cfpb_taskforce-federal-consumer-financial-law_report-volume-1_2021-01.pdf.

[7] Chen, L., Elliehausen, G. Board of Governors of the Federal Reserve System (2020, August). *The Cost Structure of Consumer Finance Companies and Its Implications for Interest Rates: Evidence from the Federal Reserve Board's 2015 Survey of Finance Companies.* Retrieved from https://www.federalreserve.gov/econres/notes/feds-notes/the-cost-structure-of-consumer-finance-companies-and-its-implications-for-interest-rates-20200812.htm.

[8] National Foundation for Credit Counseling (2021, May). *2020 Military Financial Readiness Survey*. Retrieved from https://www.nfcc.org/resources/client-impact-and-research/2020-military-financial-readiness-survey/.

[9] Consumer Financial Protection Bureau. (2020, March 26). *Federal Agencies Encourage Banks, Savings Associations, and Credit Unions to Offer Responsible Small-Dollar Loans to Consumers and Small Businesses Affected by COVID-19* [Press Release]. Retrieved from https://www.consumerfinance.gov/about-us/newsroom/federal-agencies-encourage-banks-savings-associations-credit-unions-to-offer-responsible-small-dollar-loans-consumers-small-businesses-affected-covid-19/.

access to credit from reputable lenders," said Credit Union National Association President and CEO Jim Nussle.[10]

Moreover, in states where aggressive APR limits have been imposed on small-dollar loans, the consequences are unequivocal: A rapid reduction in the availability of safe and affordable credit for people who rely on it, and an increased reliance on unsafe or illegal forms of credit, with a devastating effect on poverty levels, well-being, and financial mobility.

In most, if not all, states where policies hindered responsible lenders from offering small-dollar loans, such policies have acted as an effective ban on small-dollar consumer lending, with disastrous consequences for those affected. For example, after the imposition of APR caps in Georgia and North Carolina effectively banned small-dollar loans, a Federal Reserve Bank of New York study reported that people "bounced more checks, complained more about lenders and debt collectors and have filed for Chapter 7 ('no asset') bankruptcy at a higher rate."[11] Moreover, the North Carolina Commissioner of Banks Consumer Finance Annual Report in 2018 reported that access to loans less than $1,000 continued to decline because consumer finance lenders were withdrawing from the market.[12]

Because of concerns related to the availability of credit, veterans' groups wrote to Congress in 2019 expressing hesitation with expanding the MLA. They wrote, "While anecdotal evidence sheds some light on the potential barriers to credit for the veteran community, systematic data collection has been limited. We see this as a major problem and believe that policymakers should first undertake an in-depth examination of the barriers that veterans face when looking to secure a loan before hastily taking action in a way that would lead to severe unintended consequences." See the attached appendix for the letters.

The solution is not, as one consumer advocate said, "Borrow from people you care about, ask for more hours, take on a second job, sell your plasma…"[13] Americans deserve choices for their consumer credit needs, and many of them turn to traditional installment loans, which are safe, smart options.

This brings me to my third point—traditional installment loans have, for more than a century, helped consumers of different races, backgrounds, and occupations cover necessities in a personal financial crunch, or unexpected expenses to purchase a new refrigerator or make emergency car

