

State of Maine  
Department of Professional and Financial Regulation  
Bureau of Consumer Credit Protection



Short-Term, Small-Dollar Loan Study

Presented to:

The Joint Standing Committee on Health Coverage, Insurance  
and Financial Services

December 1, 2021

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## Introduction

On June 10, 2021, the 130<sup>th</sup> Maine Legislature enacted LD 522, “An Act To Protect Consumers Against Predatory Lending Practices.” The Governor signed LD 522 into law on June 21, 2021 as Public Law 2021, Chapter 297,<sup>1</sup> and the statute took effect on October 18, 2021. Among other provisions, the new law established a new provision, 9-A M.R.S. §2-702, which states that regardless of what entity is identified as the lender on loan documents, an entity will be considered the lender if the “totality of the circumstances” indicate the entity is the lender and the transaction has been structured to avoid Maine’s jurisdiction. This means the loan terms must comply with Maine law, and the entity must obtain a license as a lender pursuant to 9-A M.R.S. § 2-302.

Section 4 of PL 2021 Ch. 297 directs the Bureau of Consumer Credit Protection (“the Bureau”) to “study the use by Maine residents of short-term, small dollar loans,” and present the results of the study to the Joint Standing Committee on Health Coverage, Insurance and Financial Services (“the Committee”) no later than December 1, 2021.

Maine law does not currently define the term “short-term, small-dollar loan.” The federal Consumer Financial Protection Bureau’s (“the CFPB’s”) Payday Lending Rule<sup>2</sup> refers to such loans as “covered loans.” For the purposes of this study, the Bureau has adopted the CFPB’s definition of covered loans.<sup>3</sup> By adopting the federal definition, the Bureau excludes loan types that are excluded from the federal definition, including credit sales, real estate secured credit, credit cards, student loans, and non-recourse pawn loans. Additionally, the Bureau has excluded so-called “vehicle title” loans, as those loans are generally prohibited in Maine.<sup>4</sup>

The loans that are this study’s subject are commonly referred to as “payday loans.”<sup>5</sup> To prepare this study, the Bureau collected information from consumer finance reports, studies, and surveys. The Bureau also collected information from lenders licensed by the Bureau, as well as from consumer advocates, regulators in other states, federal regulatory agencies, and consumer borrowers. In addition, the Bureau has included copies of consumer complaints involving payday loans received since January 1, 2020. All confidential data has been de-identified or redacted to maintain consumer privacy. The study includes aggregated data submitted annually by licensed payday lenders that is maintained in the Bureau’s Agency Licensee Management (“ALMS”) System. The study includes a review of year-to-date 2021 “payday” loan complaints filed with the Bureau, as well as any similar complaints filed with nonprofit organizations that provide legal or other assistance to Maine consumers.<sup>6</sup>

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<sup>1</sup> See Appendix A.

<sup>2</sup> See 12 C.F.R. Part 1041.

<sup>3</sup> See 12 C.F.R. § 1041.3(b).

<sup>4</sup> See 30-A M.R.S. § 3960(3).

<sup>5</sup> Maine law defines the term “payday loan” at 9-A M.R.S. § 1-301(28-A). However, the definition under Maine law is not as detailed as the of covered loan found at 12 C.F.R. § 1041.3(b).

<sup>6</sup> See Appendix C.

## Bureau Regulation of Supervised Lenders

Consumer lending activity in the Maine is governed by the Maine Consumer Credit Code (“the Code”), enacted during the 106<sup>th</sup> Legislature’s 1973-1974 session. The Code established the Bureau in 1975. The Code applies to lenders offering consumer credit, including depository financial organizations<sup>7</sup> (“financial institutions”) such as banks, credit unions and trust companies. The Code also applies to all non-depository lenders regularly engaged as “creditors”<sup>8</sup> in Maine.

Financial institutions subject to Maine law must be “authorized to do business in this State”<sup>9</sup> by the Bureau of Financial Institutions and non-depository lenders acting as supervised lenders must be licensed by the Bureau.<sup>10</sup> The Bureau of Financial Institutions has enforcement authority of the Code with respect to financial institutions, while the Bureau maintains jurisdiction over all non-depository supervised lenders. If a creditor offers loans where the annual rate of the finance charge exceeds 12.25%, the loan is defined as a “supervised loan”<sup>11</sup> under the Code. The Code also defines both financial institutions and non-depository lenders offering supervised loans as “supervised lenders.”<sup>12</sup>

### Licensed Payday Lenders Operating in Maine

In addition to establishing consumer protections for borrowers, the Code requires non-bank supervised lenders to obtain licenses from the Bureau. Supervised lenders who engage in payday lending activity are granted licenses with the prefix “PLM,” which stands for “payday lender main branch.” Payday lenders must also obtain licenses for additional location offering loans to Maine consumers. These additional licenses use the prefix “PLB,” which stands for “payday lender branch.” Table 1 (below) shows all payday lenders and payday lender branches holding active licenses as of November 30, 2021.

**Table 1.** Maine Licensed Payday Lenders and Payday Lender Branches.

	<b>Payday Lender Name</b>	<b>License #</b>	<b>License Type</b>	<b>Licensee Location</b>
1	CNU Of Maine LLC DBA CashNetUSA	PLM11426	Payday Lender	Chicago, IL
2	Eastern Specialty Finance, Inc. DBA Check 'N Go	PLM9084	Payday Lender	Fairfield, OH
3	Republicash LLC	PLM5713	Payday Lender	South Portland, ME
4	Republicash LLC	PLB11220	Payday Branch	Sanford, ME
5	Republicash LLC	PLB11584	Payday Branch	Portland, ME
6	Republicash LLC	PLB13571	Payday Branch	Portland, ME
7	Republicash LLC	PLB14137	Payday Branch	Auburn, ME
8	Republicash LLC	PLB6356	Payday Branch	Lewiston, ME

<sup>7</sup> See 9-A M.R.S. § 1-301(38A).

<sup>8</sup> See 9-A M.R.S. § 1-301(17).

<sup>9</sup> See 9-B M.R.S. § 131(2).

<sup>10</sup> See 9-A M.R.S. § 2-301.

<sup>11</sup> See 9-A M.R.S. § 1-301(40).

<sup>12</sup> See 9-A M.R.S. § 1-301(39).

9	Republicash LLC	PLB7963	Payday Branch	Biddeford, ME
10	Republicash LLC	PLB9604	Payday Branch	Windham, ME

As of November 30, 2021, the Bureau licensed 378 supervised lenders. Of that total, 331 are mortgage lenders, 44 are non-mortgage supervised lenders and 3 are payday lending companies. These figures do not include additional licensed branch locations. Figure 1 (below) compares the percentage of licensed payday lending companies to the total number of all other Bureau-licensed supervised lenders.

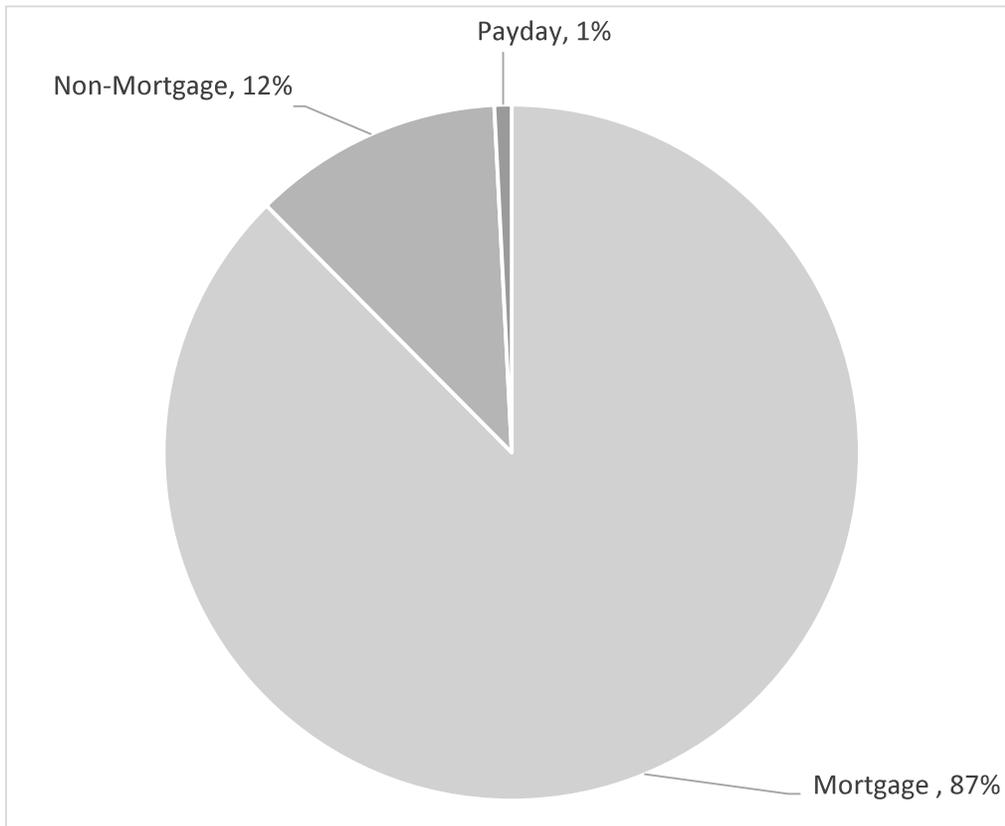


Figure 1. Active supervised lender licenses by activity type.

### Maine Licensed Payday Lender Loan Activity: Calendar Years 2018-2020

Table 2 (below) shows loan activity licensed payday lenders reported to the Bureau for calendar years 2018 through 2020. These figures represent 100% of Code-encompassed payday loan activity in Maine for that time period.

**Table 2.** Legal Payday Loan Activity in Maine: Calendar Years 2018-2020

	<b>2018</b>	<b>2019</b>	<b>2020</b>
<b>Total Units<sup>13</sup></b>	85,166	84,566	60,617
<b>Total Dollars</b>	\$22,218,077	\$22,234,507	\$14,891,311

Table 3 (below) compares payday loan activity<sup>14</sup> reported in calendar year 2020 to the loan activity of all other supervised lenders, including non-depository mortgage lenders, licensed by the Bureau.

**Table 3.** Licensed Supervised Loan Activity: Calendar Year 2020

<b>Supervised Lenders</b>	<b>Loan Volume</b>	<b>Percentage of Total Volume</b>
Mortgage	\$6,869,533,333	99.697%
Non-Mortgage	\$6,008,689	0.087%
Payday	\$14,891,311	0.216%
<b>Total</b>	<b>\$6,890,433,333</b>	<b>100.000%</b>

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<sup>13</sup> “Units” means individual loans granted to Maine consumers by licensed payday lenders. CFBP data from 2013 appears to show “the majority (64%) of new borrowers become renewers. Similar proportions of new borrowers are categorized as defaulters (20%) and repayers (15%). Repayers also tend to be low-intensity users; 61% took out only one loan during the [year] time period.” See CFPB Data Point: Payday Lending [https://files.consumerfinance.gov/f/201403\\_cfpb\\_report\\_payday-lending.pdf](https://files.consumerfinance.gov/f/201403_cfpb_report_payday-lending.pdf) , accessed November 23, 2021.

<sup>14</sup> “Activity” means the lender’s loan volume in dollars as reported annually to the Bureau as required by 9-A M.R.S. § 6-203, which is a section of the Code that acts to fund Bureau operations through the establishment of a tax on the lender’s total annual lending activity.

# Payday Loan Finance Charges and Restrictions

## Maine Consumer Loan Maximum Finance Charges

Consumer protection laws in Maine obligate lenders to disclose the true cost of credit, so consumers can compare loan products between different lenders and creditors. The Code requires lenders to express the cost of credit as a nominal yearly rate, known as an annual percentage rate (“APR”). To calculate the APR for a loan, the lender must determine the finance charges they are earning from the loan. Maine law defines the term finance charge, in part, as “the cost of consumer credit as a dollar amount.”<sup>15</sup> The finance charge includes any charge imposed by the lender as an incident to or as a condition of the extension of credit such as interest, loan fees, and service charges.

Article 2 of the Code establishes limitations by which lenders may accrue interest or assess finance charges involving small-dollar loans. 9-A M.R.S. § 2-401(2) establishes consumer loan maximum finance charges according to a “tiered” method based on the loan’s amount financed (“loan balance”). The text from the applicable section of Maine law reads as follows:

*With respect to a consumer loan, other than a loan pursuant to open-end credit, a lender may contract for and receive a finance charge calculated according to the actuarial method, not exceeding the equivalent of the following:*

*A. The total of:*

- (i) 30% per year on that part of the unpaid balances of the amount financed that is \$2,000 or less;*
- (ii) 24% per year on that part of the unpaid balances of the amount financed that is more than \$2,000 but does not exceed \$4,000; and*
- (iii) 18% per year on that part of the unpaid balances of the amount financed that is more than \$4,000.*

*Notwithstanding paragraph A, with respect to a consumer loan in which the amount financed exceeds \$8,000, a lender may not contract for and receive a finance charge calculated according to the actuarial method in excess of 18% per year on the entire amount of the loan.*

The rates are applied to parts of the unpaid principal balance outstanding. Table 4 (below) shows how interest would be calculated for a \$5,000 loan.

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<sup>15</sup> See 9-A M.R.S. § 1-301(19).

**Table 4.** Tiered Rate Example: \$5,000 loan.

<b>Rate</b>	<b>Tiered Principal Balance</b>	<b>Finance Charge</b>
30%	\$2,000	\$600
24%	\$2,000	\$480
18%	\$1,000	\$180
<b>TOTAL</b>	<b>\$5,000</b>	<b>\$1,260</b>

9-A M.R.S. § 2-401(2) does not require that each payment be applied to all tiers simultaneously. Rather, the rate tiers are applied as the unpaid balance falls within the tiers. To meet Truth-in-Lending disclosure requirements<sup>16</sup> the lender must determine a single “melded” or “blended” APR which earns the same finance charge as the tiered rates. For the example given in Table 4 (above), the melded or blended APR would be 25.2%.

Since 1975, 9-A M.R.S. § 2-401(7) has allowed supervised lenders, including payday lenders, to use a finance charge method other than the tiered method as described above. These lenders may employ a “minimum [finance] charge”<sup>17</sup> — a fixed dollar charge dependent on the loan amount. The text from the applicable section<sup>18</sup> of Maine law reads as follows:

*Notwithstanding [CODE Section 2-401(2)] the lender may contract for and receive a minimum [finance] charge of not more than:*

*Five dollars when the amount financed does not exceed \$75;*

*Fifteen dollars when the amount financed exceeds \$75, but is less than \$250;*

*Twenty-five dollars when the amount financed is \$250 or more.*

If the lender employs the minimum [finance] charge method, they remain obligated to disclose to the consumer the appropriate APR for the payday loan. Tables 5 through 7 (below) show examples of the allowable maximum APRs for Maine payday loans of different balances and terms.

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<sup>16</sup> See 12 C.F.R. § 1026.18(e).

<sup>17</sup> See 9-A M.R.S. § 2-401(7).

<sup>18</sup> *Id.*

**Table 5.** \$5.00 Charge for Loans not Exceeding \$75.00 (up to \$75.00).

<b>Loan Amount</b>	<b>Minimum Charge</b>	<b>Loan Term in Days</b>	<b>Maximum APR %</b>
\$75.00	\$5.00	14	173.810
\$75.00	\$5.00	21	115.873
\$75.00	\$5.00	30	81.111

**Table 6.** \$15.00 Charge for Loans Exceeding \$75, but Less Than \$250.00 (\$75.01 to \$249.99).

<b>Loan Amount</b>	<b>Minimum Charge</b>	<b>Loan Term in Days</b>	<b>Maximum APR %</b>
\$100.00	\$15.00	14	391.071
\$100.00	\$15.00	21	260.714
\$100.00	\$15.00	30	182.500

**Table 7.** \$25.00 Charge for Loans Exceeding \$250.00 (\$250.00 and Higher).

<b>Loan Amount</b>	<b>Minimum Charge</b>	<b>Loan Term in Days</b>	<b>Maximum APR %</b>
\$250.00	\$25.00	14	260.714
\$250.00	\$25.00	21	173.810
\$250.00	\$25.00	30	121.666

### **Other New England States' Payday Loan Maximum Finance Charges**

The Bureau surveyed the laws of the other New England states' establishing maximum finance charges for payday loans. Table 8 (below) summarizes these laws.

**Table 8.** Survey of New England States Payday Loan Maximum Finance Charges

<b>State</b>	<b>Maximum FC as APR</b>	<b>Payday Lending Allowed?</b>	<b>Legal Citation</b>
CT	12.000%	Yes, but restricted	General Statutes of Connecticut: <u>Sec. 37-4.</u> Loans at greater rate than twelve per cent prohibited. No person and no firm or corporation or agent thereof, other than a pawnbroker as provided in section 21-44, shall, as guarantor or otherwise, directly or indirectly, loan money to any person and, directly or indirectly, charge, demand, accept or make any agreement to receive therefor interest at a rate greater than twelve per cent per annum.
NH	36.000%	Yes, but restricted	New Hampshire Statutes: Title XXXVI, Pawnbrokers and Moneylenders Chapter 399-A Regulation of Small Loans, Title Loans, And Payday Loans

			<p>399-A:17 Payday Loan Lenders.</p> <p>I. The annual percentage rate for payday loans shall not exceed 36 percent.</p>
Mass	23.000%	Yes, but restricted	<p>Commonwealth of Massachusetts Division of Banks:</p> <p>26.01: Rate order</p> <p>(1) All persons subject, in whole or in part, to the provisions of M.G.L. c. 140, §§ 96 through 113, may charge, contract for, and receive the following maximum interest charges for loans not in excess of \$6,000:</p> <p>...</p> <p>(a) 23% per annum of the unpaid balances of the amount financed calculated according to the actuarial method plus an administrative fee of \$20 upon the granting of a loan. An administrative fee is not permitted to be assessed to a borrower more than once during any 12-month period.</p>
RI	280.769% <sup>19</sup>	Yes	<p>State of Rhode Island General Laws:</p> <p>TITLE 19, Financial Institutions, CHAPTER 19-14.4</p> <p>Check Cashing, SECTION 19-14.4-4, Fees for services.</p> <p>No licensee shall....</p> <p>(4) Charge deferred deposit transaction fees in excess of ten percent (10%) of the amount of funds advanced.</p>
VT	N/A	No	<p>The Vermont Statutes Online:</p> <p>Title 8: Banking and Insurance</p> <p>Chapter 079: Money Services</p> <p>Subchapter 003: Check Cashing and Currency Exchange</p> <p>§2519. Activities of check cashers and currency exchangers</p> <p>(a) Check cashing.</p> <p>(13) No licensee shall agree to hold a payment instrument for later deposit. No licensee shall cash</p>

<sup>19</sup> Rhode Island Maximum APR Calculation Example: \$250.00 “advance” and 10% of advance = \$25.00. Amount financed = \$250.00, finance charge = \$25.00, loan term = 13-days, APR = 280.769%.

			or advance any money on a postdated payment instrument.
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Table 9 (below) compares maximum payday loan APRs in descending order. The figures are based on an amount financed (loan amount) of \$250.00 payable in 14 days.

**Table 9.** New England States' Maximum Payday Loan APR for a \$250.00 loan.

State	Maximum APR	Loan Amount	Loan Term
Maine	260.714%	\$250.00	14 days
Rhode Island	260.714%	\$250.00	14 days <sup>20</sup>
New Hampshire	36.000%	\$250.00	14 days
Massachusetts	23.000%	\$250.00	14 days
Connecticut	12.000%	\$250.00	14 days
Vermont	Payday Loans Prohibited	n/a	n/a

The Bureau conducted a limited survey of additional payday loan restriction in effect in other New England states. Table 10 (below) shows the results of the survey. Maine law does not provide any of the restrictions described in Table 10.

**Table 10.** Survey of Other New England States Additional Payday Loan Restrictions

State	Maximum Loan Amount	Minimum Loan Term (Days)	Maximum Loan Term (Days)	Maximum # of Outstanding Loans at One Time	Rollover or Renewal Permitted
CT	\$15,000.00	N/A	Not Limited	N/A	N/A
Mass	\$6,000.00	N/A	Not Limited	N/A	N/A
NH	\$500.00	7	30	1	0
RI	\$500.00	13	Not Limited	3	1
VT	N/A	N/A	N/A	N/A	N/A

<sup>20</sup> Rhode Island establishes a maximum payday loan term at 13 days, not 14 days. Therefore, the APR for a \$250.00 payday loan with a term of 13 days is 280.769%.

## Consumer Complaints Involving Payday Loans

Table 11 (below) is a review of all payday lender complaints the Bureau received from January 1, 2020 through November 23, 2021. For a detailed look at the complaints, please see Appendix B, which includes redacted scans of the original complaints.

