September 7, 2023

The Honorable Dick Durbin
United States Senate
711 Hart Senate Building
Washington, D.C. 20510

Dear Senator Durbin:

On behalf of the American Financial Services Association (AFSA),[1] I write to express our strong opposition to the "*Protecting Consumers from Unreasonable Credit Rates Act*." The legislation, which you recently authored, would have substantial adverse effects on Americans' ability to access affordable forms of consumer credit and reduce competition in the financial service marketplace.

Our members share your desire to stop unregulated and predatory actors from taking advantage of consumers by trapping them in a cycle of debt. However, this legislation would work against that goal and prevent millions of hard-working families, including lower- and middle-income households, from finding regulated credit products tailored to fit their unique financial needs for future success, like state-licensed traditional installment lenders.

As you know, a recent Federal Reserve report published on small-dollar loans confirms the downsides of an across-the-board 36-percent annual percentage rate (APR) cap.[2] Among its findings: consumers would be forced to borrow a higher amount than they need or want (if they even qualified for a larger loan), resulting in higher finance charges, longer repayment periods, and higher overall costs, despite the appearance of a lower APR on their billing statement.

For small-dollar loans, the quality, affordability, and soundness of the loan is best judged by its structure and not its APR. When Illinois imposed a 36 percent "all-in" rate cap in 2021 – like your proposed legislation – studies showed the rate cap decreased the number of loans in Illinois to subprime borrowers by 38 percent and increased the average loan size to subprime borrowers by 35 percent.[3] Conversely, the same study found the interest-rate cap increased the number of loans to prime borrowers by 16 percent and the average loan size to prime borrowers by 7 percent. While prime borrowers in Illinois may not be hurt by a rate cap proposal, consumers who are credit distressed are being forced to turn to unregulated online lenders, placing some consumers in the type of financial straits the law was intended to prevent.

Traditional installment lenders are critical for millions of Americans with different financial backgrounds and working in various occupations. The Federal Reserve's 2022 Survey of Household Economics and Decisionmaking found the share of adults who said they were worse off financially than a year earlier rose to 35 percent, the highest level since the question was first asked in 2014.[4] Additionally, the survey noted

[1]Founded in 1916, AFSA is the national trade association for the consumer credit industry, protecting access to credit and consumer choice. AFSA members provide consumers with many kinds of credit, including traditional installment loans, mortgages, direct and indirect vehicle financing, payment cards, and retail sales finance.
[2] Federal Reserve, The Cost Structure of Consumer Finance Companies and Its Implications for Interest Rates (August 2020).
[3] Credit for me but not for thee: The effects of the Illinois rate cap (June 2023).
[4] Federal Reserve, Report on the Economic Well-Being of U.S. Households in 2022 (May 2023).

that only 63 percent of adults could cover a hypothetical $400 emergency expense, down from a high of 68 percent in 2021. It is essential for community lenders, which have rigorous underwriting techniques, like traditional installment lenders, to be able to provide affordable credit products that fit with a customer's budget rather than misusing the "all-in" APR methodology proposed in the *Protecting Consumers from Unreasonable Credit Rates Act*.

When AFSA's CEO testified before the Senate Banking Committee in 2021 about similar legislative proposals, he said all consumers deserve access to safe and reliable credit, and instituting a 36 percent "all-in" rate cap would dramatically hinder Americans from accessing regulated and transparent financial services.[5] This still holds true today.

On behalf of our members, we appreciate the opportunity to share our thoughts and stand ready to work with you to ensure that economic opportunity is accessible for all. Please do not hesitate to contact me if you or your staff have additional questions.

Sincerely,

Celia Winslow

Celia Winslow
Senior Vice President
American Financial Services Association

[5] Bill Himpler, AFSA President and CEO, testimony before the Senate Banking Committee (July 2021).