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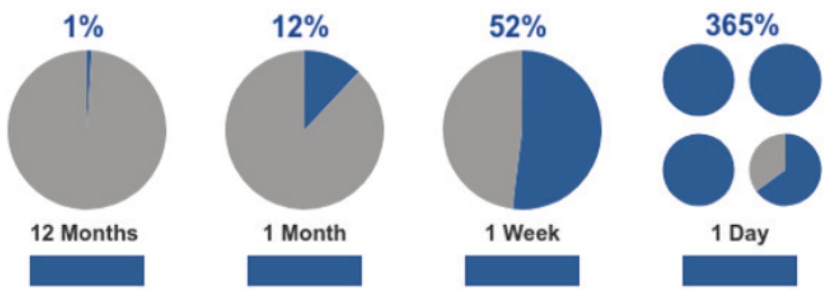
[10] Credit Union National Association. (2021, July 15). *Proposed 'all-in' rate cap would reduce access to credit.* Retrieved from https://news.cuna.org/articles/119673-proposed-all-in-rate-cap-would-reduce-access-to-credit.
[11] Morgan, D., Strain, M. Federal Reserve Bank of New York (2007, November). *Payday Holiday: How Households Fare after Payday Credit Bans* (Report No. 309). Retrieved from https://www.newyorkfed.org/medialibrary/media/research/staff_reports/sr309.pdf.
[12] North Carolina Office of the Commissioner of Banks (2018). *Consumer Finance Annual Report*. Retrieved from https://www.nccob.gov/Public/docs/News/Pub%20And%20Research/2018_Annual_Report_Final.pdf.
[13] Millerbernd, A. (2021, July 7). Are state interest-rate caps an automatic win for borrowers? *Star Tribune.* Retrieved from https://www.startribune.com/are-state-interest-rate-caps-an-automatic-win-for-borrowers/600075690/.

repairs. These lenders meet the small-dollar credit needs of American consumers in a responsible and affordable manner.

AFSA's traditional installment lenders offer fixed-rate, fully-amortizing, small-dollar loans repaid in equal monthly payments. The average loan amount is $2,000, with no balloon payments or hidden costs. These loans have been some of the safest and most affordable forms of consumer credit in the United States for over a century. Lenders determine a borrower's ability to repay, and repayment history is reported to credit bureaus, which gives consumers the opportunity to build or strengthen their credit history. AFSA's traditional installment lenders adhere to the Consumer Bill of Rights, which is available on caseforcredit.com.[14]

The CFPB, under the leadership of Director Richard Cordray, recognized that traditional installment lenders assess their customers' ability to repay, and so their loans were exempt from the final Payday, Vehicle Title, and Certain High-Cost Installment Loans Rule.

For such small-dollar loans, the quality, affordability, and soundness of the loan is best judged by its length and monthly amount owed, not its interest rate. APRs are a function of time, rather than a measure of the cost of a loan. For example, say you borrow one hundred dollars today and are charged one dollar in interest. If you repay the loan in one year, the APR is 1%. Repay it in a month, the rate is 12%. If you repay the loan tomorrow, the APR is 365%. Same dollar in interest, vastly different APRs, as you can see in the chart below.

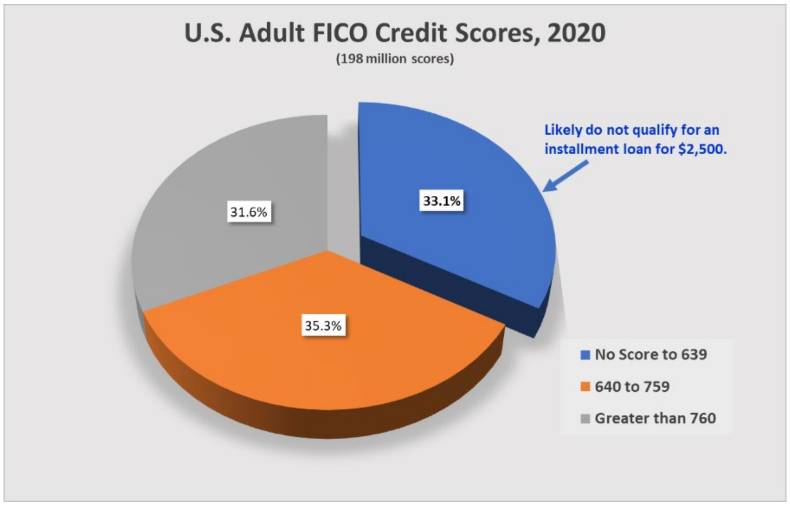


While the cost of credit remains exactly the same ($1.00), the APR varies dramatically based on the duration (or term) of the loan. Thus, APR cannot be relied upon as an indicator of loan affordability.