**Table 11.** Payday Lender Complaints Received: January 1, 2020 through November 23, 2021.

Complaint Number	Payday Lender	Date Received	Consumer County	Complaint Comments
26636	Big Valley Band of Pomo Indians of the Big Valley Rancheria, Lakeport, CA  DBA: Little Lake Lending	11-08-21	Penobscot	<p><b>Unlicensed Payday Lender APR = 720.00%</b></p> <p>In process by Bureau. <a href="http://Littlelakelending.com/about">Littlelakelending.com/about</a>: “All loan application decisions are made at Little Lake’s office located at 2726 Mission Rancheria Rd. Lakeport, CA 95453 on the Tribe’s reservation. If your loan application is approved by Little Lake, your loan will be governed by Tribal law, applicable federal law, and the terms and conditions of your loan agreement. . . . The Annual Percentage Rate (“APR”) as applied to your loan will range from 720% to 795%”</p>
26632	Elem Indian Colony of Pomo Indians, Lower Lake, CA  DBA: First Loan	11-04-21	Aroostook	<p><b>Unlicensed Payday Lender APR = 777.84%</b></p> <p>In process by Bureau. First Loan’s <a href="#">website</a> states that they “verify applicant and credit information through national databases including, but not limited to, Clarity, Factor Trust, and Microbilt.”</p>
26362	Kahnawake Mohawk Territory, Quebec, Canada  DBA: Dash of Cash	03-30-21	Penobscot	<p><b>Unlicensed Payday Lender APR = 608.33%</b></p> <p>First notice ignored by respondent. Second letter sent certified to respondent. Consumer was advised how to defend by telephone on</p>

				04-02-2021. No update from consumer.
26320	Kashia Band of Pomo Indians of the Stewarts Point Rancheria, Santa Rosa, CA  DBA: Better Day Loans	02-26-21	Lincoln	<b>Unlicensed Payday Lender APR = not supplied</b> Investigator called consumer requesting more info. No response from consumer. Case closed by investigator.
26282	Fort Belknap Reservation Home of the Nakoda and Aaniiih Nations, Harlem, MT  DBA: Bright Lending DBA: Target Finance, LLC DBA: Target Cash Now	01-28-21	Androscoggin	<b>Unlicensed Payday Lender APR = not supplied</b> Investigator mailed notice to respondent on 02-10-2021. Respondent ignored first notice. Investigator called consumer; debt claim appears to be fictitious, and is not being pursued by respondent. Case closed by investigator.
26280	Lac du Flambeau Band of Lake Superior Chippewa Indians, Lac du Flambeau, WI  DBA: Lendgreen DBA: Loan at Last	01-27-21	York	<b>Unlicensed Payday Lender APR = 717.09%</b> First notice ignored by respondent. Second letter sent to respondent. Investigator called consumer with update. Respondent appears to be out of business. Case closed.
26084	Lac du Flambeau Band of Lake Superior Chippewa Indians, Lac du Flambeau, WI  DBA: Lendgreen DBA: Loan at Last	09-20-20	Franklin	<b>Unlicensed Payday Lender APR = 780.00%</b> Certified letter sent by investigator. Consumer was updated after respondent offered to settle. Consumer was notified that the complaint was closed. (Payday loan 1 of 2)

	DBA: Nine Torches			
26083	Lac du Flambeau Band of Lake Superior Chippewa Indians, Lac du Flambeau, WI  DBA: Lendgreen DBA: Loan at Last	09-02-20	Franklin	<b>Unlicensed Payday Lender APR = 750.68%</b> Certified letter sent by investigator. Consumer was updated after respondent offered to settle. Consumer was notified that the complaint was closed. (Payday loan 2 of 2)
26057	Open Investigation	08-11-20	Cumberland	Open Investigation
25833	Aaniiih Nakoda Finance, LLC Fort Belknap Reservation Home of the Nakoda and Aaniiih Nations, Harlem, MT  DBA: Bright Lending DBA: Target Finance, LLC DBA: Target Cash Now	04-13-20	Cumberland	<b>Unlicensed Payday Lender APR = not supplied</b> Consumer was advised how to assert their rights by telephone on 04-13-2021. Consumer reported that remaining debt was waived by respondent. (Payday loan 1 of 2)
25832	Mandan, Hidatsa, and Arikara Nation  Fort Berthold Indian Reservation in central North Dakota  DBA: MaxLend	04-09-20	Cumberland	<b>Unlicensed Payday Lender APR = not supplied</b> Consumer was advised how to assert their rights by telephone on 04-13-2021. Consumer reported that remaining debt was waived by respondent. (Payday loan 2 of 2)
25820	Habematolel Pomo of Upper Lake of Upper Lake, CA	04-20-20	Hancock	<b>Unlicensed Payday Lender APR = 780.00%</b> Investigator sent notice to respondent. Respondent agreed to waive all

	DBA: Golden Valley Lending			remaining debt. Consumer informed. Case closed.
25744	Kashia Band of Pomo Indians of the Stewarts Point Rancheria, Santa Rosa, CA  DBA: Better Day Loans	03-02-20	Kennebec	<b>Unlicensed Payday Lender APR = 768.79%</b>  Investigator instructed consumer how to defend by telephone. No update from consumer. Case closed by investigator.
25623	Kashia Band of Pomo Indians of the Stewarts Point Rancheria, Santa Rosa, CA  DBA: Better Day Loans	01-15-20	Knox	<b>Unlicensed Payday Lender APR = 773.76%</b>  Investigator instructed consumer how to defend by telephone. Case closed by investigator.

Figure 2 (below) shows the volume and type of complaints received by the Bureau over the same period.

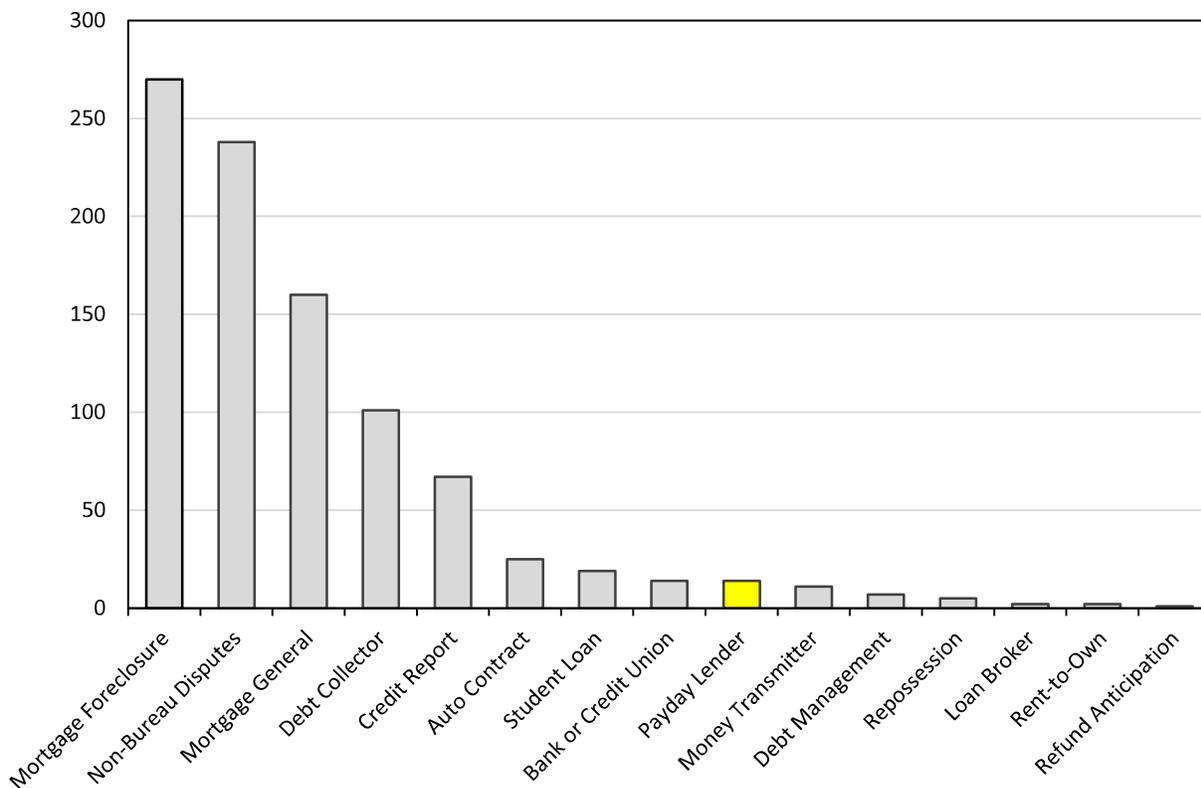


Figure 2. All complaints received by the Bureau: January 1, 2020 through November 23, 2021.

## Input from Interested Parties

### Input from The Maine Center for Economic Policy, and Maine Equal Justice

*This section contains excerpts and associated footnotes provided by the Maine Center for Economic Policy, and by Maine Equal Justice. A full copy of the advocates' input is attached to this study as Appendix C.*

“[Maine Center for Economic Policy and Maine Equal Justice] are part of the Maine Consumer Rights Network, which coordinates efforts to advance and protect the interests of consumers in Maine through advocacy, information-sharing, and education.

“We know from both data and experience with clients that Mainers are struggling to make ends meet. Met with an unexpected expense of \$400, one in four Mainers report they'd have to borrow money or sell something to cover the bill, while one in five say they would have no way to pay at all. That puts Maine behind the national average, where only one-eighth of Americans said they would be completely unable to cover the expense.<sup>21</sup>

“Maine and Rhode Island are outliers in New England, as they are the only states that do not have an ‘all-inclusive’ rate cap.

“Recommended policies that help consumers avoid the debt trap, including prohibitions on postdated checks or loan limits accompanied by cooling-off periods.

“High interest rates and fees, short repayment terms, and a single, balloon-payment structure make payday loans unaffordable. According to the National Consumer Law Foundation, most payday borrowers would not be able to afford to pay off a \$300 loan in two weeks, even if the loan were free.<sup>22</sup>

“True interest rate caps on consumer loans that are inclusive of all loan-related costs and fees are one of the best protections Maine can offer its consumers. They help curb usurious rates that send borrowers into a cycle of debt. And despite payday lenders' claim to the contrary, rate caps do not lead to higher rates of online lending.<sup>23</sup>

“In addition to strengthening the state's current cap on interest and fees for small-dollar loans, Maine can adopt other regulations to prevent unaffordable loans that trap people in debt. These protections are not a substitute for a hard, all-inclusive cap, but can provide additional safeguards to Mainers struggling under predatory loan terms.

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<sup>21</sup> Myall, James. MECEP Blog: *Could you cover an unexpected \$400 expense? Nearly half of Mainers could not*, June 26, 2018. Available at: <https://www.mecep.org/blog/could-you-cover-an-unexpected-400-expense-nearly-half-of-mainers-could-not/>.

<sup>22</sup> National Consumer Law Foundation. *Why Cap Small Loans at 36%?* April 2013. Available at: <https://www.nclc.org/images/pdf/pr-reports/ib-why36pct.pdf>

<sup>23</sup> Pew Charitable Trusts. *How Borrowers Choose and Repay Payday Loans*, 2013, [http://www.pewtrusts.org/~media/assets/2013/02/20/pew\\_choosing\\_borrowing\\_payday\\_feb2013-\(1\).pdf](http://www.pewtrusts.org/~media/assets/2013/02/20/pew_choosing_borrowing_payday_feb2013-(1).pdf)

1. Institute waiting periods: New research shows that waiting periods are effective and provide protection without cutting off access to credit.<sup>24</sup> Maine should prohibit lenders from making any new loans to a borrower for 60-90 days after they've taken out three consecutive payday loans.
2. Limit the number of loans that a payday lender can issue; no more than one loan at a time: We understand that this regulation would require a way to track loans being Maine and other states have experience with this that can inform Maine's implementation.<sup>25</sup>
3. Provide off-ramps to offer a way out of debt: These protections could be structured in different ways, the most common is to require the loan's principal be decreased with each loan, so that it is repaid after so many (often three) loans. Maine could also require lenders to allow consumers to pay off debts without added fees.
4. Require an 'ability-to-repay' test: This would require lenders to assess the borrower's ability to repay the loan amount before issuing a loan. The ability-to-repay principle is a long-standing tenet of responsible lending. A standard, which considers both income and expenses, will help ensure that loans are affordable. There are models within the credit union industry that could help Maine construct an ability-to-repay test for payday loans.<sup>26</sup>

“Formal complaints are a poor metric for gauging the experience of Maine consumers with small dollar, short-term loans.

“While we do not have current consumer complaints on short-term or payday loans to report, it appears complaints are not the best metric for measuring the burden these loan rates place on Mainers. Borrowers may not be aware of their right to file complaints or know where to turn for help. Over the past three years, the Consumer Financial Protection Bureau has received only 19 complaints from Maine residents regarding payday loans, title loans, or personal loans. Rhode Island, the only other New England state without a strong payday loan rate cap, has only generated 33 such complaints over the past three years.<sup>27</sup>

“What's on the horizon?”

“We hear from consumer advocates around the country about emerging and rapidly growing short-term, small dollar loan products, like ‘Buy Now Pay Later’ loans. Another emerging category of products are loans or advances on earned wages, which has grown into a multi-

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<sup>24</sup> Hunt Allcott, Joshua J. Kim, Dmitry Taubinsky & Jonathan Zinman, Are High-Interest Loans Predatory? Theory and Evidence from Payday Lending. National Bureau of Economic Research, May 2021. Available at: <https://www.nber.org/papers/w28799>

<sup>25</sup> The Gold Standard. State-wide database tracks payday loans. Fort Knox, KY, May 12, 2010. Available at: <https://www.fkgoldstandard.com/content/state-wide-database-tracks-payday-loans>

<sup>26</sup> Self-Help Credit Union, a non-profit financial institution headquartered in Durham, NC, has a model.

<sup>27</sup> Consumer Financial Protection Bureau, Consumer Complaint Database, [https://www.consumerfinance.gov/data-research/consumer-complaints/search/?dataNormalization=None&dateRange=3y&date\\_received\\_max=2021-11-10&date\\_received\\_min=2018-11-10&product=Payday%20loan%2C%20title%20loan%2C%20or%20personal%20loan&searchField=all&state=ME&tab=Map](https://www.consumerfinance.gov/data-research/consumer-complaints/search/?dataNormalization=None&dateRange=3y&date_received_max=2021-11-10&date_received_min=2018-11-10&product=Payday%20loan%2C%20title%20loan%2C%20or%20personal%20loan&searchField=all&state=ME&tab=Map)

billion dollar sector over the past few years.<sup>28</sup> These ‘early wage access’ schemes come in various forms, but ultimately constitute a form of credit and some bear very little distinction from storefront payday loans. We believe that products such as these are contributing to the landscape of short-term, small dollar loans that are being offered to Maine consumers and that their prevalence is poised to grow. With the lack of oversight of these products, we worry about their potentially high cost and predatory terms that may be extracting wealth from low- and moderate-income Maine consumers. We encourage you and your colleagues at the Bureau to exercise whatever authority you have to ensure that entities engaged in these industries are complying with Maine’s consumer credit laws.”

## **Input from the American Fintech Council**

*This section includes excerpts, and the associated footnotes, from the American Fintech Council, an association of lenders. A full copy of the input is attached to this study as Appendix D.*

“The American Fintech Council (‘AFC’) represents financial technology companies (‘fintech’), such as technology platforms, buy-now-pay-later companies, and payment processors, as well as their many partner banks and neobanks, that embrace both consumer protection as a core component of our mission and regulation that advances responsible innovation.

“We have and continue to oppose efforts to insert provisions or definitions into state law that disrupt and discourage bank-fintech partnerships and third-party lending relationships. There is an ongoing and vigorous debate within the financial services industry as well as with consumer advocates about whether fee and interest rate caps help or hurt the availability of credit in underserved communities and banking deserts around the country and whether financial institutions can offer a variety of loan sizes profitably, affordably and at-scale to consumers and small businesses with a range of credit risk profiles, including those that are subprime. Notwithstanding the debate, state laws have sought to drive out higher-cost installment loans and unaffordable payday lending, but have also failed to encourage sufficient responsible credit, and particularly small dollar alternatives, in the private market – products that can and are financed and facilitated in a number of ways today, including through bank partnerships with fintech companies and with the support of private investors through the secondary market.

“Why do bank-fintech partnerships exist?

“Market competition, federal law and regulations, differing state rules, customer acquisition and servicing costs, pressure on bank net interest margins, technological innovation, and customer preferences all put pressure on the economics of providing financial services. These pressures provide the impetus for banks to partner with fintech companies. Through a bank-fintech partnership, the fintech can leverage its technology platform, customer-reach, application processing, servicing capabilities, and lower costs, to allow the bank to offer

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<sup>28</sup> Berman, Jillian. MarketWatch: Are early wage access products a worker-friendly innovation — or loans that need regulation? October 22, 2021. Available at: <https://www.marketwatch.com/story/are-early-wage-access-products-a-worker-friendly-innovation-or-are-they-loans-that-need-to-be-regulated-11634921191>

products that the bank would not otherwise be able to make as efficiently or at a scalable cost.

“For fintechs, having a bank partner allows the company to scale their online platform and technologies in multiple markets or nationwide. Banks can hold federally insured deposits, process payments and have more experience and a longer track record of existing and prospering under various federal and state regulatory regimes. While the bank partnership can manage some state compliance costs, fintech partners are state licensed and regulated depending on the functions they undertake (*e.g.*, brokering, soliciting, purchasing receivables, servicing, collections).

“Do [bank-fintech partnerships] expand access, facilitate financial inclusion and financial services in banking deserts?”

“With banking deserts and underserved census tracts proliferating around the country and bank consolidations accelerating,<sup>29</sup> many lawmakers have asked whether bank partnerships with fintechs are helping to fill the geographic gaps as well as reaching underserved consumers and small businesses.

“Federal researchers and others have found that bank-fintech partnerships have lowered the cost of financial services in underserved communities.<sup>30</sup> Researchers have documented fintech enabled bank lending in banking deserts, low-income communities and to the ‘invisible prime’ consumers whom other lenders might overlook or overprice.<sup>31</sup> . . .

“Does this class of consumers and small business have better alternatives for credit?”

“As policy makers enact laws designed to restrict access to unsecured credit products or to limit loans made through bank partnerships (*e.g.*, by capping interest rates or defining the non-bank fintech partner as the lender), it is important to understand whether consumers and small businesses will have better alternatives available to a range of credit risk profiles and whether those alternatives are more affordable, transparent, and responsible or not.<sup>32</sup> In

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<sup>29</sup> See *e.g.*, committee memorandum on The Future of Banking: How Consolidation, Nonbank Competition, and Technology are Reshaping the Banking System, U.S. House Subcommittee on Consumer Protection and Financial Institutions (The total number of federally-insured banks in the U.S. has fallen from 17,811 in 1984 to 4,951 as of June 30, 2021). The OCC, for example, publishes a list of distressed and underserved middle income census tracts including banking deserts.

<sup>30</sup> Elder Beiseitov, Unsecured Personal Loans Get a Boost from Fintech Lenders, Federal Reserve Bank of St. Louis (July 16, 2019) (“On average and for every risk level, fintech lenders offer lower annual percentage rates (APRs) when compared to those of credit card firms”); Expert Report of Dr. Michael A. ` in *Avant vs. Colorado LLC d/b/a Avant, et. Al.* (February 14, 2020)(see Attachment A [Exhibit C])(study found that those who received a WebBank loan through Avant’s technology platform were distinct and high credit risk borrowers who would not have qualified for more competitive credit terms and would otherwise have to resort to higher cost credit options offered by fringe financial institutions).

<sup>31</sup> Julapa Jagtiani & Catherine Lemieux, Do Fintech Lenders Penetrate Areas That Are Underserved by Traditional Banks? Federal Reserve Bank of Philadelphia, Working Papers Research Dept. (March 2018) (found that 25% of a member company’s loans were concentrated in the 10% of communities with the fewest bank branches per capita, which are disproportionately low-income). The Roles of Alternative Data and Machine Learning in Fintech Lending: Evidence from the LendingClub Consumer Platform, Federal Reserve Bank of Philadelphia, Working Papers Research Dept. (January 2019) (found low default rates achieved while serving people deeper in the risk spectrum than customers of over 85% of the top traditional banks).

<sup>32</sup> Evidence suggests that subprime and deep subprime borrowers, when denied a preferred credit product such as payday loans, shift to other high cost alternative financial services and products like pawnshop loans, instead of relatively lower interest credit

addition to the affordable credit options made available by AFC members, prime, nonprime, subprime and below borrowers may have other unsecured lending options: a bank credit card or a personal loan from a bank that does not partner with a fintech; overdraft protection; a payday loan; or, secured lending like a pawnshop loan, auto title loan, or rent-to-own. In addition to business credit cards, traditional term loans or lines of credit, small businesses may also tap secured options such as a home equity line of credit, sales-based financing such as a merchant cash advance, factoring, supplier financing or equipment leasing.

“Why doesn’t ‘predominant economic interest’ work as a true lender standard in state law?”

“In short, a predominant economic interest test in state law creates risks and uncertainties for lenders that will reduce loan volumes/the supply of credit, loan sizes, access to unsecured capital for consumers and small businesses, as well as the credit risk profiles and geographies that can be served. While AFC has supported state efforts to make consumer and small business credit affordable, transparent and responsible, we fundamentally oppose efforts to promulgate lender definitions in state law that disrupt and discourage bank third-party lending relationships. These pernicious legislative provisions can undermine secondary market support and confidence in loans made through lending partnerships, make local credit markets less competitive, and reduce the supply of credit that can and has served underserved consumers, small businesses, geographies and a variety of credit risk profiles affordably.

