December 15, 2023

The Honorable Sherrod Brown
Chairman
Committee on Banking, Housing, and Urban Affairs
United States Senate
Washington, DC 20510

The Honorable Tim Scott
Ranking Member
Committee on Banking, Housing, and Urban Affairs
United States Senate
Washington, DC 20510

Dear Chairman Brown and Ranking Member Scott:

On behalf of the American Financial Services Association (AFSA)[1], I am writing to express our opposition to S.3549 – the "*Predatory Lending Elimination Act*." This legislation, as written, will have drastic economic effects on millions of consumers by restricting their ability to access affordable credit from highly regulated financial institutions, including traditional installment lenders.

Our members share your desire to eliminate unregulated and predatory actors from taking advantage of consumers by trapping them into 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 consumers and active military personnel have experienced firsthand, rate caps are financially harmful to the very people supporters of such regressive policies claim to want to help. In Illinois, a recent independent study[2] found several concerns with the state's new 36% rate cap:

- Increased the short-term debt of some borrowers, perhaps because the borrowers no longer had access to their form of credit due to the new law. The analysis also indicates short term debt dissipated a year or 18 months after the bill's passage.
- "[I]s not associated with a significant change in credit scores among Illinois consumers who used alternative financial services loans, relative to peers in states with high APR caps."
- Neither improved nor damaged credit scores after the rate cap was implemented, relative to similar consumers in states with high APR caps.

AFSA's traditional installment lenders are state-licensed and have provided the safest and most affordable form of consumer credit in America for over a century. We are proud to serve consumers of all economic backgrounds, including under-banked consumers, particularly those in small towns, by offering personal loans through branches in their communities.

These "plain vanilla," affordable loans are designed to be straightforward and transparent credit products that protect consumers by reasonably determining the borrower's ability to repay on time while still meeting other

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[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 direct and indirect vehicle financing, traditional installment loans, mortgages, payment cards, and retail sales finance.

[2] Martinchek, Kassandra and Johnson, Noah, How Do State-Level Policies on Alternative Financial Service Loan APRs Shape Consumer Credit Health?: Assessing the Effect of the Illinois Predatory Loan Prevention Act on Individuals' Credit Health (Sept. 21, 2023). Available at https://www.urban.org/research/publication/how-do-state-level-policies-alternative-financial-service-loan-aprs.

basic financial needs. They often help consumers meet unexpected needs, such as purchasing a new refrigerator, emergency auto repairs, or recovering from weather-related events.
While we commend the bill sponsors for highlighting the need to protect consumers from unlicensed predatory lenders and minimize consumers in a cycle of debt, implementing a nationwide annual percentage rate (APR) restriction alone will limit consumer choice and their ability to address unique economic situations.

The structure of a loan is best judged by its quality, affordability, and soundness, not its "all-in" APR calculation. This is because the "all-in" APR on small amounts can be a misleading indicator of the true cost of a loan for a consumer. A recent Federal Reserve report published on small-dollar loans confirms the downsides of an across-the-board 36-percent APR rate cap.[3] 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.

As you know, the U.S. economy finds itself at best in a fragile recovery and when consumers are seeking any opportunity for financial flexibility, now is not the time for Congress to create greater uncertainty and tighter credit access for their constituents who need it. Our members strongly believe all Americans, not limited to those with elite credit history, deserve an opportunity to achieve their long-term financial goals and find financial stability. We encourage Congress to work together to expand ways for hardworking Americans to enter and remain in the regulated financial service marketplace to achieve their financial goals.

Thank you again for your hard work during this Congress. AFSA appreciates your attention to these important issues. If you have any questions or require additional information, please do not hesitate to contact me.

Sincerely,

Celia Winslow

Celia Winslow
Senior Vice President
American Financial Services Association

[3] Federal Reserve, The Cost Structure of Consumer Finance Companies and Its Implications for Interest Rates (August 2020)