A 36% interest rate cap will harm consumers by restricting access to traditional installment loans. As referenced above, analysis based on a Federal Reserve study demonstrates that with a 36% rate cap, consumers would not be able to obtain a loan of less than $3,000.[15] Consumers will be forced to borrow higher amounts than they need or want, with higher costs and longer repayment periods, despite having a lower APR. That is, even if they qualify for the larger loan. The graph below

[14] American Financial Services Association. (n.d.). *AFSA Traditional Installment Lenders' Consumer Bill of Rights* Retrieved from https://caseforcredit.com/wp-content/uploads/2021/07/21Memo-Consumer-Bill-of-Rights-72621.pdf.
[15] Chen, Elliehausen, *Cost Structure, Consumer Finance Companies*.

highlights how many Americans would be left out of the credit system with a 36% rate cap in place.



A study by Federal Reserve economists, which was included in the CFPB's Taskforce on Federal Consumer Financial Law Report, demonstrated that consumers took out larger loans in states with rate caps than they did in states without caps:

> "Durkin, Elliehausen, and Hwang provided examples. They found that in Pennsylvania, which has a low maximum permissible rate, there were few installment loans — just 1.5 per 1,000 population. Moreover, there are almost no loans for less than $500 and only 1 percent of loans for under $1000. Fifty-seven percent of loans had maturity lengths greater than two years. As a result of these larger loan amounts, 55 percent of loans had monthly payments in excess of $150 per month.
>
> "The authors compared experience in Pennsylvania to Texas, which allows higher APRs on small installment loans. In Texas, there are many more loans — 23.9 per 1,000 population. Forty-two percent of loans were for under $500 and 70 percent were under $1000. Finally, 99 percent of loans had maturity periods shorter than two years. Because of the smaller loan sizes, only 16 percent of borrowers had payment obligations of greater than $150 per month. And smaller loans for shorter intervals reduce finance charges."[16]

In conclusion, access to reliable, transparent financial services is a cornerstone of the American way of life; for many consumers such access enables opportunities that might otherwise be out of reach. Credit access should not be a privilege reserved for the elite. When someone who is underbanked or has less than perfect credit is turned down or does not have access to a needed loan, it is not a consumer-protection victory. It is a civil rights loss. *All* consumers deserve access

[16] CFPB Taskforce, *Fed. Consumer. Fin. Law Report*, (201-202).

to safe and reliable credit, and AFSA and its members stand ready to work with you to ensure that economic opportunity is accessible for all.

Thank you for the opportunity to appear before you today on this important issue, and I look forward to your questions.

APPENDIX

SERVING WITH PRIDE

November 13, 2019

The Honorable Maxine Waters
Chairwoman
U.S. House Committee on Financial Services
2129 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Patrick McHenry
Ranking Member
U.S. House Committee of Financial Services
2004 Rayburn House Office Building
Washington, D.C. 20515

Re: Major Concerns Regarding the Veterans and Consumers Fair Credit Act

Dear Chairman Waters and Ranking Member McHenry:

Thank you for your continued efforts to meet the unique needs of military personnel, veterans, and their families relative to financial tools and credit. However, we do wish to express our concern with the current draft of the "Veterans and Consumers Fair Credit Act," as written. While we appreciate the Committee wishing to explore the unique requirements of veterans' access to fair credit, we do not see anything in this draft legislation which, in fact, addresses those unique needs of veterans.

Instead, it appears to address fair credit access from a national perspective and simply references veterans as part of that national population. Veterans are a segment of broader society and would therefore reap the same benefits, in terms of access to lower interest loans, as non-veterans under this bill. It is precisely for that reason that titling the bill in a manner that suggests veterans would benefit because of their status is specious, at best.

Adding insult to injury is the fact the bill, as written, is completely silent on actual loan issues that many veterans face. Veterans are more likely to suffer financing shortfalls for small businesses and disapprovals for loans, in part, because of perceived credit risks associated with a history of frequent changes of address, including overseas assignments. Absent an actual fix that specifically benefits veterans, the bill as presented is a missed opportunity to correct what amounts to a penalty for having served in the military.

We would be happy to work with you to develop programs which will improve veterans access to credit, and hope we can meet with you to discuss next steps. But in the interim, we request you delay consideration of this bill until we have a better understanding of veterans' unique credit requirements.