“Some states have sought to subject the non-bank fintechs in a lending partnership to state usury and lender licensing laws by expanding the definition of the ‘lender’ beyond the bank that originates and funds the consumer or small business loan. States have proposed legislative language that defines a lender as, among other things, a party that holds, acquires, or maintains, directly or indirectly, the ‘predominant economic interest’ (the ‘PEI’) in a loan originated by and purchased from a bank. The legislative text picks up language from the Cash Call case. The PEI test creates uncertainty in law for lenders and investors that clouds the enforceability of bank-originated loans that are affordably priced and legally made. This uncertainty chills the desire of fintechs and banks to provide these loans, thereby constricting credit to consumers in these states.

“The problem with this test is that it is one-dimensional, overinclusive, and outcome determinative. In determining which entity has the ‘predominant economic interest’ in the transaction, courts, for example, have not necessarily considered all the same factors or given each factor the same weight. Application of the PEI test could cause a court to hold that a purchaser of bank-originated loans in the secondary market is the ‘true lender,’ notwithstanding that the bank approved the origination and loan criteria, funded the loans with its own capital, and complied with all regulatory requirements including consumer compliance and safety and soundness laws and regulations. The bank may have held the loans on its balance sheet for just under half the loan term, receiving just less than 50% of the principal and interest to be paid on such loans. The same outcome could apply if the bank retained a participation interest in such loans but received just less than 50% of the economics associated with such loans.

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cards. See Neil Bhutta, Jacob Goldin, & Tatiana Homonoff, [Consumer Borrowing After Payday Loan Bans](#), 59 *U. Chi. J. of Law and Econ.* 225 (2016).

“The risk of such arbitrary outcomes through application of the PEI test (by state statutes that treat the fintech as the ‘lender’ or courts deciding ‘true lender’ challenges) can and has encouraged industry players to limit participation in or exit the credit markets where the PEI test may frustrate their reasonable expectations that bank-originated loans (and investments based thereon) will remain equally enforceable when sold or assigned to non-banks.

“Banks and their partners will potentially not make loans or face gray areas that invite litigation by individual states. States will approach the issue differently and arrive at different definitions. Banks and fintech platforms will have to decide where they can do business based on whether a state may define and regulate the fintech as the ‘lender’ regardless of the bank’s status as the ‘true lender’ based on the totality of the circumstances regarding the lending partnership.

### **Excerpts from the CFPB Office of Research’s Research Brief No. 2021-1**

*This section contains excerpts, and the associated footnotes, from the above-referenced CFPB research brief. A full copy of the brief is attached to the Study as Appendix E.*

“Payday loans, auto title loans, and pawn loans are called alternative financial services (AFS) because the typical lender is not a bank. These loans are often for relatively low amounts—less than \$1,000—high interest rates, and short durations—often a month or less. While the exact terms and structure of these loans can differ from lender to lender, payday loans are typically given in advance of a consumer’s payday for a fee.

“The ‘mosaic’ of existing research on these products is still incomplete, leaving many unanswered questions.<sup>33</sup> In this research brief, we examine the prevalence, persistence of use, and alternate credit sources available for consumers who use payday loans.

“In June 2019, 4.4 percent of consumers had taken out a payday loan in the previous six months.

“The survey results show that consumers frequently roll over these loans [AFCs] or take out a new loan soon after re-paying the previous loan. In June 2019, of the consumers who had taken out a loan in the previous six months, 63 percent still owed money on a payday loan. Repeatedly rolling over or revolving loans is not unique for these kinds of loans. For the 79 percent of consumers with a credit card in the survey, for example, 51 percent did not pay the full bill in the previous month in June 2019.

“Use of [AFCs] appears to have fallen early in the pandemic. In June 2020, the share of consumers who still owed money on a payday loan fell to 48 percent (from 63 percent), the share for auto title loans was mostly unchanged, and the share for pawn loans fell to 34 percent (from 73 percent). The longer time period covered in June 2020 may also have

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<sup>33</sup> J. Brandon Bolen, Gregory Elliehausen, and Thomas W. Miller Jr. “Do Consumers Need More Protection from Small-Dollar Lenders? Historical Evidence and a Roadmap for Future Research,” 2020, *Economic Inquiry* 58: 1577-1613. Available: <https://doi.org/10.1111/ecin.12894>.

allowed consumers who took loans out more than six months ago longer to repay. These changes during the pandemic are consistent with other reporting suggesting that many consumers paid credit card debt, pawn loans, payday loans, and other debts during the pandemic as consumer spending fell while average incomes rose because of government transfers.<sup>34</sup>

“Many AFS users appear to have few other credit options while others have significant alternative sources of credit. A majority of AFS users have poor or very poor credit scores and are often turned down for mainstream credit or not granted the full requested amount. Yet a significant portion of consumers using these services had \$300 or more in available credit card credit at about the same time, they owed money on one of these loans. Using the association with the credit bureau data, we find 28 percent of consumers who owed money on a payday loan when they took the survey had at least \$300 in available credit card credit at the end of June 2019.<sup>35</sup>

“This finding presents a significant puzzle. The interest rate for credit cards is typically much lower than for AFS.<sup>36</sup> Why do so many consumers not use their credit card for liquidity instead of these high-cost loans? Perhaps consumers who shop less for the best terms find the convenience of an AFS more compelling or are less likely to be aware of the cost differential. Yet in the very small sample, the AFS users who have available credit card credit are more likely to say they search for the best terms, compared to AFS users without available credit card credit, offering suggestive evidence that shopping among these borrowers is not the explanation.

“For the consumers who use these services, borrowing repeatedly or rolling over is very common. While the terms vary, payday, auto title, and pawn loans are typically for 30 days or fewer. Given the short-term nature of these loans, if a consumer took out a loan in the

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<sup>34</sup> Consumers largely used their economic impact payments for saving or paying down debt. See: Olivier Coibion, Yuriy Gorodnichenko, and Michael Weber, “How Did U.S. Consumers Use Their Stimulus Payments?” August 2020, NBER Working Paper No. 27693. Available: <https://www.nber.org/papers/w27693>. On trends in saving and spending and government transfers, see: Josh Mitchell, “U.S. Household Income, Savings Rose at End of Last Year,” January 29, 2021, The Wall Street Journal. Available: <https://www.wsj.com/articles/consumer-spending-personalincome-coronavirus-december-2020-11611873351>. On credit card debt, see Ryan Sandler and Judith Ricks, “The Early Effects of the COVID-19 Pandemic on Consumer Credit,” August 2020. Available: [https://files.consumerfinance.gov/f/documents/cfpb\\_early-effects-covid-19-consumer-credit\\_issue-brief.pdf](https://files.consumerfinance.gov/f/documents/cfpb_early-effects-covid-19-consumer-credit_issue-brief.pdf). On pawn loans, see Emily Stuart, “It’s easy to assume pawnshops are doing great in the pandemic. It’s also wrong. It’s not just about the guns and gold: Loans are at the core of the pawn business,” Vox, November 30, 2020. Available: <https://www.vox.com/the-goods/21611583/pawn-shop-covid-19-economy>. On payday loans, see: Veritec Solution “Update: COVID-19 Impact Study on Small-Dollar Lending, October 22, 2020. Available: <https://www.veritecs.com/update-covid-19-impact-study-on-small-dollar-lending/>

<sup>35</sup> Sumit Agarwal, Paige Marta Skiba and Jeremy Tobacman, “Payday Loans and Credit Cards: New Liquidity and Credit Scoring Puzzles?” 2009, American Economic Review, 99(2):412-17.

<sup>36</sup> The average APR on revolving credit cards assessed interest was 16.04 percent in 2019 according to the G.19 Federal Reserve Statistical Release (February 2021). Available: <https://www.federalreserve.gov/releases/g19/current/>. Meanwhile, the average payday rate is much higher. AFS users typically have lower credit scores (see Figure 10), so would typically be charged a higher rate. The average “effective interest rate” for subprime and deep subprime borrowers was approximately 21 percent in 2018. See: Consumer Financial Protection Bureau, “The Consumer Credit Card Market,” August 2019, p. 55. Available: [https://files.consumerfinance.gov/f/documents/cfpb\\_consumer-credit-card-market-report\\_2019.pdf](https://files.consumerfinance.gov/f/documents/cfpb_consumer-credit-card-market-report_2019.pdf). Meanwhile, a fee of \$15 for every \$100 dollars borrowed for a two-week loan carries an APR equivalent of nearly 400 percent. See: <https://www.consumerfinance.gov/ask-cfpb/what-are-the-costs-and-fees-for-a-payday-loan-en-1589/>.

previous six months and still owes money on that type of loan, the consumer is likely to have rolled over the loan or taken out a new loan.

“For payday loans, respondents were asked directly about rolling over loans. In the survey, 48 percent of consumers who had taken out a payday loan in the previous six months had rolled over at least one payday loan in the previous six months. For comparison, consumers roll over other types of loans frequently as well: 51 percent of consumers with a credit card did not pay the full bill in the previous month in June 2019. In the survey, 79 percent of consumers had a credit card.

“Poor credit may hinder some AFS users from accessing formal credit products with more favorable terms.

“Over 60 percent of AFS users have credit scores that are either poor or very poor. Still, 24 percent have scores considered good or excellent which might allow them to access other sources of credit.

“Consumers using AFS not only have less favorable credit scores; they also are more likely to have applied for credit in the past year (59 percent compared to 40 percent among non-AFS users) and are more likely to have been turned down outright or have their credit application accepted for a lower amount than they requested. 48 percent of AFS users who did not apply for credit in the past year reported that they did not do so because they anticipated having their application rejected. In all, this means about 55 percent of AFS borrowers were unable to access additional credit they wanted because they were denied or expected they would be.

“Relatively few consumers use payday, auto title, and pawn loans. But the consumers who do use them tend to use them repeatedly. Around half of users in June 2019 were still using these services in June 2020. More than 60 percent of AFS users have a credit card and around a third of consumers who owed money on a payday and auto title loan in June 2019 had at least \$300 in available credit card credit. Yet many AFS users are credit constrained in other ways. AFS users typically have lower credit scores than other consumers and many have applied for credit and been turned down or decided not to apply because they thought they would be turned down. Many AFS users also experience sizable and costly shocks that exceed their available savings and credit card credit.”

## Bureau Discussions with Payday Loan Consumers in Maine

The Bureau sought input from a random sample of three Maine consumers who engaged licensed payday lenders, unlicensed payday lenders or both. Interviews were conducted during October and November 2021. Tables 12 through 14 (below) summarize these interviews.

**Table 12.** Interview with Consumer A, age 56. Used licensed and unlicensed payday lenders.

	Survey Question	Answer
1	What is your profession?	Disabled, but trying to start a home-based business in [REDACTED] through online marketplaces.
2	Have you used “payday” or “small-dollar” loans before?	Yes, back when I lived in [REDACTED] and once when I first moved to Maine.
3	Why did you use a payday lender and not a conventional lender?	First, I needed a quick response as I had a family emergency and traditional lenders take their time to consider an application. Second, my credit is not the best but not poor; so while I might not be outright denied a loan most lenders would want either security or cosigners. Being disabled, living in [REDACTED], and being unable to drive means that I have no assets to use as security. I also have no friends nor family who would consider loaning me money not cosigning a loan for me. Third, I am trying to rebuild my credit so I can get a mortgage and get a home of my own and a business loan to finish building my computer and getting the software I need for my home based business. Each time I go to a standard lender, the hard inquiry is a hit to my score, that while minor, do add up and remain in place for two years. And even if the influence of the inquiry is minimal, if the lender sees more than four inquiries, the number is detrimental to the decision regardless of credit score. Payday loans and other short-term lenders do not usually make hard inquiries and the only time anything is reported to the credit agencies is if the loan gets transferred to a collection agency.

4	How did you find the payday lender?	Internet search and then an intermediary broker to the payday lender.
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**Table 13.** Interview with Consumer B, age 70. Used licensed and unlicensed payday lenders.

	<b>Survey Question</b>	<b>Answer</b>
1	What is your profession?	Social security income only.
2	Have you used “payday” or “small-dollar” loans before?	Yes, multiple times over the last three years.
3	Why did you use a payday lender and not a conventional lender?	Over the last few years, I would face regular budget shortfalls and I would use online lenders because they were convenient for me. The process was easy, and the loan amounts were small, usually around \$300.00. The process was simple to me. If I could not pay on the due date, they would just roll the loan over for me until I had the money to pay it off. I had a credit card, but I did not want to do a cash advance because of the cost.
4	How did you find the payday lender?	I started with a Google search. Then I filled out an application, and several lenders contacted me.

**Table 14.** Interview with Consumer C, age 58. Used unlicensed payday lenders

	<b>Survey Question</b>	<b>Answer</b>
1	What is your profession?	Food service professional
2	Have you used “payday” or “small-dollar” loans before?	Yes, twice in the last year.
3	Why did you use a payday lender and not a conventional lender?	Following my divorce and upon moving back to Maine in December 2020, I needed \$500.00 for Christmas. Because my credit was not perfect, I felt that I could not use a bank and I did not have a credit card to use.
4	How did you find the payday lender?	Internet search took me to a loan arranger, I then filled out an application with a lender who I found out later was a tribal lender with a very high interest rate. I did both transactions on my phone.

## **Appendices**

Appendix A: PL 2021 Ch. 297

Appendix B: Bureau Consumer Complaints Involving Payday Loans

Appendix C: Input from the Maine Center for Economic Policy, and from Maine Equal Justice

Appendix D: Input from American Fintech Counsel

Appendix E: Research Brief No. 2021-1 from CFPB Office of Research

# Appendix A

STATE OF MAINE

—  
IN THE YEAR OF OUR LORD  
TWO THOUSAND TWENTY-ONE

—  
S.P. 205 - L.D. 522

**An Act To Protect Consumers against Predatory Lending Practices**

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 9-A MRSA Art. 2, Pt. 7 is enacted to read:

**PART 7**

**FRAUDULENT PRACTICES**

**§2-701. Engaging in pretense to evade requirements of this Article prohibited**

An entity covered by this Article may not engage in any device, subterfuge or pretense to evade the requirements of this Article, including, but not limited to, making a loan disguised as a personal property sale and leaseback transaction, disguising loan proceeds as a cash rebate for the pretextual installment sale of goods or services or making, offering, assisting or arranging a debtor to obtain a loan with a greater rate of interest, consideration or charge than is permitted by this Article through any method. A loan made in violation of this Part is void and uncollectible as to any principal, fee, interest or charge.

**§2-702. Purporting to act as agent or service provider for another entity exempt from this Article**

A person is a lender subject to the requirements of this Article notwithstanding the fact that the person purports to act as an agent or service provider or in another capacity for another entity that is exempt from this Article, if, among other things:

1. The person holds, acquires or maintains, directly or indirectly, the predominant economic interest in the loan;
2. The person markets, brokers, arranges or facilitates the loan and holds the right, requirement or first right of refusal to purchase the loan or a receivable or interest in the loan; or
3. The totality of the circumstances indicate that the person is the lender and the transaction is structured to evade the requirements of this Article. Circumstances that weigh in favor of a person being a lender include, without limitation, when the person:

A. Indemnifies, insures or protects an exempt entity for any costs or risks related to the loan;

B. Predominantly designs, controls or operates the loan program; or

C. Purports to act as an agent or service provider or in another capacity for an exempt entity while acting directly as a lender in other states.

**Sec. 2. 9-A MRSA §5-201, sub-§2**, as amended by PL 1993, c. 496, §1, is further amended to read:

2. If a creditor has violated the provisions of this Act applying to authority to make supervised loans, section 2-301, the debtor is not obligated to pay ~~any application fee, prepaid finance charge or closing cost, nor the loan finance charge owed for the first 12 months of the loan.~~ If the debtor has paid any part of ~~the application fee, prepaid finance charge, closing cost or loan finance charge owed for the first 12 months of the loan,~~ the debtor has a right to recover the payment from the person violating this Act or from an assignee of that person's rights who undertakes direct collection of payments or enforcement of rights arising from the debt. With respect to violations arising from loans made pursuant to open-end credit, no action pursuant to this subsection may be brought more than 2 years after the violation occurred. With respect to violations arising from other loans, no action pursuant to this subsection may be brought more than one year after the due date of the last scheduled payment of the agreement pursuant to which the charge was paid.

**Sec. 3. 9-A MRSA §5-201, sub-§2-A** is enacted to read:

2-A. If a lender has violated the provisions of this Act applying to authority to make supervised loans as set forth in section 2-301, the lender:

A. May not furnish information concerning a debt associated with that violation to a consumer reporting agency, as defined in Title 10, section 1308, subsection 3; and

B. May not refer a debt associated with that violation to a debt collector, as defined in Title 32, section 11002, subsection 6.

**Sec. 4. Short-term, small dollar loan study.** The Department of Professional and Financial Regulation, Bureau of Consumer Credit Protection shall study the use by Maine residents of short-term, small dollar loans in accordance with this section. In conducting the study, the bureau shall seek input from consumer advocates, regulators in other states, federal regulatory agencies, members of the lending industry and other interested parties.

1. At a minimum, the study must include the following:

A. A survey of the laws of other New England states related to maximum interest rates, permitted fees and finance charges and other provisions regulating consumer debt;

B. A survey of other policies that help consumers avoid the debt trap, including prohibitions on postdated checks or loan limits accompanied by cooling-off periods;

C. A review of complaints from Maine consumers and a survey of credit counselors and nonprofit organizations that provide legal or other assistance to Maine consumers to provide insight into the types of debt that are causing the most difficulty to Maine consumers; and

D. An analysis of the extent to which lenders and other entities use the provisions of the Maine Revised Statutes, Title 9-A, section 2-201, subsection 6 to receive a minimum charge on short-term, small dollar loans and the impact of those minimum charges on overall interest rates charged to Maine consumers.

2. The bureau shall submit the report, including any suggested legislation, to the Joint Standing Committee on Health Coverage, Insurance and Financial Services no later than December 1, 2021. The Joint Standing Committee on Health Coverage, Insurance and Financial Services may submit a bill to the Second Regular Session of the 130th Legislature in response to the report.

# Appendix B

**Myslik, Edward**

**# 26636**

**From:** [REDACTED]  
**Sent:** Sunday, November 7, 2021 12:58 PM  
**To:** credit, cons  
**Subject:** Consumer Credit Complaint email

EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Date: November 5, 2019

Consumer Information:

[REDACTED]  
[REDACTED]  
[REDACTED]

United States

Day telephone: [REDACTED] Extension:

Evening Telephone: [REDACTED]

Fax:

Email: [REDACTED]

Company complained about:

Layma, LLC, Niswi LLC. dba Little Lake Lending  
2770 Mission Rancheria Rd #393  
Lakeport, CA 95453

Telephone number: 844-600-9737

Your account number: Unknown

Person you spoke with:

Details of your complaint:

1. I was in need for a fast small-dollar loan.
2. I filled out an online application, which turned out to be a lender search engine. This connected me to a lender called Little Lake Lending, which turned out to be a tribal lender.
3. A representative of the lender contacted by phone a short while later to tell me that I qualified for a \$1400 loan
4. The representative walked me through the online documentation while not really giving me a chance to read the full document.
5. The representative then prompted me to the electronically sign form to get the funding process started that day.

6. After I had signed the documents, I went through them in deeper detail and found that the \$586 payment was for 12 months for a total of \$7,032. If I want to avoid this exorbitant interest rate payment I have to make a 1 time payment of \$1,950 by December 3, 2021.

7. I felt like I was taken advantage of because I was pushed through the loan process without being given the chance to fully comprehend the terms of the loan.

8. I was also unaware that the lender did not have the proper licensing to lend money within the state of Maine, thus was induced into an illegal business transaction under Maine's licensing codes

May we send a copy of this complaint to the company? Yes

Reason for not sending complaint to company?

Do you authorize the Bureau of Consumer Credit Protection to act on your behalf to communicate with your creditors or other businesses, obtain documents from those businesses and take all appropriate steps to respond to your complaint?  
Yes

What would you like us to do to resolve your complaint? 1. I would like the Bureau to investigate my complaint against Little Lake Lending and verify that the lender illegally offered and distributed funds to myself and possibly others in direct violation of Maine's licensing laws.

2. To investigate the lenders business practices to show that the lender, while not using deception directly, deliberately used communication techniques that obscured and distracted me and possibly others from truly understanding the actual terms of the loan until after I had committed to and electronically signed said terms.

3. Determine the legality of the lender's algorithm for calculating the value and distribution of repayment funds towards primary and interest that result in a total payment schedule that leads to a repayment rate of up to 740% of the original funds loaned.

4. Determine if the lender's business operation processes are in compliance with Maine's legal code.

5. Determine if by Maine's codes and laws if this loan was legal and if not have the loan a. cancelled altogether, b. allow repayment of primary only as to discharge the original debt, thus closing the illegal transaction, or c. recalculate the interest rate to a non-predatory rate. (I personally would consider 12 payments of \$150 a reasonable rate, but 12 payments of \$586 is insane.)

Credit Report Complaints: If your complaint relates to a credit report, do you give the Office permission to receive a copy of your credit report?

If yes, please list Date of Birth: , and Social Security number:

#26636

#26632

Myslik, Edward

**From:** [REDACTED]  
**Sent:** Monday, November 1, 2021 10:49 PM  
**To:** credit, cons  
**Subject:** Consumer Credit Complaint email

EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Date: November 1, 2021

Consumer Information:

[REDACTED]  
[REDACTED]  
[REDACTED]

United States

Day telephone: [REDACTED] Extension:

Evening Telephone:

Fax:

Email: [REDACTED]

Company complained about:

First Loan  
P.O. Box 1536  
Lower Lake, CA 95457

Telephone number: 888-340-2911

Your account number: [REDACTED]

Person you spoke with: Rency

Details of your complaint: This company is a online installment loan company I was forced to use in a time of need. I borrowed 500.00 from them at a percentage rate 777.84. They deposited the money in my account on 1/13/2021 and proceeded to take payments every two weeks- 1 payment on 1/20/2021 of 96.27 and from 2/3 to 9/1/2021 payments of 149.77.

On 9/10 I emailed the company to inform that I had revoked my authorization for withdrawals from my account and upon further investigation into their company that they had violated Maine law on interest they could charge and as far as I could tell they were not licensed to operate in Maine.

I asked that they return my overpayment of 1646.60.

They emailed me back and said as a courtesy they would close my account in good standing but refused to return my money.

I offered to take 1500.00 in case of any mistakes in accounting on my part and they refused. They gave me one offer of 500.00 which I refused and countered with 900.00 but they never responded until I threatened to expose them to every government agency I could think of.

They emailed me a letter with a offer of 900.00 plus a clause that I was not allowed to discuss it with anyone.

I refused and asked for the full amount they owed of 1646.60 because they basically ignored me until they couldn't.



#26362

Myslik, Edward

From: [REDACTED]  
Sent: Tuesday, March 30, 2021 7:01 PM  
To: credit, cons  
Subject: Consumer Credit Complaint email

EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Date: March 30, 2021

Consumer Information:

[REDACTED]  
[REDACTED]

CONSUMER  
NAME

Bangor, ME 04401  
United States

Day telephone: [REDACTED] Extension:

Evening Telephone:

Fax:

Email: [REDACTED]

ORIGINAL  
LOAN  
4/2/2021

Company complained about:

Dash of Cash  
1329-A Arena Road, Lot 110  
Kahnawake Mohawk Territory, Via: Quebec, Canada J0L1B0, ME

Telephone number: 844-810-2274

Your account number: [REDACTED]

LOAN NUMBER

Person you spoke with: Don't remember

Details of your complaint: This outfit is based on an Indian reservation in Quebec but its website says it is part of the SpeedyLoan network. I tried to gather information on SpeedyLoan but was unable to find any.

I was pressed for cash at the end of February, so I went online to look for loans available to Maine residents. I was offered an \$800 loan by Dash of Cash, intending to pay it off before the first payment (\$400) was due (it is now due Apr. 7). When I was finalizing the loan with the telephone agent, I specifically asked the agent how much I would pay if I paid off the loan under the terms I just outlined. She was somewhat vague, but told me I would pay the interest for the time that I had the loan out. The APR stated in the contract is 353%. However, today when I called to ask for an extension for a few days on the first payment, I was told that to settle the loan I would have to pay \$1200. This is not what I expected. I'm not good with math, but \$400 interest on an \$800 loan for slightly over a month is considerably more than 353% APR. It also would put a big dent in my finances for the next few months. I downloaded the agreement and a screen shot of my account showing what I owe and can send these if you provide me an email address.

May we send a copy of this complaint to the company? Yes

Reason for not sending complaint to company?

Do you authorize the Bureau of Consumer Credit Protection to act on your behalf to communicate with your creditors or other businesses, obtain documents from those businesses and take all appropriate steps to respond to your complaint?

Yes

What would you like us to do to resolve your complaint? I would like to pay 353% on \$800 for 35 days plus the principle, and not more.

Credit Report Complaints: If your complaint relates to a credit report, do you give the Office permission to receive a copy of your credit report? No

If yes, please list Date of Birth: , and Social Security number:



Janet T. Mills  
GOVERNOR

# State of Maine

Department of Professional  
& Financial Regulation

## Bureau of Consumer Credit Protection

35 State House Station  
Augusta, Maine 04333-0035

William N. Lund  
SUPERINTENDENT

June 28, 2021

## Second Notice

Dash of Cash  
1329-A Arena Road, Lot 110  
Kahnawake Mohawk Territory  
Quebec, Canada J0L1B0

Re: State of Maine Bureau of Consumer Credit Protection / Notice of Complaint #26362 / Dash of Cash  
Loan #I1004129-0

Dear Dash of Cash:

The purpose of this letter is to notify you that the State of Maine Bureau of Consumer Credit Protection ("Bureau") is in receipt of a complaint (*see* enclosed copy of complaint) naming Dash of Cash as the respondent. The Bureau is authorized to "[r]eceive and act" on complaints by Maine law at 9-A M.R.S. § 6-104(1)(A). The Bureau is the regulatory agency that issues licenses to non-depository lenders engaged in the business extending consumer credit to Maine residents.

### Complaint Summary

---

According to the written complaint, Dash of Cash acted as the creditor in the granting of a payday loan to the complainant with a beginning balance of \$800.00 holding an APR of 353.00%.

### Analysis

---

Maine law at 9-A M.R.S. § 2-301 states that "[u]nless a person . . . has first obtained a license pursuant to this Act from the [Bureau] . . . the person may not engage in the business of . . . [m]aking supervised loans. Maine law at 9-A M.R.S. § 5-201(2) states that "[i]f a creditor has violated the provisions of this Act applying to the authority to make supervised loans, section 2-301, the debtor is not obligated to pay any fee, prepaid finance charge or closing cost, nor the loan finance charge . . . ."

Postal Address: 35 State House Station, Augusta, Maine 04333-0035  
Physical Address: 76 Northern Avenue, Gardiner, Maine 04345  
Office Telephone: (207) 624-8527 | Office Facsimile: (207) 582-7699  
Website: <https://www.maine.gov/pfr/consumercredit/>  
Email: [Edward.myslik@maine.gov](mailto:Edward.myslik@maine.gov)

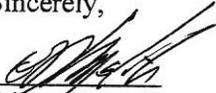
## Required Response

---

1. Dash of Cash is required to respond in writing (email okay: [Edward.myslik@maine.gov](mailto:Edward.myslik@maine.gov)) to this complaint within 20-days receipt.
2. Dash of Cash is required to waive all interest, fees, charges and to immediately cease any collection activity or credit reporting associated with the subject debt.
3. Dash of Cash is required to cease all consumer lending activity in the State of Maine until the Bureau has received and acted upon an application for a supervised lender license for Dash of Cash.

I thank you in advance for your help with this matter, and I look forward to working with you to resolve this complaint and to discuss the Bureau's supervised lender licensing process. Be advised, that your failure to respond to this notice may result in the issuance of a publicly posted cease and desist order naming Dash of Cash as the respondent.

Sincerely,



~~Edward Myslik~~

Principal Consumer Credit Examiner  
Bureau of Consumer Credit Protection  
76 Northern Avenue  
Gardiner, ME 04345  
Telephone: (207) 624-8527  
Email: [Edward.myslik@maine.gov](mailto:Edward.myslik@maine.gov)

## Second Notice

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Dash Of Cash  
 1329-A Arena Road, Lot 110  
 Kahnawake Mohawk Territory  
 Quebec, Canada J0L1B0



9590 9402 5406 9189 2687 09

2. Article Number (Transfer from service label)

7019 1640 0001 7314 8284

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

**X** Agent Addressee

B. Received by (Printed Name)

C. Date of Delivery

 D. Is delivery address different from item 1?  Yes  
 If YES, enter delivery address below:  No

3. Service Type

 Adult Signature Adult Signature Restricted Delivery Certified Mail® Certified Mail Restricted Delivery Collect on Delivery Collect on Delivery Restricted Delivery Insured Mail Insured Mail Restricted Delivery (over \$500) Priority Mail Express® Registered Mail™ Registered Mail Restricted Delivery Return Receipt for Merchandise Signature Confirmation™ Signature Confirmation Restricted Delivery

STATE OF MAINE  
CONSUMER CREDIT PROTECTI  
STATE HOUSE STATION  
USTA, MAINE 04333-0035



7019 1640 0001 7314 8284  
7019 1640 0001 7314 8284

tion

**U.S. Postal Service™**  
**CERTIFIED MAIL® RECEIPT**  
*Domestic Mail Only*

For delivery information, visit our website at [www.usps.com](http://www.usps.com)®

**OFFICIAL USE**

Certified Mail Fee

Extra Services & Fees (check box, add fee as appropriate)

- Return Receipt (hardcopy) \$ \_\_\_\_\_
- Return Receipt (electronic) \$ \_\_\_\_\_
- Certified Mail Restricted Delivery \$ \_\_\_\_\_
- Adult Signature Required \$ \_\_\_\_\_
- Adult Signature Restricted Delivery \$ \_\_\_\_\_

Postage \$ \_\_\_\_\_

Total Postage and Fees \$ \_\_\_\_\_

Postmark  
Here

JOUBO

Sent To ASH OF CHS  
Street and Apt. No., or PO Box No. 1529 A AINIA DRD LOT 110  
City, State, ZIP+4® CHARLOTTE ME 04747  
PS Form 3800, April 2015 PSN 7530 02-000-9047 See Reverse for Instructions

STATE OF MAINE  
CONSUMER CREDIT PROTECTI  
STATE HOUSE STATION  
AUGUSTA, MAINE 04333-0035



Bureau of Consumer Credit Protection  
35 State House Station  
Augusta, ME 04333-0035

Dash Of Cash  
1329-A Arena Road, Lot 110  
Kahnawake Mohawk Territory  
Quebec, Canada JOL1B0

**Following benefits:**  
electronic return receipt, see a retail  
for assistance. To receive a duplicate  
receipt for no additional fee, present this  
postmarked Certified Mail receipt to the  
societe.  
nd delivery service, which provides  
to the addressee specified by name, or  
addressee's authorized agent.  
nature service, which requires the  
to be at least 21 years of age (not  
a retail).  
nature restricted delivery service, which  
the signer to be at least 21 years of age  
yides delivery to the addressee specified  
3, or to the addressee's authorized agent  
liable at retail).  
that your Certified Mail receipt is  
as legal proof of mailing, it should bear a  
mark. If you would like a postmark on  
ed Mail receipt, please present your  
Mail item at a Post Office™ for  
ng. If you don't need a postmark on this  
all receipt, detach the barcoded portion  
3, affix it to the mailpiece, apply  
e postage, and deposit the mailpiece.  
**It's Save this receipt for your records.**

USPS TRACKING #



First-Class Mail  
Postage & Fees Paid  
USPS  
Permit No. G-10

9590 9402 5406 9189 2687 09

United States  
Postal Service

• Sender: Please print your name, address, and ZIP+4® in this box•

**State of Maine**  
Bureau of Consumer Credit Protection  
35 State House Station  
Augusta, ME 04333-0035

*EMYSLIK*



Janet T. Mills  
GOVERNOR

# State of Maine

Department of Professional  
& Financial Regulation

Bureau of Consumer Credit Protection

35 State House Station  
Augusta, Maine 04333-0035

William N. Lund  
SUPERINTENDENT

April 2, 2021

Dash of Cash  
1329-A Arena Road, Lot 110  
Kahnawake Mohawk Territory  
Quebec, Canada J0L1B0

# COPY

Re: State of Maine Bureau of Consumer Credit Protection / Notice of Complaint #26362 / Dash of Cash  
Loan #11004129-0

Dear Dash of Cash:

The purpose of this letter is to notify you that the State of Maine Bureau of Consumer Credit Protection ("Bureau") is in receipt of a complaint (see enclosed copy of complaint) naming Dash of Cash as the respondent. The Bureau is authorized to "[r]eceive and act" on complaints by Maine law at 9-A M.R.S. § 6-104(1)(A). The Bureau is the regulatory agency that issues licenses to non-depository lenders engaged in the business extending consumer credit to Maine residents.

## Complaint Summary

According to the written complaint, Dash of Cash acted as the creditor in the granting of a payday loan to the complainant with a beginning balance of \$800.00 holding an APR of 353.00%.

## Analysis

Maine law at 9-A M.R.S. § 2-301 states that "[u]nless a person . . . has first obtained a license pursuant to this Act from the [Bureau] . . . the person may not engage in the business of . . . [m]aking supervised loans. Maine law at 9-A M.R.S. § 5-201(2) states that "[i]f a creditor has violated the provisions of this Act applying to the authority to make supervised loans, section 2-301, the debtor is not obligated to pay any fee, prepaid finance charge or closing cost, nor the loan finance charge . . . ."

Postal Address: 35 State House Station, Augusta, Maine 04333-0035  
Physical Address: 76 Northern Avenue, Gardiner, Maine 04345  
Office Telephone: (207) 624-8527 | Office Facsimile: (207) 582-7699  
Website: <https://www.maine.gov/pfr/consumercredit/>  
Email: [Edward.myslik@maine.gov](mailto:Edward.myslik@maine.gov)

## Required Response

---

1. Dash of Cash is required to respond in writing (email okay: [Edward.myslik@maine.gov](mailto:Edward.myslik@maine.gov)) to this complaint within 20-days receipt.
2. Dash of Cash is required to waive all interest, fees, charges and to immediately cease any collection activity or credit reporting associated with the subject debt.
3. Dash of Cash is required to cease all consumer lending activity in the State of Maine until the Bureau has received and acted upon an application for a supervised lender license for Dash of Cash.

I thank you in advance for your help with this matter, and I look forward to working with you to resolve this complaint and to discuss the Bureau's supervised lender licensing process. Be advised, that your failure to respond to this notice may result in the issuance of a publicly posted cease and desist order naming Dash of Cash as the respondent.

Sincerely



Edward Myslik  
Principal Consumer Credit Examiner  
Bureau of Consumer Credit Protection  
76 Northern Avenue  
Gardiner, ME 04345  
Telephone: (207) 624-8527  
Email: [Edward.myslik@maine.gov](mailto:Edward.myslik@maine.gov)

COPY

# 26320

Myslik, Edward

From: Mediation, Consumer  
Sent: Friday, February 26, 2021 1:34 PM  
To: credit, cons  
Subject: FW: General Complaint or Question Form

Good afternoon:

Can you please assist this consumer with lender issues?

Thank you,  
Cami

Cami Hippler  
Assistant Complaint Examiner  
Consumer Information and Mediation Service Consumer Protection Division Office of Maine Attorney General  
6 State House Station  
Augusta, ME 04333-0006  
PH: 207-626-8849  
Fax: 207-626-8812  
E-Mail : consumer.mediation@maine.gov

*- CLOSE -*

*SOME HAVE COMPLAINTS?*

CONFIDENTIALITY NOTICE:

This e-mail message, including any attachments, is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message.

-----Original Message-----

From: [REDACTED]  
Sent: Friday, February 26, 2021 1:13 PM  
To: Mediation, Consumer <Consumer.Mediation@maine.gov>  
Subject: General Complaint or Question Form

EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.

General Complaint or Question Form

Your name: [REDACTED]  
Your address: [REDACTED]  
City: [REDACTED]  
State: Maine (ME)  
Zip: 04572  
Phone: [REDACTED] ✓  
Fax:  
E-mail: [REDACTED]



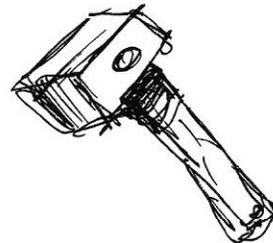
*ETA: CALLED CONSUMER  
3/2/2021 UM TL  
NEED MORE INFO.  
NO CALL BACK  
2:00PM*

Name of business:  
Their address:  
City:  
State: ME  
Zip:  
Telephone:  
Fax:  
E-mail:

Summary of complaint or question: I am having a wage assignment deducted by a company by the name of better day loans. I have already contacted you about them in January of 2020 as I had paid back what I borrowed from them. There was an insanely high interest rate.

→ NO: JAN 2019!  
→ SEE 25623  
→ CLOSED

3/26/2021  
→ CLOSE COMPLAINT  
NO RESPONSE FROM  
CONSUMER FOR MORE INFO.  
@



#26282

Myslik, Edward

From: [REDACTED]  
Sent: Thursday, January 28, 2021 7:26 PM  
To: credit, cons  
Subject: Consumer Credit Complaint email

EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Date: January 28, 2021

Consumer Information:

[REDACTED]  
[REDACTED]  
[REDACTED]  
United States

PORT INDIAN BECKNAP COMMUNITY  
UNLICENSED LENDER - TRIBAL

(800) 346-9348  
TARGET FINANCE, LLC  
P.O. BOX 581  
HAYS, MT 59527

Day telephone: [REDACTED] Extension:

Evening Telephone: [REDACTED]

Fax:

Email: [REDACTED]

Company complained about:

TargetCashNow  
PO Box 581  
Hays, MT 59527

Telephone number: 406-359-6579  
Your account number: unknown

Person you spoke with: unknown

Details of your complaint: On Tuesday, January 26 at 8:10 am EST, I was contacted by telephone by a company named Target Cash Now who was calling to collect on a debt.

Target Cash Now required that I supply them with the last-four digits of my SS# and my DOB. I supplied the information required by Target Cash Now.

The debt appears to be the result of payday loan opened fraudulently in my name.

SEE EXAM  
LETTON  
a

I did not take out a loan with Target Cash Now, or any other online lender.

May we send a copy of this complaint to the company? Yes

Reason for not sending complaint to company?

Do you authorize the Bureau of Consumer Credit Protection to act on your behalf to communicate with your creditors or other businesses, obtain documents from those businesses and take all appropriate steps to respond to your complaint?

Yes

What would you like us to do to resolve your complaint? I would like the Bureau to investigate my complaint.

I would like the Bureau to require that Target Cash Now cancel any debt held by them in my name.

I would like the Bureau to require that Target Cash Now cancel any reporting of this fraudulent debt to any consumer reporting agency.

I would like the Bureau to require that Target Cash Now expunge any personal information of mine that they have on file.

Credit Report Complaints: If your complaint relates to a credit report, do you give the Office permission to receive a copy of your credit report? No

If yes, please list Date of Birth: , and Social Security number:



Janet T. Mills  
GOVERNOR

# State of Maine

## Department of Professional & Financial Regulation

### Bureau of Consumer Credit Protection

35 State House Station  
Augusta, Maine 04333-0035

William N. Lund  
SUPERINTENDENT

February 10, 2021

Target Finance, LLC  
P.O. Box 581  
Hays, MT 59527

Re: State of Maine Bureau of Consumer Credit Protection / Notice of Complaint #26282

Dear Target Finance, LLC:

The purpose of this letter is to notify you that the State of Maine Bureau of Consumer Credit Protection (“Bureau”) is in receipt of a complaint (*see* enclosed copy of complaint) naming Target Finance, LLC (“Target”) as the respondent. The Bureau is authorized to “[r]eceive and act” on complaints by Maine law at 9-A M.R.S. § 6-104(1)(A). The Bureau is the regulatory agency that issues licenses to non-depository lenders engaged in the business extending consumer credit to Maine residents.

### Complaint Summary

---

According to the written complaint, Target contacted a Maine consumer claiming that a debt was owed “as a result of a payday loan opened fraudulently in [the complainant’s] name.” According to the consumer, the caller from Target confirmed the consumer’s SS# and her date of birth.

### Analysis

---

Maine law at 9-A M.R.S. § 2-301 states that “[u]nless a person . . . has first obtained a license pursuant to this Act from the [Bureau] . . . the person may not engage in the business of . . . [m]aking supervised loans. Maine law at 9-A M.R.S. § 5-201(2) states that “[i]f a creditor has violated the provisions of this Act applying to the authority to make supervised loans, section 2-301, the debtor is not obligated to pay any fee, prepaid finance charge or closing cost, nor the loan finance charge . . . .”

### Required Response

---

1. Target is required to respond in writing (email okay: [Edward.myslik@maine.gov](mailto:Edward.myslik@maine.gov)) to this complaint within 20-days receipt.

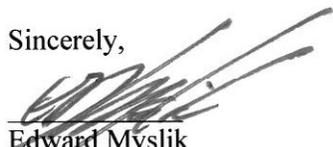
Postal Address: 35 State House Station, Augusta, Maine 04333-0035  
Physical Address: 76 Northern Avenue, Gardiner, Maine 04345  
Office Telephone: (207) 624-8527 | Office Facsimile: (207) 582-7699  
Website: <https://www.maine.gov/pfr/consumercredit/>  
Email: [Edward.myslik@maine.gov](mailto:Edward.myslik@maine.gov)

*Edward Myslik*  
*2/10/21*  
*WML*  
*Q*

2. Target is required to investigate the claim that the subject loan was opened fraudulently by the complainant or confirm the debt. If the debt was opened fraudulently, Target is required to purge the consumer's personal information from its systems.
3. Target is required to cease all consumer lending activity in the State of Maine until the Bureau has received and acted upon an application for a supervised lender license for Target.

I thank you in advance for your help with this matter, and I look forward to working with you to resolve this complaint and to discuss the Bureau's supervised lender licensing process.

Sincerely,



Edward Myslik  
Chief Field Investigator  
Bureau of Consumer Credit Protection  
76 Northern Avenue  
Gardiner, ME 04345  
Telephone: (207) 624-8527  
Email: [Edward.myslik@maine.gov](mailto:Edward.myslik@maine.gov)

# 26280

Myslik, Edward

From: [REDACTED]  
Sent: Wednesday, January 27, 2021 3:59 PM  
To: credit, cons  
Subject: Consumer Credit Complaint email

EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Date: January 27, 2019

Consumer Information:

[REDACTED]  
[REDACTED]

CONSUMER NAME

Kittery, ME 03904  
United States

Day telephone: [REDACTED] Extension:

Evening Telephone:

Fax:

Email: [REDACTED]

Company complained about:

Niiwin, LLC d/ba/ Lendgreen  
PO Box 221  
Lac du Flambeau, WI 54538

LENDGREEN ACCOUNT NUMBER

Telephone number: 855-832-7227

Your account number: [REDACTED]

Person you spoke with:

Details of your complaint: I recently took out a pay-day/installment loan after 7 months of covid-layoff and having to move unexpectedly. While I have had similar loans in the past, I admittedly was less focused during a moment of crisis than I should have been and really didn't understand the parameters of this loan including a 717.09% APR; turning a \$1,300 loan into a \$5,371 debt repayment.