Sincerely,

Sherman Gillums Jr.
Chief Advocacy Officer

AMVETS

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November 15, 2019

Dear Chairman Waters and Representative McHenry:

Thank you for continuing to consider the unique interests of military personnel, military families, Veterans, and Veteran families in access to financial tools and credit. The Enlisted Association of the National Guard of the United States (EANGUS) looks forward to working with you and the Committee in properly addressing the unique adversities Veterans, Servicemembers and their families face with solutions unique to their circumstances.

However, we wish to express our concern with the possible consideration of HR 5050, the *"Veterans and Consumers Fair Credit Act."* While we appreciate the Sponsors wishing to explore the unique requirements of Veterans' access to fair credit, we believe that without further study Veterans might be placed in the same situation as many military members and families as they access non-prime financial solutions.

Furthermore, it appears that this legislation invokes the name of Veterans into a bill introduced in proximity to Veterans Day without substantial language to address or relieve the unique economic burdens military and Veteran families bear. We believe this borders on being gratuitous to Veterans and without any real substance to help Veterans.

While anecdotal evidence sheds some light on the potential barriers to credit access for the Veteran community, systematic data collection has been limited. We recognize this to be a serious problem, and believe that policymakers should first undertake an in-depth examination of the barriers that Veterans face when looking to secure a loan before taking action in a way that could lead to severe, unintended consequences. Considering this legislation without an accompanying study would seek to apply a one-size-fits-all approach that might result in Veterans losing capital access.

Of particular concern, our constituency is primarily National Guardsmen and women. Unfortunately, a good portion of these members who faithfully served our country are still not considered "Veterans" under Title 38 of United States Code. This legislation would have no effect on that demographic who are near and dear to us.

We request you delay consideration of this bill until further study provides better understanding of Veterans' unique credit requirements.

Frank Yoakum
Sergeant Major
U.S. Army (Retired)
Executive Director
EANGUS

AMERICAN FINANCIAL SERVICES ASSOCIATION

November 15, 2019

The Honorable Maxine Waters U.S. House Committee on Financial Services 2129 Rayburn House Office Building Washington, D.C. 20515	The Honorable Patrick McHenry U.S. House Committee of Financial Services 2004 Rayburn House Office Building Washington, D.C. 20515

Dear Chairwoman Waters and Representative McHenry:

Thank you for continuing to consider the unique interests of military personnel, military families, veterans, and veteran families in access to financial tools and credit. We look forward to working with you and the Committee in properly addressing the unique requirements of these populations with unique solutions, where appropriately tailored.

However, we do wish to express our concern with the possible consideration of the bill HR 5050 the *"Veterans and Consumers Fair Credit Act"*, introduced earlier this week. While we appreciate the sponsors' wish to explore the unique requirements of veterans' access to fair credit, we do not see anything in this draft legislation which, in fact, addresses any unique needs of veterans. Instead, it appears to address fair credit access from a national perspective, and simply references veterans as part of that national population.

As you likely know, veterans may have more difficulty accessing capital than nonveteran consumers. While many consumers struggle to find a loan, especially when dealing with a sudden emergency, veterans as a community experience these hardships at higher rates. But this legislation does not appear to address the unique needs of veteran consumers.

Instead, it appears that this legislation simply invokes the name of veterans into the bill since its Congressional introduction and Committee consideration are happening around Veterans Day. Such involvement of veterans in what is not a veteran specific bill, to leverage the national attention on Veterans Day, borders on the exploitative and is not something we can support.

While anecdotal evidence sheds some light on the potential barriers to credit access for the veteran community, systematic data collection has been limited. We see this as a major problem and believe that policymakers should first undertake an in-depth examination of the barriers that veterans face when looking to secure a loan before hastily taking action in a way that would lead to severe unintended consequences. Considering this legislation without that comprehensive and thoughtful process would seek to apply a one size fits all approach that studies have shown results in a loss of capital access for the veterans community.

We would be happy to work with you to develop, collect, and analyze that systematic data collection on veterans access to consumer credit, and hope we can meet with you to discuss next steps. But in the interim, we request you delay consideration of this bill until we have a better understanding of veterans' unique credit requirements.

Sincerely,

Military Order of the Purple Heart	National Defense Committee	Valor Medical Service Dogs