Unfortunately, it is this type of predatory lending that is made available to people who have no other option, as I did not in this case, that then causes huge debt repayment (or at least huge for someone like me) disregarding any and all laws currently in place for the person's state of residence. I don't understand how a company can do business with resident's of a state, ignoring all laws pertaining to that state, unless they are doing so illegally (making people believe they are rightfully engaging in business otherwise).

May we send a copy of this complaint to the company? Yes

Reason for not sending complaint to company?

Do you authorize the Bureau of Consumer Credit Protection to act on your behalf to communicate with your creditors or other businesses, obtain documents from those businesses and take all appropriate steps to respond to your complaint?  
Yes

What would you like us to do to resolve your complaint? My income from the short time between obtaining this loan and now has changed such that I am concerned about being able to continue forward at this rate and have been trying to determine what options I may have. I'm not one to try not take care of my responsibilities but at the same time and concerned that a situation like this, with a last minute need, and the resulting debt as a result due to this type of lending, will end up hurting me.

I'm concerned about continuing to afford the weekly payment with my income change and/or bringing my credit way down. I have worked very hard to build my credit report back up which effects many areas outside of financial now (like job possibilities). Ultimately, it is predatory lending that I succumbed to without being clear how dramatically this would effect me at the moment and if there is nothing I am able to do I understand that. But I'm hoping the requirements of the State of Maine, which caps the amount of interest/% that can be charged on a loan will at least be able to apply that cap with the lender such that the insane amount of repayment due to the current interest rate will decrease.

I am not asking for the loan to be forgiven, I want to pay my debt, but believe the interest rate cap that the State of Maine puts on these types of loans, should be applied, thereby dramatically reducing the amount of debt repayment and recalculating the payments accordingly for me to satisfy the debt. My goal is not to walk away, but to be held responsible for the legal and appropriate regulations of my state and repay this debt as such.

Also, ideally, that this company not be allowed to subject anyone else in the State of Maine to this type of situation moving forward .

I do have a copy of this agreement that I can forward to whomever may be needed. Thank you very much for your consideration.

Credit Report Complaints: If your complaint relates to a credit report, do you give the Office permission to receive a copy of your credit report? No

If yes, please list Date of Birth: , and Social Security number:



### **Important Notice:**

Lendgreen is no longer providing loans. We remain committed to servicing our existing customers and if you have any questions about your current Lendgreen loan, please call us at 1-855-832-7227.

**Thank you for choosing Lendgreen.**



Janet T. Mills  
GOVERNOR

# State of Maine

## Department of Professional & Financial Regulation

### Bureau of Consumer Credit Protection

35 State House Station  
Augusta, Maine 04333-0035

William N. Lund  
SUPERINTENDENT

\*\*\*\*\* SECOND NOTICE \*\*\*\*\*

June 28, 2021

NiiWin, LLC d/b/a Lendgreen  
P.O. Box 221  
Lac du Flambeau, WI 54538

Re: State of Maine Bureau of Consumer Credit Protection / Notice of Complaint #26280/Lendgreen  
Account #042355537-00

**Second Notice**

Dear NiiWin, LLC d/b/a Lendgreen:

The purpose of this letter is to notify you that the State of Maine Bureau of Consumer Credit Protection (“Bureau”) is in receipt of a complaint (*see* enclosed copy of complaint) naming NiiWin, LLC d/b/a Lendgreen (“Lendgreen”) as the respondent. The Bureau is authorized to “[r]eceive and act” on complaints by Maine law at 9-A M.R.S. § 6-104(1)(A). The Bureau is the regulatory agency that issues licenses to non-depository lenders engaged in the business extending consumer credit to Maine residents.

### Complaint Summary

---

According to the written complaint, Lendgreen acted as the creditor in the granting of a payday loan to the complainant with a beginning balance of \$1,300.00 holding an APR of 717.09%.

### Analysis

---

Maine law at 9-A M.R.S. § 2-301 states that “[u]nless a person . . . has first obtained a license pursuant to this Act from the [Bureau] . . . the person may not engage in the business of . . . [m]aking supervised loans. Maine law at 9-A M.R.S. § 5-201(2) states that “[i]f a creditor has violated the provisions of this Act applying to the authority to make supervised loans, section 2-301, the debtor is not obligated to pay any fee, prepaid finance charge or closing cost, nor the loan finance charge . . . .”

Postal Address: 35 State House Station, Augusta, Maine 04333-0035  
Physical Address: 76 Northern Avenue, Gardiner, Maine 04345  
Office Telephone: (207) 624-8527 | Office Facsimile: (207) 582-7699  
Website: <https://www.maine.gov/pfr/consumercredit/>  
Email: [Edward.myslik@maine.gov](mailto:Edward.myslik@maine.gov)

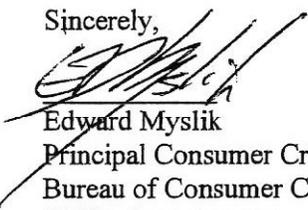
## Required Response

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1. Lendgreen is required to respond in writing (email okay: [Edward.myslik@maine.gov](mailto:Edward.myslik@maine.gov)) to this complaint within 20-days receipt.
2. Lendgreen is required to waive all interest, fees, charges and to immediately cease any collection activity or credit reporting associated with the subject debt.
3. Lendgreen is required to cease all consumer lending activity in the State of Maine until the Bureau has received and acted upon an application for a supervised lender license for Lendgreen.

I thank you in advance for your help with this matter, and I look forward to working with you to resolve this complaint and to discuss the Bureau's supervised lender licensing process. Be advised, that your failure to respond to this notice may result in the issuance of a publicly posted cease and desist order naming NiiWin, LLC d/b/a Lendgreen as the respondent.

Sincerely,

  
Edward Myslik  
Principal Consumer Credit Examiner  
Bureau of Consumer Credit Protection  
76 Northern Avenue  
Gardiner, ME 04345  
Telephone: (207) 624-8527  
Email: [Edward.myslik@maine.gov](mailto:Edward.myslik@maine.gov)

**Second Notice**

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Niiwin/LENDGABEN  
 P.O. BOX 221  
 CAC DU FLAMBEAU, WI  
 54538



9590 9402 5406 9189 2686 93

2. Article Number (Transfer from service label)

7019 1640 0001 7314 8291

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

- 
- Agent
- 
- 
- Addressee

**X**

B. Received by (Printed Name)

C. Date of Delivery

 D. Is delivery address different from item 1?  Yes  
 If YES, enter delivery address below:  No

3. Service Type

- |  |   |
|--|---|
| <input type="checkbox"/> Adult Signature                               | <input type="checkbox"/> Priority Mail Express®                     |
| <input type="checkbox"/> Adult Signature Restricted Delivery           | <input type="checkbox"/> Registered Mail™                           |
| <input checked="" type="checkbox"/> Certified Mail®                    | <input type="checkbox"/> Registered Mail Restricted Delivery        |
| <input type="checkbox"/> Certified Mail Restricted Delivery            | <input type="checkbox"/> Return Receipt for Merchandise             |
| <input type="checkbox"/> Collect on Delivery                           | <input type="checkbox"/> Signature Confirmation™                    |
| <input type="checkbox"/> Collect on Delivery Restricted Delivery       | <input type="checkbox"/> Signature Confirmation Restricted Delivery |
| <input type="checkbox"/> Insured Mail                                  |   |
| <input type="checkbox"/> Insured Mail Restricted Delivery (over \$500) |   |

PS Form 3811, July 2015 PSN 7530-02-000-9053

Domestic Return Receipt

**Certified Mail**

- A receipt (this portion of the form) and a signature (this portion of the form) that is retained for a specified period.
- Electronic verification of delivery.
- A record of delivery (including signature) that is retained for a specified period.

**Important Reminders:**

- You may purchase Certified Mail, First-Class Mail® or Priority Mail® services.
- Certified Mail service is not available for international mail.
- Insurance coverage is not available for Certified Mail service.
- Certified Mail service is not available for certain Priority Mail items.
- For an additional fee, an endorsement on the mailpiece may be purchased for the following services:
  - Return receipt service or delivery (including electronic version). For more information, see the complete PS Form 3811 Receipt, attach PS Form 3811.

PS Form 3800, April 2015

**CERTIFIED MAIL®**

STATE OF MAINE  
CONSUMER CREDIT PROTECTION  
STATE HOUSE STATION  
USTA, MAINE 04333-0035



7019 1640 0001 7314 8291  
7019 1640 0001 7314 8291

tion

**U.S. Postal Service™**  
**CERTIFIED MAIL® RECEIPT**  
*Domestic Mail Only*

For delivery information, visit our website at [www.usps.com](http://www.usps.com)®

**OFFICIAL USE**

Certified Mail Fee

Extra Services & Fees (check box; add fee as appropriate)

Return Receipt (hardcopy)

Return Receipt (electronic)

Certified Mail Restricted Delivery

Adult Signature Required

Adult Signature Restricted Delivery

Postage

Total Postage and Fees

Postmark  
Here

Sent To *PLUMMER/ANDREWS*

Street and Apt. No. or P.O. Box No.  
*P.O. Box 231*

City, State, ZIP+4®  
*WEST BARRINGTON, VT 05538*

PS Form 3800, April 2015 PSN7530-02-000-9047 See Reverse for Instructions

STATE OF MAINE  
CONSUMER CREDIT PROTECTION  
STATE HOUSE STATION  
AUGUSTA, MAINE 04333-0035



**State of Maine**  
Bureau of Consumer Credit Protection  
35 State House Station  
Augusta, ME 04333-0035

NiiWin, LLC d/b/a Lendgreen  
P.O. Box 221  
Lac du Flambeau, WI 54538

**Allowing benefits:**

Electronic return receipt, see a retail store for assistance. To receive a duplicate receipt for no additional fee, present this e-postmarked Certified Mail receipt to the associate.  
Registered delivery service, which provides proof of delivery to the addressee specified by name, or addressee's authorized agent.  
Signature service, which requires the signee to be at least 21 years of age (not applicable at retail).  
Signature restricted delivery service, which provides proof of delivery to the addressee specified by name, or to the addressee's authorized agent (not applicable at retail).  
Certified Mail receipt, which provides proof of mailing. It should bear a postmark. If you would like a postmark on your Certified Mail receipt, please present your mail item at a Post Office™ for mailing. If you don't need a postmark on this receipt, you can purchase a Certified Mail receipt, detach the barcoded portion, affix it to the mailpiece, apply postage, and deposit the mailpiece.

**ATTN: Save this receipt for your records.**



Janet T. Mills  
GOVERNOR

# State of Maine

## Department of Professional & Financial Regulation

### Bureau of Consumer Credit Protection

35 State House Station  
Augusta, Maine 04333-0035

William N. Lund  
SUPERINTENDENT

February 2, 2021

NiiWin, LLC d/b/a Lendgreen  
P.O. Box 221  
Lac du Flambeau, WI 54538

Re: State of Maine Bureau of Consumer Credit Protection / Notice of Complaint #26280 / Lendgreen  
Account #042355537-00

Dear NiiWin, LLC d/b/a Lendgreen:

The purpose of this letter is to notify you that the State of Maine Bureau of Consumer Credit Protection ("Bureau") is in receipt of a complaint (*see* enclosed copy of complaint) naming NiiWin, LLC d/b/a Lendgreen ("Lendgreen") as the respondent. The Bureau is authorized to "[r]eceive and act" on complaints by Maine law at 9-A M.R.S. § 6-104(1)(A). The Bureau is the regulatory agency that issues licenses to non-depository lenders engaged in the business extending consumer credit to Maine residents.

### Complaint Summary

---

According to the written complaint, Lendgreen acted as the creditor in the granting of a payday loan to the complainant with a beginning balance of \$1,300.00 holding an APR of 717.09%.

### Analysis

---

Maine law at 9-A M.R.S. § 2-301 states that "[u]nless a person . . . has first obtained a license pursuant to this Act from the [Bureau] . . . the person may not engage in the business of . . . [m]aking supervised loans. Maine law at 9-A M.R.S. § 5-201(2) states that "[i]f a creditor has violated the provisions of this Act applying to the authority to make supervised loans, section 2-301, the debtor is not obligated to pay any fee, prepaid finance charge or closing cost, nor the loan finance charge . . . ."

Postal Address: 35 State House Station, Augusta, Maine 04333-0035  
Physical Address: 76 Northern Avenue, Gardiner, Maine 04345  
Office Telephone: (207) 624-8527 | Office Facsimile: (207) 582-7699  
Website: <https://www.maine.gov/pfr/consumercredit/>  
Email: [Edward.mvsluk@maine.gov](mailto:Edward.mvsluk@maine.gov)

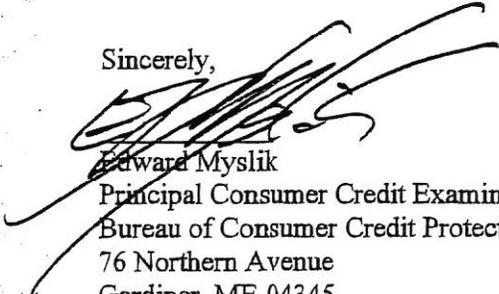
## Required Response

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1. Lendgreen is required to respond in writing (email okay: [Edward.myslik@maine.gov](mailto:Edward.myslik@maine.gov)) to this complaint within 20-days receipt.
2. Lendgreen is required to waive all interest, fees, charges and to immediately cease any collection activity or credit reporting associated with the subject debt.
3. Lendgreen is required to cease all consumer lending activity in the State of Maine until the Bureau has received and acted upon an application for a supervised lender license for Lendgreen.

I thank you in advance for your help with this matter, and I look forward to working with you to resolve this complaint and to discuss the Bureau's supervised lender licensing process. Be advised, that your failure to respond to this notice may result in the issuance of a publicly posted cease and desist order naming NiiWin, LLC d/b/a Lendgreen as the respondent.

Sincerely,



Edward Myslik  
Principal Consumer Credit Examiner  
Bureau of Consumer Credit Protection  
76 Northern Avenue  
Gardiner, ME 04345  
Telephone: (207) 624-8527  
Email: [Edward.myslik@maine.gov](mailto:Edward.myslik@maine.gov)

# 26084

~~F 2608~~

Farrell, John

From: [REDACTED]  
Sent: Wednesday, September 02, 2020 10:23 AM  
To: credit, cons  
Subject: Consumer Credit Complaint email

EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not clic links or open attachments unless you recognize the sender and know the content is safe.

Date: September 1, 2020

Consumer Information:

[REDACTED]  
[REDACTED]

New Vineyard , ME 04956  
United States

Day telephone: [REDACTED] Extension:

✓

Evening Telephone:

Fax:

Email: [REDACTED]

Company complained about:

Niizhwaaswi, LLC d/b/a Loan at Last  
P.O.Box 1193  
Lac du Flambeau, WI 54548

Telephone number: 18443614269

Your account number: [REDACTED]

Person you spoke with:

Details of your complaint: Online Payday lender that is not likely "LEGAL" in Maine.  
Loan of \$1200.00. Have paid #314.65 so far, but will have paid \$6293.00 for the life of the loan.

May we send a copy of this complaint to the company? Yes

Reason for not sending complaint to company?

Do you authorize the Bureau of Consumer Credit Protection to act on your behalf to communicate with your creditors or other businesses, obtain documents from those businesses and take all appropriate steps to respond to your complaint? Yes

What would you like us to do to resolve your complaint? If they are not legal in Maine, I want them resolved as paid in full, and added to list of illegal lenders in MAine.

Credit Report Complaints: If your complaint relates to a credit report, do you give the Office permission to receive a copy of your credit report? No

If yes, please list Date of Birth: , and Social Security number:



Janet T. Mills  
GOVERNOR

# State of Maine

## Department of Professional & Financial Regulation

### Bureau of Consumer Credit Protection

35 State House Station  
Augusta, Maine 04333-0035

William N. Lund  
SUPERINTENDENT

September 15, 2020

Niizhwaaswi, LLC d/b/a  
Loan at Last  
P.O. Box 1193  
Lac Du Flambeau, WI 54538

Re: State of Maine Bureau of Consumer Credit Protection / Notice of Complaint #26083

Dear Loan at Last:

The purpose of this letter is to notify you that the State of Maine Bureau of Consumer Credit Protection ("Bureau") is in receipt of a complaint (*see* enclosed copy of complaint) naming Loan at Last as the respondent. The Bureau is authorized to "[r]eceive and act" on complaints by Maine law at 9-A M.R.S. § 6-104(1)(A). The Bureau is the regulatory agency that issues licenses to non-depository lenders engaged in the business extending consumer credit to Maine residents.

#### Complaint Summary

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According to the written complaint, (*see* enclosed copy of loan summary) naming that Loan at Last extended consumer credit to the complainant in the initial principal amount of \$1,196.89. The consumer claims that she has paid \$314.65 to Loan at Last. Recently, when she logged into her online Loan at Last account, she expected to verify the payment, instead, she discovered that the APR was disclosed as 750.68% and her total payments were \$5,978.50.

#### Analysis

---

Maine law at 9-A M.R.S. § 2-301 states that "[u]nless a person . . . has first obtained a license pursuant to this Act from the [Bureau] . . . the person may not engage in the business of . . . [m]aking supervised loans. Maine law at 9-A M.R.S. § 5-201(2) states that "[i]f a creditor has violated the provisions of this Act applying to the authority to make supervised loans, section 2-301, the debtor is not obligated to pay any fee, prepaid finance charge or closing cost, nor the loan finance charge . . . ."

#### Required Response

---

1. Loan at Last is required to respond to this complaint within 20-days receipt.

Postal Address: 35 State House Station, Augusta, Maine 04333-0035  
Physical Address: 76 Northern Avenue, Gardiner, Maine 04345  
Office Telephone: (207) 624-8527 Office Facsimile: (207) 582-7699  
Website: <https://www.maine.gov/pfr/consumercredit/>  
Email: [john.farrell@maine.gov](mailto:john.farrell@maine.gov)

2. Loan at Last is required to render the subject loan as paid in full or satisfied on the basis that Loan at Last is not presently licensed by the Bureau as a supervised lender in the State of Maine.
3. Loan at Last is required to cease all consumer lending activity in the State of Maine until the Bureau has received and acted upon an application for a supervised lender license for Loan at Last.

I thank you in advance for your help with this matter, and I look forward to working with you to resolve this complaint and to discuss the Bureau's supervised lender licensing process.

Sincerely,

---

John Farrell  
Senior Consumer Credit Examiner  
Bureau of Consumer Credit Protection  
76 Northern Avenue  
Gardiner, ME 04345  
Telephone: (207) 624-8527  
Email: [John.Farrell@Maine.gov](mailto:John.Farrell@Maine.gov)

IGN AND DATE IT. YOU WILL ALSO ELECTRONICALLY SIGN AND DATE THE DISBURSEMENT AND PAYMENT CHOICE  
UTHORIZATIONS.

Loan # 001511726-00

Agreement Date: 8/25/2020	Loan #: <del>001511726-00</del>
Effective Date: 8/26/2020	Loan Type: Installment Loan
Niizhwaaswi, LLC d/b/a	Name: [REDACTED]
Loan at Last	Address: [REDACTED]
P.O.Box 1193	City: New Vineyard
Lac du Flambeau, WI 54548	State: ME, Zip: 04956
Phone (844) 361-4269	Phone: [REDACTED]
	Email Address: [REDACTED]

In this Agreement ("Agreement") the words "we," "us" and "our" mean Niizhwaaswi, LLC d/b/a Loan at Last, an economic development arm of, instrumentality  
and a limited liability company wholly-owned and controlled by, the Lac du Flambeau Band of Lake Superior Chippewa Indians ("Tribe"), and any authorized  
representative, agent, independent contractor, affiliate or assignee we use in the provision of your loan. "You" and "your" means the consumer who signs the  
agreement electronically. The term "business day" means any calendar day other than a Saturday, Sunday or a bank or federal holiday, between the hours of 9AM  
PM CST.

This Agreement is governed by the laws of the Tribe.

In order to complete your transaction with us, you must electronically sign and date this Agreement. A loan will not be made until your completed application is received and approved by us. Once you sign and submit this Agreement, the final approval for credit will be made from our office located on the Tribe's Reservation. If your information cannot be verified by the Effective Date, your request for credit will not be approved, we will not fund the loan, and you will not incur any finance charge or fees. If we approve your request, this Agreement will be consummated on the Tribe's Reservation

ANNUAL PERCENTAGE RATE	FINANCE CHARGE	Amount Financed	Total of Payments
The cost of your credit as a yearly rate.	The dollar amount the credit will cost you.	The amount of credit provided to you or on your behalf.	The amount you will have paid after you have made all payments as scheduled.
750.68 %	\$4,781.61	\$1,196.89	\$5,978.50

Your Payment Schedule will be:

Number of Payments	Payment Due	Payment Date
1	\$314.65	9/3/2020
1	\$314.65	9/17/2020
1	\$314.65	10/1/2020
1	\$314.65	10/15/2020
1	\$314.65	10/29/2020
1	\$314.65	11/12/2020
1	\$314.65	11/25/2020
1	\$314.65	12/10/2020
1	\$314.65	12/24/2020
1	\$314.65	1/7/2021
1	\$314.65	1/21/2021
1	\$314.65	2/4/2021
1	\$314.65	2/18/2021
1	\$314.65	3/4/2021
1	\$314.65	3/18/2021
1	\$314.65	4/1/2021
1	\$314.65	4/15/2021
1	\$314.65	4/29/2021
1	\$314.80	5/13/2021

**Security:** If you decide to authorize automatic payments from your bank account, you are giving a security interest in your Payment Choice Authorization. If you do not authorize automatic payments from your bank account, you are not giving us a security interest.

**Late Charge:** If a payment is 5 days or more late, You will be charged \$20 per late scheduled payment.

**Prepayment:** If You pay off early, You will not have to pay a penalty.

See the terms of the Agreement below for any additional information about nonpayment, default, any repayment in full before the schedule date, and prepayment refunds and penalties.

EMIZATION OF AMOUNT FINANCED: Amount Financed/Amount given to You directly \$1,196.89

**SPECIAL NOTICES:**

- OUR LOAN IS AN EXPENSIVE FORM OF BORROWING.
- YOU CAN SAVE FINANCE CHARGES BY PAYING OFF YOUR LOAN EARLY EITHER IN PART OR IN FULL.
- OUR LOAN IS DESIGNED TO ASSIST YOU IN MEETING YOUR SHORT-TERM CASH NEEDS. IT IS NOT A SOLUTION FOR LONGER TERM FINANCIAL PROBLEMS.
- NON-PROFIT CREDIT COUNSELING SERVICES MAY BE AVAILABLE IN YOUR COMMUNITY FOR CONSUMERS EXPERIENCING FINANCIAL PROBLEMS.

Farrell, John *Mailed Certified To both on 9-15-2020 26083 / 26084*

---

**From:** Lund, William N  
**Sent:** Wednesday, September 02, 2020 5:22 PM  
**To:** Myslik, Edward  
**Cc:** Roux, Stephanie; Farrell, John  
**Subject:** #26083 and #26084 -- [REDACTED] v. two payday lenders

Same consumer; same address of lender (although different names); same dollar amounts – I am not clear whether this is one loan, or two.

New Vineyard consumer took loan(s) from Wisconsin lender(s) – probably sponsored by a Native American tribe, claiming tribal immunity from state (and federal) lending laws.

She borrowed \$1,200, has repaid \$314.65 back so far, and wants us to arrange to have the principal debt and any interest, canceled.

We can certainly write to this company or companies. I don't usually like to advocate for forgiveness of money actually borrowed – the "penalty" for making an unlicensed loan is forgiveness of one year's interest. However, do what you can. Ideally the consumer would send the remainder of the principal back to the lender, but it's likely she does not have it any more.

Also make sure she has closed the bank account to which the lender has access, or else additional money will be deducted.

**Farrell, John**

---

**From:** Farrell, John  
**Sent:** Monday, October 26, 2020 3:28 PM  
**To:** [REDACTED]  
**Subject:** RE: complaint #26083

This is the email address used in the complaint filed and prior communication with the Bureau. Based on this response you do not want to be contacted, case will be closed.

John Farrell  
Senior Consumer Credit Examiner  
Bureau of Consumer Credit Protection  
Maine Department of Professional and Financial Regulation  
35 State House Station  
Augusta, ME 04333  
(207) 624-8527

**From:** [REDACTED]  
**Sent:** Monday, October 26, 2020 3:05 PM  
**To:** Farrell, John <John.Farrell@maine.gov>  
**Subject:** Re: complaint #26083

**EXTERNAL:** This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.

To whom it may concern?  
You have something wrong!!! I have no loans with anyone. Wrong person.  
PS Knapp

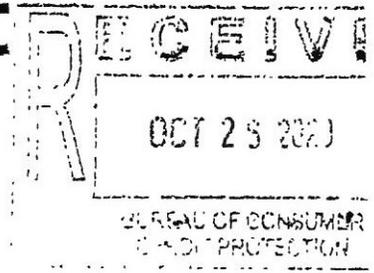
On Mon, Oct 26, 2020 at 2:51 PM Farrell, John <[John.Farrell@maine.gov](mailto:John.Farrell@maine.gov)> wrote:

Good afternoon [REDACTED]

On your behalf, I sent letters by certified mail to both Nine Torches and Loan at Last on September 15. Nine Torches was returned September 25; no mail receptacle. Have you had any success with mailing them? Loan at Last's response arrived in today's mail - see attachment. They explain that they are licensed under tribal law and immune to State law. Appears that they have made you a discounted offer of repayment. The amount may be the current principal balance owed. Please review and let me know if you have any further questions.



10/19/2020



Bureau of Consumer Credit Protection  
35 State House Station  
Augusta Maine 04333-0035

Re: [REDACTED] Loan# 0235472200

# 26083

To Whom It May Concern:

This responds to the above-referenced complaint. This inquiry related to a loan from Niizhwaaswi, LLC dba Loan at Last (the "Company"), which is owned by the Lac du Flambeau Band of Lake Superior Chippewa Indians ("Tribe"). The Company takes these types of inquiries very seriously and would like to provide you with the below information. Nothing in this communication should be construed as a waiver of the Tribe's or the Company's sovereign immunity, all of which are expressly preserved.

The Company is a wholly-owned and operated subsidiary of LDF Holdings, LLC ("LDF Holdings"). LDF Holdings is a wholly-owned and operated subsidiary of the L.D.F. Business Development Corporation, which is a wholly-owned and operated economic arm and instrumentality of the Tribe. The Tribe is a federally recognized Indian tribe, organized under a Constitution pursuant to the Indian Reorganization Act of 1934, 48 Stat. 984, 25 U.S.C. §§ 476, *et seq.*, as amended, and is identified on the United States Department of Interior's list of federally acknowledged Indian Tribes. 83 FR 34863-01 (July 23, 2018). The Company is an arm of the Tribe. As an arm of the Tribe, the Company possesses all of the privileges and immunities of the Tribe. The Tribe and the Company are entitled to tribal sovereign immunity and they are not subject to state law. *Wells Fargo Bank, N.A. v. Lake of the Torches Econ. Dev. Corp.*, 677 F. Supp. 2d 1056, 1061 (W.D. Wis. 2010) (holding that entities acting as arms of a tribe are entitled to tribal sovereign immunity).

The Company issues loans in accordance with the Tribe's Tribal Consumer Financial Services Regulatory Code and it is licensed under Tribal law. The customer's loan agreement provided that it would be governed by the laws of the Tribe, without regard to the laws of any state. The interest and fees applicable to the loan are permitted by Tribal law. They were accurately and clearly reflected in the loan agreement that the customer signed before receiving the loan. The customer also received a TILA disclosure that outlined the amount and date of each payment required under the loan agreement. Due to its immunity, the loan is not subject to state law and the Company is not required to be licensed with any state. The customer's loan is legal.

Niizhwaaswi, LLC dba Loan at Last  
Po Box 1193  
Lac du Flambeau, WI 54538

LDF Holdings  
Po Box 231  
Lac du Flambeau, WI 54538



As a courtesy, even though not obligated to do so, we would like to offer [REDACTED] a discount. If customer pays the sum of \$1,496.00 by 10/29/2020, we will consider the account paid in full and waive any outstanding balance. [REDACTED] may either (1) call us at 1-844-676-8550 to set up an ACH or debit card payment or (2) mail a cashier's check or money order for the sum of \$1,496.00 to us at the address below:

Niizhwaaswi, LLC.  
PO Box 1193  
Lac du Flambeau, WI 54538

If you would like to discuss these issues further on a government-to-government basis, please direct any communications through the Company's legal counsel: Shilee Mullin at Spencer Fane LLP, 13520 California Street, Suite 290, Omaha, NE 68154, 402-965-8600, [smullin@spencerfane.com](mailto:smullin@spencerfane.com). But, again, please be advised that nothing in this communication should be construed as a waiver of the Tribe's or the Company's sovereign immunity, all of which are expressly preserved.

The Company trusts that the complainant will find this letter of explanation satisfactory. However, if the complainant is not satisfied with the Company's resolution of this matter, pursuant to Section 10 of the Tribal Consumer Financial Services Regulatory Ordinance, which can be found at <https://www.ldftribe.com/uploads/files/Court-Ordinances/CHAP94-Tribal-Consumer-Financial-Services-Reulatory-Ordinance.pdf>, he/she may pursue formal dispute resolution with the Tribal Consumer Financial Services Regulatory Authority ("Authority"). To do so, he/she must send a written request to the Authority at P.O. Box 25, Lac du Flambeau, Wisconsin 54538. The request must contain the information required by Section 10 of the Tribal Consumer Financial Services Regulatory Ordinance.

Kindest Regards,

DocuSigned by:  
*Jessi Lorenzo*  
FE3FDCA007354D2

Jessi Lorenzo, Director of Operations  
Niizhwaaswi, LLC dba Loan at Last

Niizhwaaswi, LLC dba Loan at Last  
Po Box 1193  
Lac du Flambeau, WI 54538

LDF Holdings  
Po Box 231  
Lac du Flambeau, WI 54538

LDF Holdings, LLC  
PO Box 231  
14284 Hwy 70 W  
Lac du Flambeau, WI 54538

GREEN BAY WI 543  
21 OCT 2020PM 3 L

\$1.00  
US POSTAGE  
FIRST-CLASS  
062S0011268788  
FROM 54538



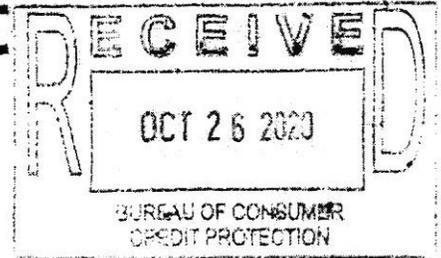
985014.61

Bureau of Consumer Credit Protection  
35 State House Station  
Augusta, Maine 04333-0035  
Attn: John Farrell

04333- 10-25 11:00 AM 04333-0035



10/19/2020



Bureau of Consumer Credit Protection  
35 State House Station  
Augusta Maine 04333-0035

Re: [Redacted] Loan# [Redacted]

# 26083

To Whom It May Concern:

This responds to the above-referenced complaint. This inquiry related to a loan from Niizhwaaswi, LLC dba Loan at Last (the "Company"), which is owned by the Lac du Flambeau Band of Lake Superior Chippewa Indians ("Tribe"). The Company takes these types of inquiries very seriously and would like to provide you with the below information. Nothing in this communication should be construed as a waiver of the Tribe's or the Company's sovereign immunity, all of which are expressly preserved.

The Company is a wholly-owned and operated subsidiary of LDF Holdings, LLC ("LDF Holdings"). LDF Holdings is a wholly-owned and operated subsidiary of the L.D.F. Business Development Corporation, which is a wholly-owned and operated economic arm and instrumentality of the Tribe. The Tribe is a federally recognized Indian tribe, organized under a Constitution pursuant to the Indian Reorganization Act of 1934, 48 Stat. 984, 25 U.S.C. §§ 476, et seq., as amended, and is identified on the United States Department of Interior's list of federally acknowledged Indian Tribes. 83 FR 34863-01 (July 23, 2018). The Company is an arm of the Tribe. As an arm of the Tribe, the Company possesses all of the privileges and immunities of the Tribe. The Tribe and the Company are entitled to tribal sovereign immunity and they are not subject to state law. *Wells Fargo Bank, N.A. v. Lake of the Torches Econ. Dev. Corp.*, 677 F. Supp. 2d 1056, 1061 (W.D. Wis. 2010) (holding that entities acting as arms of a tribe are entitled to tribal sovereign immunity).

The Company issues loans in accordance with the Tribe's Tribal Consumer Financial Services Regulatory Code and it is licensed under Tribal law. The customer's loan agreement provided that it would be governed by the laws of the Tribe, without regard to the laws of any state. The interest and fees applicable to the loan are permitted by Tribal law. They were accurately and clearly reflected in the loan agreement that the customer signed before receiving the loan. The customer also received a TILA disclosure that outlined the amount and date of each payment required under the loan agreement. Due to its immunity, the loan is not subject to state law and the Company is not required to be licensed with any state. The customer's loan is legal.

Niizhwaaswi, LLC dba Loan at Last  
Po Box 1193  
Lac du Flambeau, WI 54538

LDF Holdings  
Po Box 231  
Lac du Flambeau, WI 54538



As a courtesy, even though not obligated to do so, we would like to offer [REDACTED] a discount. If customer pays the sum of \$1,496.00 by 10/29/2020, we will consider the account paid in full and waive any outstanding balance. [REDACTED] may either (1) call us at 1-844-676-8550 to set up an ACH or debit card payment or (2) mail a cashier's check or money order for the sum of \$1,496.00 to us at the address below:

Niizhwaaswi, LLC.  
PO Box 1193  
Lac du Flambeau, WI 54538

If you would like to discuss these issues further on a government-to-government basis, please direct any communications through the Company's legal counsel: Shilee Mullin at Spencer Fane LLP, 13520 California Street, Suite 290, Omaha, NE 68154, 402-965-8600, [smullin@spencerfane.com](mailto:smullin@spencerfane.com). But, again, please be advised that nothing in this communication should be construed as a waiver of the Tribe's or the Company's sovereign immunity, all of which are expressly preserved.

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Kindest Regards,

DocuSigned by:

Jessi Lorenzo

FE3FDCA007354D2...

Jessi Lorenzo, Director of Operations  
Niizhwaaswi, LLC dba Loan at Last

Niizhwaaswi, LLC dba Loan at Last  
Po Box 1193  
Lac du Flambeau, WI 54538

LDF Holdings  
Po Box 231  
Lac du Flambeau, WI 54538

LDF Holdings, LLC  
PO Box 231  
14284 Hwy 70 W  
Lac du Flambeau, WI 54538

GREEN BAY WI 543  
21 OCT 2020PM 3 L

\$1.00  
US POSTAGE  
FIRST-CLASS  
06250011268798  
FROM 54538

885014.81



Bureau of Consumer Credit Protection  
35 State House Station  
Augusta, Maine 04333-0035  
Attn: John Farrell

04333-

10-25 1118711299 1118711299 1118711299

#26803

Farrell, John

---

From: [REDACTED]  
Sent: Wednesday, September 02, 2020 10:23 AM  
To: credit, cons  
Subject: Consumer Credit Complaint email

EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Date: September 1, 2020

Consumer Information:

[REDACTED]  
[REDACTED]

New Vineyard , ME 04956  
United States

Day telephone: [REDACTED] Extension:

Evening Telephone:

Fax:

Email: [REDACTED]

Company complained about:

Niizhwaaswi, LLC d/b/a Loan at Last  
P.O.Box 1193  
Lac du Flambeau, WI 54548

Telephone number: 18443614269

Your account number: ~~003220600~~

Person you spoke with:

Details of your complaint: Online Payday lender that is not likely "LEGAL" in Maine. Loan of \$1200.00. Have paid #314.65 so far, but will have paid \$6293.00 for the life of the loan.

May we send a copy of this complaint to the company? Yes

Reason for not sending complaint to company?

Do you authorize the Bureau of Consumer Credit Protection to act on your behalf to communicate with your creditors or other businesses, obtain documents from those businesses and take all appropriate steps to respond to your complaint? Yes

What would you like us to do to resolve your complaint? If they are not legal in Maine, I want this resolved as paid in full. and added to list of illegal lenders in MAine.

Credit Report Complaints: If your complaint relates to a credit report, do you give the Office permission to receive a copy of your credit report? No

If yes, please list Date of Birth: , and Social Security number:

**Farrell, John**

---

**From:** Farrell, John  
**Sent:** Monday, October 26, 2020 3:28 PM  
**To:** [REDACTED]  
**Subject:** RE: complaint #26083

This is the email address used in the complaint filed and prior communication with the Bureau. Based on this response you do not want to be contacted, case will be closed.

John Farrell  
Senior Consumer Credit Examiner  
**Bureau of Consumer Credit Protection**  
Maine Department of Professional and Financial Regulation  
35 State House Station  
Augusta, ME 04333  
(207) 624-8527

**From:** [REDACTED] <[REDACTED]>  
**Sent:** Monday, October 26, 2020 3:05 PM  
**To:** Farrell, John <John.Farrell@maine.gov>  
**Subject:** Re: complaint #26083

**EXTERNAL:** This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.

To whom it may concern?  
You have something wrong!!! I have no loans with anyone. Wrong person.

[REDACTED]

On Mon, Oct 26, 2020 at 2:51 PM Farrell, John <[John.Farrell@maine.gov](mailto:John.Farrell@maine.gov)> wrote:

Good afternoon [REDACTED]

On your behalf, I sent letters by certified mail to both Nine Torches and Loan at Last on September 15. Nine Torches was returned September 25; no mail receptacle. Have you had any success with mailing them? Loan at Last's response arrived in today's mail - *see attachment*. They explain that they are licensed under tribal law and immune to State law. Appears that they have made you a discounted offer of repayment. The amount may be the current principal balance owed. Please review and let me know if you have any further questions.

Thank you,

John Farrell

Senior Consumer Credit Examiner

Bureau of Consumer Credit Protection

Maine Department of Professional and Financial Regulation

35 State House Station

Augusta, ME 04333

(207) 624-8527

~~Close out~~

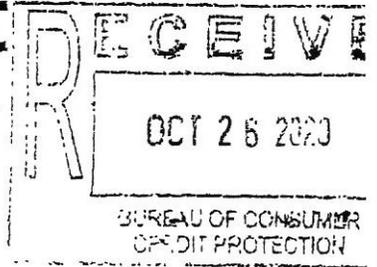
26083

26084

Consumer does

not want to be

contacted. Close  
UBCT.



10/19/2020

Bureau of Consumer Credit Protection  
35 State House Station  
Augusta Maine 04333-0035

Re: ~~XXXXXXXXXX~~ Loan# ~~01311226902~~

# 26083

To Whom It May Concern:

This responds to the above-referenced complaint. This inquiry related to a loan from Niizhwaaswi, LLC dba Loan at Last (the "Company"), which is owned by the Lac du Flambeau Band of Lake Superior Chippewa Indians ("Tribe"). The Company takes these types of inquiries very seriously and would like to provide you with the below information. Nothing in this communication should be construed as a waiver of the Tribe's or the Company's sovereign immunity, all of which are expressly preserved.

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~~Niizhwaaswi, LLC dba Loan at Last  
Po Box 1193  
Lac du Flambeau, WI 54538~~

LDF Holdings  
Po Box 231  
Lac du Flambeau, WI 54538



As a courtesy, even though not obligated to do so, we would like to offer [REDACTED] a discount. If customer pays the sum of \$1,496.00 by 10/29/2020, we will consider the account paid in full and waive any outstanding balance. [REDACTED] may either (1) call us at 1-844-676-8550 to set up an ACH or debit card payment or (2) mail a cashier's check or money order for the sum of \$1,496.00 to us at the address below:

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PO Box 1193  
Lac du Flambeau, WI 54538

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Kindest Regards,

DocuSigned by:

Jessi Lorenzo

FE3FDCA007354D2

Jessi Lorenzo, Director of Operations  
Niizhwaaswi, LLC dba Loan at Last

Niizhwaaswi, LLC dba Loan at Last  
Po Box 1193  
Lac du Flambeau, WI 54538

LDF Holdings  
Po Box 231  
Lac du Flambeau, WI 54538

LDF Holdings, LLC  
PO Box 231  
14284 Hwy 70 W  
Lac du Flambeau, WI 54538

GREEN BAY WI 543  
21 OCT 2020PM 3 L

Bureau of Consumer Credit Protection  
35 State House Station  
Augusta, Maine 04333-0035  
Attn: John Farrell

04333- 10-26 11P7179.11P#8888.11S.8E111



Janet T. Mills  
GOVERNOR

# State of Maine

## Department of Professional & Financial Regulation

### Bureau of Consumer Credit Protection

35 State House Station  
Augusta, Maine 04333-0035

William N. Lund  
SUPERINTENDENT

September 15, 2020

Zhaanoaswi, LLC dba Nine Torches  
597 Peace Pipe Rd 2<sup>nd</sup> Floor  
Lac Du Flambeau, WI 54538

Re: State of Maine Bureau of Consumer Credit Protection / Notice of Complaint #26084

Dear Nine Torches:

The purpose of this letter is to notify you that the State of Maine Bureau of Consumer Credit Protection ("Bureau") is in receipt of a complaint (*see* enclosed copy of complaint) naming Nine Torches as the respondent. The Bureau is authorized to "[r]eceive and act" on complaints by Maine law at 9-A M.R.S. § 6-104(1)(A). The Bureau is the regulatory agency that issues licenses to non-depository lenders engaged in the business extending consumer credit to Maine residents.

#### Complaint Summary

According to the written complaint, *see attached loan summary*, Nine Torches extended consumer credit to the complainant in the initial principal amount of \$1,200.00. The consumer claims that she has paid \$314.65 to Nine Torches. Recently, when she logged into her online Nine Torches account, she expected to verify the payment, instead, she discovered that the APR was disclosed as 780% and her total payments were \$7,241.

#### Analysis

Maine law at 9-A M.R.S. § 2-301 states that "[u]nless a person . . . has first obtained a license pursuant to this Act from the [Bureau] . . . the person may not engage in the business of . . . [m]aking supervised loans. Maine law at 9-A M.R.S. § 5-201(2) states that "[i]f a creditor has violated the provisions of this Act applying to the authority to make supervised loans, section 2-301, the debtor is not obligated to pay any fee, prepaid finance charge or closing cost, nor the loan finance charge . . . ."

#### Required Response

1. Nine Torches is required to respond to this complaint within 20-days receipt.

Postal Address: 35 State House Station, Augusta, Maine 04333-0035  
Physical Address: 76 Northern Avenue, Gardiner, Maine 04345  
Office Telephone: (207) 624-8527 Office Facsimile: (207) 582-7699  
Website <https://www.maine.gov/pfr/consumercredit/>  
Email: [john.farrell@maine.gov](mailto:john.farrell@maine.gov)

2. Nine Torches is required to render the subject loan as paid in full or satisfied on the basis that Nine Torches is not presently licensed by the Bureau as a supervised lender in the State of Maine.
3. Nine Torches is required to cease all consumer lending activity in the State of Maine until the Bureau has received and acted upon an application for a supervised lender license for Nine Torches.

I thank you in advance for your help with this matter, and I look forward to working with you to resolve this complaint and to discuss the Bureau's supervised lender licensing process.

Sincerely,



---

John Farrell  
Senior Consumer Credit Examiner  
Bureau of Consumer Credit Protection  
76 Northern Avenue  
Gardiner, ME 04345  
Telephone: (207) 624-8527  
Email: [John.Farrell@Maine.gov](mailto:John.Farrell@Maine.gov)

Zhaanoaswi, LLC dba Nine Torches  
 597 Peace Pipe Rd 2nd Floor  
 Lac Du Flambeau, WI 54538

855-573-0762



**A message from Nine Torches:**

Like you we are having a bad time under funding of the services of the COVID-19 Virus. In order to make sure our phone and email services remain staffed so that we can help you during this difficult effort to abide by social distancing and various government restrictions, we are cutting back on our staff. Because of the increase in call volume during this time, if you need to place an order, please email us at [cs@ninetorches.com](mailto:cs@ninetorches.com)

Take care of yourself and your loved ones.  
 Nine Torches



Customer ID : 72356

**Payment Details**

Next Due Date	N/A	Next Due Amount	\$ 0.00
Total Outstanding Principal	\$ 1200.00	Previous Payment Date	N/A
Previous Payment Amount	\$ 0.00	Previous Payment Status	N/A

**Active Loan Summary**

Loan ID	86792	Status	Funded
Annual Percentage Rate	780%	Finance Charges	\$ 6041.18
Amount Financed	\$ 1200.00	Total of Payments	20
Applied On	08/20/2020	Funded On	Invalid date
Start Date	09/04/2020	End Date	05/28/2021

Financial Summary

Payment Schedule

Loan Amount	Pay Frequency	No of Payments	Finance Charges	APR
\$1200.00	Every Other Week	20	\$ 6041.18	78.0%

Payment Number	Payment Date	Payment Amount	Payment Interest	Payment Principal	Principal Remaining
1	09/04/2020	\$361.90	\$360.00	\$1.90	\$1198.10
2	09/18/2020	\$361.90	\$359.43	\$2.47	\$1195.63
3	10/02/2020	\$361.90	\$358.69	\$3.21	\$1192.42
4	10/16/2020	\$361.90	\$357.73	\$4.17	\$1188.25
5	10/30/2020	\$361.90	\$356.48	\$5.42	\$1182.83
6	11/13/2020	\$361.90	\$354.85	\$7.05	\$1175.78
7	11/27/2020	\$361.90	\$352.73	\$9.17	\$1166.61
8	12/11/2020	\$361.90	\$349.98	\$11.92	\$1154.69
9	12/24/2020	\$361.90	\$346.41	\$15.49	\$1139.20
10	01/08/2021	\$361.90	\$341.76	\$20.14	\$1119.06
11	01/22/2021	\$361.90	\$335.72	\$26.18	\$1092.88
12	02/05/2021	\$361.90	\$327.86	\$34.04	\$1058.84
13	02/19/2021	\$361.90	\$317.65	\$44.25	\$1014.59
14	03/05/2021	\$361.90	\$304.38	\$57.52	\$957.07
15	03/19/2021	\$361.90	\$287.12	\$74.78	\$882.29
16	04/02/2021	\$361.90	\$264.69	\$97.21	\$785.08
17	04/16/2021	\$361.90	\$235.52	\$126.38	\$658.70
18	04/30/2021	\$361.90	\$197.61	\$164.29	\$494.41
19	05/14/2021	\$361.90	\$148.32	\$213.58	\$280.83
20	05/28/2021	\$365.08	\$84.25	\$280.83	\$0.00

STATE OF MAINE  
BUREAU OF CONSUMER CREDIT PROTECTION  
35 STATE HOUSE STATION  
AUGUSTA, MAINE 04333-0035

**CERTIFIED MAIL®**



7018 1130 0001 4409 2511



US POSTAGE!  
ZIP 04330  
02 4W  
00C0349391

Zhaanoaswi, LLC dba Nine Torches  
597 Peace Pipe Rd 2nd Floor  
Lac Du Flambeau WI 54538

MAIL SERVICE 0809/25/20

RETURN TO SENDER  
NO MAIL RECEIPT  
UNABLE TO FORWARD

54538123 BC: 04333 \*2265-00405-16-36

#2769123

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT  
OF THE RETURN ADDRESS, FOLD AT DOTTED LINE

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

**Manoaswi, LLC d/b/a**  
Nine Torches  
597 Peace Pipe Rd 2nd Floor  
Lac Du Flambeau, WI 54538



9590 9402 5406 9189 2689 45

2. Article Number (Transfer from service label)

7018 1130 0001 4809 2511

PS Form 3811, July 2015 PSN 7530-02-000-9053

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  Agent  
**X**  Addressee

B. Received by (Printed Name) C. Date of Delivery

D. Is delivery address different from item 1?  Yes  
If YES, enter delivery address below:  No

3. Service Type

<input type="checkbox"/> Adult Signature	<input type="checkbox"/> Priority Mail Express®
<input type="checkbox"/> Adult Signature Restricted Delivery	<input type="checkbox"/> Registered Mail™
<input type="checkbox"/> Certified Mail®	<input type="checkbox"/> Registered Mail Restricted Delivery
<input type="checkbox"/> Certified Mail Restricted Delivery	<input type="checkbox"/> Return Receipt for Merchandise
<input type="checkbox"/> Collect on Delivery	<input type="checkbox"/> Signature Confirmation™
<input type="checkbox"/> Collect on Delivery Restricted Delivery	<input type="checkbox"/> Signature Confirmation Restricted Delivery
<input type="checkbox"/> Insured Mail (per \$500)	<input type="checkbox"/> Insured Mail Restricted Delivery

Domestic Return Receipt

Farrell, John

*Mailed Certified to both on 9-15-2020 26083 / 26084*

**From:** Lund, William N  
**Sent:** Wednesday, September 02, 2020 5:22 PM  
**To:** Myslik, Edward  
**Cc:** Roux, Stephanie; Farrell, John  
**Subject:** #26083 and #26084 -- [REDACTED] v. two payday lenders

Same consumer; same address of lender (although different names); same dollar amounts – I am not clear whether this is one loan, or two.

New Vineyard consumer took loan(s) from Wisconsin lender(s) – probably sponsored by a Native American tribe, claiming tribal immunity from state (and federal) lending laws.

She borrowed \$1,200, has repaid \$314.65 back so far, and wants us to arrange to have the principal debt and any interest, canceled.

We can certainly write to this company or companies. I don't usually like to advocate for forgiveness of money actually borrowed – the "penalty" for making an unlicensed loan is forgiveness of one year's interest. However, do what you can. Ideally the consumer would send the remainder of the principal back to the lender, but it's likely she does not have it any more.

Also make sure she has closed the bank account to which the lender has access, or else additional money will be deducted.

Myslik, Edward

#25833

From: [REDACTED]  
Sent: Monday, April 13, 2020 11:51 AM  
To: credit, cons  
Subject: Consumer Credit Complaint email

EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Date: April 13, 2020

Consumer Information:

[REDACTED]  
[REDACTED]

GRAY, ME 04039  
United States

Day telephone: [REDACTED] Extension:

Evening Telephone:  
Fax:  
Email: [REDACTED]

Company complained about:

Bright Lending  
PO Box 578  
Hays, MT 59527

Telephone number: 1-866-376-28  
Your account number: [REDACTED]

Person you spoke with: unknown  
Details of your complaint: I emailed Bright lending my request shown below:

[REDACTED]

Apr 12, 4:54 AM CDT

I have been working with the Consumer Credit Protection from the state of Maine  
<https://nam03.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.maine.gov%2Fpfr%2Fconsumercredit%2Fcomplaint.htm&data=02%7C01%7Ccons.credit%40maine.gov%7Cf3055a47f9654955002108d7dfc2fe8f%7C413fa8ab207d4b629bcdea1a8f2f864e%7C0%7C0%7C637223900888057675&sdata=aPuDwks6zor5afLrNJGLCK3RGFFCC4JkQV8CFjGSxsQ%3D&reserved=0>. They have advised me to make you aware that your Lending Practices in Maine are illegal for two reasons:

1. Not authorized to give loans in the state of Maine (no License)

CLOSED -  
RESERVED BY  
ETM -  
CONS WAIVED

2. The percentage rate is above the State of Mainethreshold of 30%

I have received two loans for \$1,000.00 Total:

Loan number ~~1061629828~~ \$500.00  
Loan Number – ~~106580928~~ \$500.00

Because these loans are not legal, I am not bound by the contract that we agreed to in writing and I am only obligated to pay back the principal of \$1000.00. I have paid back a total of \$749.63 leaving a total balance with no interest calculated of \$250.37.

I see that we have two ways of moving on from this time.

1. We consider the matter paid in full for all loans (written documentation providing this) and no Credit delinquencies on my credit report)
2. I involve the Consumer Credit Protection to fully investigate your practices and face possible prosecution and fines if they find wrongdoing (which they will) and I can pay the final \$250.37 over the next calendar year (365 days)

Your attention to this matter is very important and I would like to have written correspondence provided via email as well to this address:

~~██████████~~  
~~██████████~~  
Gray Me, 04039

~~████████████████████~~

Thank you.

~~██████████~~

Here is their response:

Bright Lending  
11:15 AM (32 minutes ago)  
to me

##- Please type your reply above this line -## Your request (338319) has been updated. To add additional comments, reply to this email.

Support (Bright Lending)

Apr 13, 10:15 AM CDT

Dear ~~██████████~~,

We are in receipt of your email regarding your account and your questions and concerns are addressed below.

Clearly stated on our website and in the contract you executed it states Bright Lending (the "Company") is a wholly owned and operated entity of the Fort Belknap Indian Community (the "Tribe") on the Fort Belknap Reservation of Montana (the "Reservation"). The following is a link to our website for your convenience:  
<https://nam03.safelinks.protection.outlook.com/?url=http%3A%2F%2Fwww.brightlending.com%2F&data=02%7C01%7Ccons.credit%40maine.gov%7Cf3055a47f9654955002108d7dfc2fe8f%7C413fa8ab207d4b629bcdea1a8f2f864e%7C0%7C0%7C637223900888057675&data=VakpTYHGCTmh4%2BDG7e3KTWLZD52O%2FBUOkxDKCWk2ivE%3D&reserved=0>

The Company is wholly owned by the Tribe, was established for the Tribe's economic benefit, and is organized under and operates pursuant to Tribal law. As an economic arm of the tribe, the Company shares the Tribe's sovereign immunity and, therefore, is not subject to state enforcement actions described in your e mail.

The Fort Belknap Indian Community is a federally-recognized Indian tribe and a sovereign nation, as expressly recognized under federal law. See 75 FED. REG. 60,810, 60,811. As such, Bright Lending follows the applicable principals of Federal financial consumer laws and the laws of the Fort Belknap Tribe.

Furthermore, we can attest that our Tribal lending business does not engage in excessive or abusive collection practices.

We take these matters seriously and diligently work with our customers to answer any inquiries and resolve any issues that have been brought to our attention in a timely manner.

The following is a summary of your current Loan: ~~8065809788~~

Original Loan Amount – \$500.00  
Principal Paid to date - \$0.00  
  
Net Principal Balance - \$500.00  
Past due charges and fees - \$255.16  
  
Total Outstanding - \$746.76

As a courtesy to you and as gesture of good will we will accept \$500.00 as payment in full on your outstanding balance.

If you are interested please contact Account Resolution at 1-866-376-2877 and a representative will assist you or send a money order or cashier's check to:

Bright Lending  
PO Box 578  
Hays, MT 59527

If we are unable to speak to you, alternative arrangements are not made, or payment received within seven (7) business days, we will resume our normal collection process.

Thank you for your time and attention, our Account Resolution representatives are always ready to assist and work with our customers, and we look forward to hearing from you.

We are in receipt of your email regarding your account and your questions and concerns are addressed below.



Apr 12, 4:54 AM CDT

I have been working with the Consumer Credit Protection from the state of Maine

<https://nam03.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.maine.gov%2Fpfr%2Fconsumercredit%2Fcomplaint.htm&data=02%7C01%7Ccons.credit%40maine.gov%7Cf3055a47f9654955002108d7dfc2fe8f%7C413fa8ab207d4b629bcdea1a8f2f864e%7C0%7C0%7C637223900888057675&sdata=aPuDwks6zor5afLrNJGLCK3RGFFCC4JkQV8CFjGSxsQ%3D&reserved=0>. They have advised me to make you aware that your Lending Practices in Maine are illegal for two reasons:

1. Not authorized to give loans in the state of Maine (no License)
2. The percentage rate is above the State of Maine threshold of 30%

I have received two loans for \$1,000.00 Total:

Loan number ~~1065039281~~ \$500.00  
Loan Number - ~~1065809788~~ \$500.00

Because these loans are not legal, I am not bound by the contract that we agreed to in writing and I am only obligated to pay back the principal of \$1000.00. I have paid back a total of \$749.63 leaving a total balance with no interest calculated of \$250.37.

I see that we have two ways of moving on from this time.

1. We consider the matter paid in full for all loans (written documentation providing this) and no Credit delinquencies on my credit report)
2. I involve the Consumer Credit Protection to fully investigate your practices and face possible prosecution and fines if they find wrongdoing (which they will) and I can pay the final \$250.37 over the next calendar year (365 days)

Your attention to this matter is very important and I would like to have written correspondence provided via email as well to this address:

~~██████████~~  
~~██████████~~  
Gray Me, 04039

~~████████████████████~~

Thank you.

~~██████████~~

Bright Lending is an entity formed under the laws of the Fort Belknap Indian Community of the Fort Belknap Reservation of Montana (the "Tribe"), a federally-recognized and sovereign American Indian Tribe. Bright Lending is wholly-owned by the Tribe. Bright Lending is a licensed lender authorized by the Tribe's Tribal Regulatory Authority.

This email is a service from Bright Lending.

May we send a copy of this complaint to the company? Yes

Reason for not sending complaint to company?

Do you authorize the Bureau of Consumer Credit Protection to act on your behalf to communicate with your creditors or other businesses, obtain documents from those businesses and take all appropriate steps to respond to your complaint?  
Yes

What would you like us to do to resolve your complaint? I would like you to work with this company to get them down to a \$250.37 payment as I have made two loans with them and they are asking me to pay \$746.76 reduced to \$500 as a good will gesture.

Thank you.

  
Credit Report Complaints: If your complaint relates to a credit report, do you give the Office permission to receive a copy of your credit report? Yes

If yes, please list Date of Birth:  and Social Security number: 

Myslik, Edward

# 25832

From: [REDACTED]  
Sent: Thursday, April 9, 2020 7:06 PM  
To: credit, cons  
Subject: Consumer Credit Complaint email

EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Date: April 9, 2020

Consumer Information:

[REDACTED]  
[REDACTED]  
Casco, ME 04015  
United States

Day telephone: [REDACTED] Extension:

Evening Telephone: [REDACTED]

Fax:

Email: [REDACTED]

Company complained about:

Finwise – OPPLOANS  
130 E Randolph St. Suite 3400  
Chicago, IL 60601

Telephone number: 855-990-9500

Your account number: ~~083908506~~

Person you spoke with: Unknown

Details of your complaint: In November of 2019 I opened a loan with Finwise – OppLoans for 1000.00 and started making 20 Bi-Weekly payments of 86.52 on the following dates:

- 11/29/2019
- 12/13/2019
- 12/27/2019
- 1/10/2020
- 1/24/2020

Total Payments = 432.60

On February 4th I refinanced the loan for an additional 1124.12 totaling a new start of a 2000 loan and a new 20 Bi-Weekly payments of 178.50. I made 3 payments of 178.50 on the following dates before I contacted my Bank listed below to order an ACH Hold for all outgoing payments allowing incoming ACH transactions only so I would still get paid from my Employer:

#1  
• BMM INSTRUCTED CONSUMER  
CONSUMER WAS  
ABLE TO GET  
REMAINING  
WACVD BALANCE

2/21/2020  
3/06/2020  
3/20/2020

Total Payments = \$535.50

Cumberland County FCU  
101 Gray Road  
Falmouth ME 04105  
p: 207.878.3441  
f: 207.878.5327

Total Payments made to Finwise – OPPLoans is \$968.10 and according to a Phone call I had on 4/9/2020 with a member of your office I am only obligated to pay back the money lent to me and no interest unless it takes longer than 1 year to make full payment. If payment is then not completed Finwise – OPPLoans can then charge me interest on the outstanding debt for 30% interest until paid in full. I see it that I owe Finwise – OPPLoans \$1,031.90 to be paid in full by February 4th 2021 or interest can be accrued. I have heard that this company is a servicer in the state of Maine, but not a loan generator, so the loan was illegal to start with.

Below is the email I had sent to Finwise – OPPLoans to try to mitigate. I have had multiple phone conversations with them, from various phone numbers that I do not remember letting them know to recalculate my loan based on the information and to provide me the final bill without interest. They have not provided any new information and keep calling to get me to pay the full amount with interest.

~~REDACTED~~ Wed, Apr 1, 7:11 AM (8 days ago) to NSL

According to Maine State Law your organization needs to be licensed in the State of Maine to operate. Also I was informed that you are not allowed to charge more than 36% interest on any payday loan. Please recalculate the amount I owe at the 36% interest rate minus what I have already paid out to you and we can settle this account. I have turned off all ACH transactions for your site and will not be paying you until the correct interest rate is applied.

Please provide all written documentation to

~~REDACTED~~  
Gray Maine 04039

If you need copies of any document please let me know.

Thank you.

~~REDACTED~~

May we send a copy of this complaint to the company? Yes

Reason for not sending complaint to company?

Do you authorize the Bureau of Consumer Credit Protection to act on your behalf to communicate with your creditors or other businesses, obtain documents from those businesses and take all appropriate steps to respond to your complaint?  
Yes

What would you like us to do to resolve your complaint? To resolve this complain I would ask you to represent me so that a written agreement between Finwise – OPPLoans and myself [REDACTED] is entered into where the final amount owed to the client is \$1,031.90 or less if any fees or extra payments not listed by me have been recorded by Finwise – OPPLoans.

I would also ask that they remove my Loan from my Credit report fully as soon as possible – Since this loan was not legal according to the state of Maine I do not want them to update my report with derogatory marks lowering my credit score due to my action to stop payment until the proper procedures were done.

Thank you.

Credit Report Complaints: If your complaint relates to a credit report, do you give the Office permission to receive a copy of your credit report? Yes

If yes, please list Date of Birth: [REDACTED] and Social Security number: [REDACTED]

# 25832

Myslik, Edward

From: [REDACTED]  
Sent: Thursday, April 9, 2020 8:08 PM  
To: credit, cons  
Subject: Consumer Credit Complaint email

EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Date: April 9, 2020

Consumer Information:

[REDACTED]  
[REDACTED]  
Casco, ME 04015  
United States

Day telephone: [REDACTED] Extension:

Evening Telephone: [REDACTED]

Fax:

Email: [REDACTED]

Company complained about:

MAXLEND  
PO BOX 639  
Parshall, ND 58770

Telephone number: 857-343-8787  
Your account number: unknown

Person you spoke with: Vraylyn not given not given Details of your complaint: Complaint MaxLend

MAXLEND  
PO BOX 639  
Parshall, ND 58770

857-343-8787 Vraylyn ID no id

Action I have taken:

I called them at 7:10 PM and had a 7 minute phone call.

I explained to them that Maxlend that they are not authorized to give loans in the state of Maine and that state laws states that I do owe only on the principle if they are not a license Payday loan servicer in the state of Maine. I told hem I have one year to pay back just the principal with no fees or other charges. I asked them to recalculate every loan I have ever had with them from the first loan to the last loan and to email me directly, not call, how much I have paid in as well as how much is still owed for just principal. She was very hesitant on the phone and did not want to work with me and wanted to transfer me. I advised her to write down this information on this Recorded line and then have someone recalculate the loan and either pay me what they owe me or send me a statement of what I owe them.

# 2

ETM INSTRUCTED CONSUMER  
CONSUMER WAS ABLE TO GET REMAINING BALANCE WAIVED

Payments that I have paid

On 10/07/2020 I received a loan in my account for \$1,325.00 and the payments per moth would be 331.88 and I made the following payments util 2/25/2020 when I made a final payoff.

10/07/2019	Ach Maxlend	1,325.00	Deposit to my account
10/18/2019	Ach Maxlend	255.98	payment from my account
11/01/2019	Ach Maxlend	331.88	payment from my account
11/15/2019	Ach Maxlend	331.88	payment from my account
11/29/2019	Ach Maxlend	331.88	payment from my account
12/27/2019	Ach Maxlend	331.88	payment from my account
01/10/2020	Ach Maxlend	331.88	payment from my account
01/24/2020	Ach Maxlend	331.88	payment from my account
02/07/2020	Ach Maxlend	331.88	payment from my account
02/21/2020	Ach Maxlend	331.88	payment from my account
02/25/2020	Ach Maxlend	1,245.53	Final Payoff from my account

Total Paid on Loan 1 – do not have account due to it being removed from the site.  
Total Paid to MaxLend was \$4,156,55 on loan 1

A new loan was taken out on 3/20/2020 for \$1100.00 and the payment each month would be 244.61 and the following payments were made unti I had all ACH Transactions frozen for payments out of my account shown below:

Cumberland County FCU

101 Gray Road

Falmouth ME 04105

p: 207.878.3441

f: 207.878.5327

03/13/2020 Ach Maxlend 1,100.00 Deposit to my account

03/20/2020 Ach Maxlend 120.14 payment from my account

Total Paid 120.14 on Loan# 139126806 ( second Loan) Total Paid on Loans is \$4276.69 Site is asking me to pay in full for 1,682.53 for remainder of unpaid balance

Total Paid Both Loans	4276.69
Obligated to Pay for both loans	2425.00
Maxlend owes me	\$1851.69

Please provide all written correspondence to [REDACTED]

[REDACTED]  
Gray, Maine 04039

This is my second complain that I entered as I will be complaining about 4 other lenders.

May we send a copy of this complaint to the company? Yes

Reason for not sending complaint to company?

Do you authorize the Bureau of Consumer Credit Protection to act on your behalf to communicate with your creditors or other businesses, obtain documents from those businesses and take all appropriate steps to respond to your complaint?

Yes

What would you like us to do to resolve your complaint? What I would like you to do to resolve my complaint is contact the client and work out a refund for me in the amount of \$1851.69 as well as clear any obligation for any further payment obligations to Maxlend. I would also request that no derogatory remarks or loan details be added to any of the credit reporting agencies for any loan from Maxlend and to have them removed if they have added them.

I can provide financial statements if you need them or any other information. I can provide the voicemail where Marcus asked me for more money and that he would lower the payments 877-943-6784 and I would no longer need a checking account.

Credit Report Complaints: If your complaint relates to a credit report, do you give the Office permission to receive a copy of your credit report? Yes

If yes, please list Date of Birth: [REDACTED] and Social Security number: [REDACTED]

**Myslik, Edward**

#25820

**From:** [REDACTED]  
**Sent:** Thursday, April 2, 2020 1:52 PM  
**To:** credit, cons  
**Subject:** Consumer Credit Complaint email

EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Date: April 2,

Consumer Information:

[REDACTED]  
[REDACTED]  
FRANKLIN, ME 04634  
United States

Day telephone: [REDACTED] Extension:

Evening Telephone: [REDACTED]

Fax:

Email: [REDACTED]

Company complained about:

GOLDEN VALLEY LENDING, INC  
635 EAST HIGHWAY, 20, E  
UPPER LAKE, CA 95485

Telephone number: 18552147011

Your account number: ~~60248426~~

Person you spoke with:

Details of your complaint: I APPLIED FOR A LOAN THROUGH SCRATCHPAY FOR VETERINARY SERVICES. I DID NOT REALIZE THEY SENT YOUR APPLICATION TO SEVERAL LENDERS. I ENDED UP WITH GOLDEN VALLEY LENDING, INC. THE LOAN AMOUNT WAS 900.00. I NOTICED ON THE DOCUMENTS THERE WAS A 270.00 FEE FOR THE LOAN. I HAVE MADE THREE PAYMENTS IN THE AMOUNTS OF 315.00 ON 2/28/20, 301.50 ON 3/13/20 AND 288.00 ON 3/27/20. I LOGGED ON TO MY ACCOUNT TO SCHEDULE WHAT I THOUGHT WOULD BE THE LAST PAYMENT OF 265.50, BOY WAS I WRONG. ACCORDING TO THE DOCUMENTS I AM BEING CHARGED AN APR OF 780% AND A FINANCE CHARGE OF 2835.00, THE TOTAL OF THE PAYMENTS FOR BORROWING 900.00 IS 3,735.00. I WILL BE PAYING UNTIL NOVEMBER 20, 2020. ARE THESE RATES EVEN LEGAL?

May we send a copy of this complaint to the company? Yes

Reason for not sending complaint to company?

Do you authorize the Bureau of Consumer Credit Protection to act on your behalf to communicate with your creditors or other businesses, obtain documents from those businesses and take all appropriate steps to respond to your complaint?  
Yes

What would you like us to do to resolve your complaint? IS IT POSSIBLE TO GET A BETTER RATE WITH THIS?

Credit Report Complaints: If your complaint relates to a credit report, do you give the Office permission to receive a copy of your credit report? No

If yes, please list Date of Birth: , and Social Security number:



Janet T. Mills  
GOVERNOR

# State of Maine

## Department of Professional & Financial Regulation

### Bureau of Consumer Credit Protection

35 State House Station  
Augusta, Maine 04333-0035

William N. Lund  
SUPERINTENDENT

4/15/20

April 15, 2020

Golden Valley Lending, Inc.  
635 East Highway 20, East  
Upper Lake, CA 95485

Open

Re: State of Maine Bureau of Consumer Credit Protection / Notice of Complaint #25820

Dear Golden Valley Lending, Inc.:

The purpose of this letter is to notify you that the State of Maine Bureau of Consumer Credit Protection ("Bureau") is in receipt of a complaint (see enclosed copy of complaint) naming Golden Valley Lending, Inc. ("Golden Valley") as the respondent. The Bureau is authorized to "[r]eceive and act" on complaints by Maine law at 9-A M.R.S. § 6-104(1)(A). The Bureau is the regulatory agency that issues licenses to non-depository lenders engaged in the business extending consumer credit to Maine residents.

#### Complaint Summary

According to the written complaint, sometime in early 2020, Golden Valley extended consumer credit to the complainant in the initial principal amount of \$900.00 with a "\$270.00 fee for the loan." The consumer claims that she has made three payments to Golden Valley totaling \$904.50. Recently, when she logged into her online Golden Valley account, she expected to verify a final payment of \$265.50. Instead, she discovered that the APR was disclosed as 780% and her total payments were \$3,735.00.

#### Analysis

Maine law at 9-A M.R.S. § 2-301 states that "[u]nless a person . . . has first obtained a license pursuant to this Act from the [Bureau] . . . the person may not engage in the business of . . . [m]aking supervised loans. Maine law at 9-A M.R.S. § 5-201(2) states that "[i]f a creditor has violated the provisions of this Act applying to the authority to make supervised loans, section 2-301, the debtor is not obligated to pay any fee, prepaid finance charge or closing cost, nor the loan finance charge . . . ."

#### Required Response

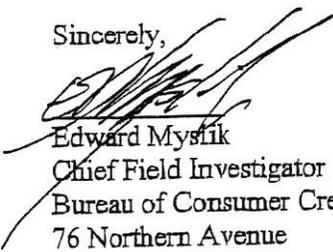
1. Golden Valley is required to respond to this complaint within 20-days receipt.

Postal Address: 35 State House Station, Augusta, Maine 04333-0035  
Physical Address: 76 Northern Avenue, Gardiner, Maine 04345  
Office Telephone: (207) 624-8527 | Office Facsimile: (207) 582-7699  
Website: <https://www.maine.gov/pfr/consumercredit/>  
Email: [Edward.myslik@maine.gov](mailto:Edward.myslik@maine.gov)

2. Golden Valley is required to render the subject loan as paid in full or satisfied on the basis that Golden Valley is not presently licensed by the Bureau as a supervised lender in the State of Maine.
3. Golden Valley is required to cease all consumer lending activity in the State of Maine until the Bureau has received and acted upon an application for a supervised lender license for Golden Valley.

I thank you in advance for your help with this matter, and I look forward to working with you to resolve this complaint and to discuss the Bureau's supervised lender licensing process.

Sincerely,



Edward Myslik  
Chief Field Investigator  
Bureau of Consumer Credit Protection  
76 Northern Avenue  
Gardiner, ME 04345  
Telephone: (207) 624-8527  
Email: [Edward.myslik@maine.gov](mailto:Edward.myslik@maine.gov)



635 East Hwy 20, E Upper Lake, CA 95485

855-214-8144

[www.goldenvalleylending.com](http://www.goldenvalleylending.com)

May 8, 2020

Edward Myslik  
Chief Field Investigator  
Bureau of Consumer Credit Protection  
76 Northern Avenue  
Gardner, ME 04345  
Via email to [Edward.myslik@maine.gov](mailto:Edward.myslik@maine.gov)

Re: [REDACTED]  
Complaint no. 25820

Dear Mr. Myslik,

Golden Valley Lending, Inc. ("GVL") is in receipt of correspondence from your office regarding the above-referenced individual. We wish to inform you that GVL is a wholly owned and operated arm of the Habematolel Pomo of Upper Lake, a federally recognized Indian tribe ("Tribe"). As a tribal entity, GVL conducts business pursuant to a license granted by the Tribe's Consumer Financial Services Regulatory Commission (the "Commission").

The Tribe is extremely dedicated to ensuring that customers choosing GVL as a lender are treated fairly and with a great deal of respect. GVL is heavily regulated by the Commission, is subject to the Commission's enforcement authority, and is duty-bound to conduct business in a responsible manner and in accordance with Tribal law which incorporates all substantive provisions of federal consumer protection law. The Commission consists of Commissioner David Tomas, and two attorneys who serve as counsel to the Commission: Brendan Johnson, former U.S. attorney for South Dakota, and Sarah Auchterlonie, former acting deputy enforcement director for the Bureau of Consumer Financial Protection. GVL has copied the Commission on this correspondence to assist in coordination regarding any complaints that your office may receive.

Because the Commission maintains jurisdiction over GVL's lending activities, GVL requests that you direct any future correspondence pertaining to GVL to the Commission via email at [TCFSComplaints@hpult.com](mailto:TCFSComplaints@hpult.com) or by mail at:

TCFS Regulatory Commissioner  
Habematolel Pomo of Upper Lake  
Tribal Consumer Financial Services Regulatory Commission  
635 E. Highway 20  
Upper Lake, CA 95485

The Tribe has been very proactive in working with states in addressing customers' concerns either informally or through formal processes such as the Memorandum of Understanding between the Tribe and the State of New Mexico. We have alerted the Commission of your letter and they will be contacting you; or feel free to call Brendan

Edward Myslik  
April 23, 2020  
Page 2 of 2

Johnson, Commission counsel, at 605-335-1300.

GVL has reached out to the named customer directly to address her concerns, in accordance with its policies and procedures relating to consumer complaints. GVL reviewed this customer's file and confirmed that her loan agreement makes clear that the loan may be paid in 20 installments, though customers are free to pay extra toward the principal on scheduled pay dates, or to pay the loan in full at any time, without penalty. The loan agreement also clearly discloses the annual percentage rate and finance charges of the loan, pursuant to Tribal law. The customer had multiple opportunities to view the payment schedule and loan agreement before she signed it and before the funds were disbursed. The customer was also informed, before she consummated the loan transaction, that by obtaining the loan she was consenting to the laws and jurisdiction of the Habematolel Pomo of Upper Lake.

GVL is nevertheless committed to superior customer service and has made the determination to waive the remaining balance of [REDACTED] loan. Nothing further will be due or owing. [REDACTED] may contact GVL with any further questions.

Please be advised that neither GVL nor the Tribe has waived or intends to waive its sovereign immunity from suit. Nothing contained herein is intended, or shall be construed as, an admission or waiver of any rights that GVL and the Tribe have, all of which are expressly reserved. Consequently, this response is simply a voluntary response to your letter, and in no way constitutes a waiver of sovereign immunity or a submission to state jurisdiction.

Sincerely,

GOLDEN VALLEY LENDING, INC.

Compliance Department  
compliance-resolutions@goldenvalleylending.com

cc: HPUL Tribal Consumer Financial Services Regulatory Commission

#25744

Myslik, Edward

From: [REDACTED]  
Sent: Monday, March 2, 2020 2:25 PM  
To: credit, cons  
Subject: Consumer Credit Complaint email

EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Date: March 2, 2020

Consumer Information:

[REDACTED]  
[REDACTED]  
[REDACTED]  
United States

Day telephone: [REDACTED] Extension:

Evening Telephone:

Fax:

Email: [REDACTED]

Company complained about:

Better Day Loans  
P.O Box 6882  
Santa Rosa, CA 95406

Telephone number: 866-258-0165

Your account number: ~~XXXXXXXXXX~~

Person you spoke with: Wen

Details of your complaint: I was issued a loan for \$575.00 from better day loans on 12/6/19. I just realized that the interest being charged is 768.79%. I was not aware of this. To date, I have repaid \$1241.22 of the original loan. I have spoken with customer service disputing this loan, however was told that I am responsible to repay \$3869.30. The representative would not disclose a last name. What I have been told is that this is a tribal loan ( Kashia Band of Pomo Indians of the Stewart's Point Rancheria) and that they have immunity against disputes or legal action.

I have notified my bank and stopped automatic withdrawals from this organization.

May we send a copy of this complaint to the company? Yes

Reason for not sending complaint to company?

Do you authorize the Bureau of Consumer Credit Protection to act on your behalf to communicate with your creditors or other businesses, obtain documents from those businesses and take all appropriate steps to respond to your complaint?

Yes

CONSUMER  
INSTRUCTED  
BY DKS & EHM  
3/2/2021  
Ⓜ

What would you like us to do to resolve your complaint? I want to be refunded the interest paid to this company that is over the state maximum interest allowance. This is a scam and also requesting that they be reported to the credit bureaus and better business bureau.

Credit Report Complaints: If your complaint relates to a credit report, do you give the Office permission to receive a copy of your credit report? Yes

If yes, please list Date of Birth: [REDACTED] and Social Security number: [REDACTED]

**Myslik, Edward**

---

**From:** Mediation, Consumer  
**Sent:** Monday, March 2, 2020 9:27 AM  
**To:** credit, cons  
**Subject:** FW: Scam tribal payday loan [REDACTED]  
**Attachments:** [REDACTED]

Good Morning:

Can you please assist this consumer?

Thank you,  
Cami

**From:** [REDACTED]  
**Sent:** Friday, February 28, 2020 5:54 PM  
**To:** Mediation, Consumer <Consumer.Mediation@maine.gov>  
**Subject:** Scam tribal payday loan / [REDACTED]

EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Did not realize the terms of this loan. The interest rate for a \$575 loan is almost 800%.  
See PDF. Please help!

Sent from my iPhone

PLEASE TAKE A MOMENT TO REVIEW THIS LOAN AGREEMENT CAREFULLY. YOU WILL BE REQUIRED TO ELECTRONICALLY SIGN AND DATE IT. YOU WILL ALSO ELECTRONICALLY SIGN AND DATE THE DISBURSEMENT AND PAYMENT CHOICE AUTHORIZATION.

Loan #: ~~0209030028~~

<b>Agreement Date:</b> 2019-12-06 <b>Effective Date:</b> 2019-12-09	<b>Loan #:</b> <del>0209030028</del> <b>Loan Type:</b>
Better Day Loans Po Box 6882 Santa Rosa, CA 95406	<b>Name:</b> [REDACTED] <b>Address:</b> [REDACTED] <b>City:</b> VASSALBORO, State: ME, Zip: 04989 <b>Phone:</b> [REDACTED] <b>Email Address:</b> [REDACTED]

We cannot commit to make a loan to You unless and until Your completed application is approved by our underwriting department.

**TRUTH IN LENDING DISCLOSURES**

<b>ANNUAL PERCENTAGE RATE</b> The cost of your credit as a yearly rate.	<b>FINANCE CHARGE</b> The total dollar amount the credit will cost you.	<b>AMOUNT FINANCED</b> The amount of credit provided to you or on your behalf.	<b>TOTAL OF PAYMENTS</b> The amount you will have paid after you have made all payments as scheduled.
768.79%	\$3869.3	\$575	\$4444.3

Your Payment Schedule will be:

<b>Payment Date</b>	<b>Payment Amount</b>
2019-12-18	\$110.67
2019-12-24	\$84.99
2019-12-31	\$84.99
2020-01-08	\$84.99
2020-01-15	\$84.99
2020-01-22	\$84.99
2020-01-29	\$84.99
2020-02-05	\$84.99
2020-02-12	\$84.99
2020-02-19	\$84.99
2020-02-26	\$84.99
2020-03-04	\$84.99
2020-03-11	\$84.99
2020-03-18	\$84.99
2020-03-25	\$84.99
2020-04-01	\$84.99

2020-12-09

\$84.13

Prepayment: If you pay off early, you will not have to pay a penalty.

See the Terms and Conditions of the Loan Agreement below for any additional information about nonpayment, default, any required repayment in full before the schedule date, and prepayment refunds and penalties.

Late Charge: If a payment is five or more days late, you will be charged \$25.

All numerical disclosures, except the Late Charge disclosure, are estimates.

ITEMIZATION OF AMOUNT FINANCED: Amount Financed/Amount given to You directly \$575

#### SPECIAL NOTICES:

- \* YOUR LOAN IS AN EXPENSIVE FORM OF BORROWING.
- \* YOU CAN SAVE FINANCE CHARGES BY PAYING OFF YOUR LOAN EARLY EITHER IN PART OR IN FULL.
- \* YOUR LOAN IS DESIGNED TO ASSIST YOU IN MEETING YOUR SHORT-TERM CASH NEEDS. IT IS NOT A SOLUTION FOR LONGER TERM FINANCIAL PROBLEMS.
- \* NON-PROFIT CREDIT COUNSELING SERVICES ARE AVAILABLE IN YOUR COMMUNITY FOR CONSUMERS EXPERIENCING FINANCIAL PROBLEMS.

#### TERMS AND CONDITIONS

In this Loan Agreement ("Loan Agreement") the words "We," "Us," and "our" mean Better Day Loans, a wholly-owned business entity of Kashia Band of Pomo Indians of the Stewarts Point Rancheria ("Tribe"), and any authorized representative, agent, independent contractor, affiliate or assignee We use in the provision of Your loan. "You" and "Your" means the consumer who signs the Agreement electronically. The term "business day" means any calendar day other than a Saturday, Sunday, or a bank or federal holiday.

**YOUR PROMISE TO PAY:** You promise to pay Us, or any subsequent holder of this Agreement, the Amount Financed and finance charges according to the payment schedule in the Truth-in-Lending Disclosures above plus all other amounts owed to Us under this Loan Agreement.

**YOUR FINANCE CHARGES:** This is a "simple interest" loan. You agree to pay interest on the outstanding principal balance at a rate of 780.00% per year (the "Interest Rate") beginning on the date that Your loan proceeds are deposited to Your Bank Account (the "Effective Date"), and continuing until the loan is paid in full. The interest applied to your loan is computed on an actual/365-day simple interest basis. This means that the interest is computed by dividing the annual Interest Rate by 365, which results in a daily rate of Daily Rate Percentage (the "Daily Rate"). We then multiply the Daily Rate by the outstanding principal balance, and then multiply that number by the number of days the principal balance is outstanding to arrive at each payment due under the Payment Schedule.

All numerical disclosures set forth in the Truth-in-Lending Disclosure above are made assuming that payments under this Loan Agreement are made pursuant to the Payment Schedule. Your actual finance charges may be more than the Finance Charge disclosed in the Truth-in-Lending Disclosures above if you make your payments late or less if you make your payments early. We will apply payments first to late charges, then to finance charges and lastly to your unpaid principal balance.

**DISBURSEMENT:** If Your Loan is approved, We will process disbursement of Your loan proceeds within one business day of the day Your loan is approved. You authorize Us to use commercially reasonable efforts to initiate a credit entry by depositing the proceeds of Your loan into Your Bank Account described in Your Disbursement and Payment Choice Authorization. Unavoidable delays that occur as a result of bank holidays, the processing schedule of Your particular bank, inadvertent processing errors, "acts of God," and/or "acts of terror" may extend the time for the deposit and may cause a change in the actual date of disbursement as disclosed herein. In the event that disbursement is delayed, the Disbursement Date will automatically adjust to the actual date of disbursement.

**ASSIGNMENT:** This Loan Agreement may not be assigned by You. We may assign or transfer this Loan Agreement and our related rights and obligations without notice to You and Your consent is not required if We make such an assignment or transfer.

**PAYMENTS:** You are required to make the payments for each installment on or before each payment due date set forth in Your Payment Schedule above ("Payment Due Date"). If any scheduled payment is due on a day that is not a Business Day, then Your payment will be due on the next Business Day. However, We will credit the payment to Your account as if We received it on the schedule Payment Due Date. If You would like to repay Your loan according to a payment plan other than as set forth herein, You must contact a customer service representative no later than three (3) days prior to Your next scheduled Payment Due Date to make such a payment schedule modification. Requests to modify Your Payment Schedule received within three (3) days of the next Payment Due Date may not be accommodated. You will make Your payments on or before every Payment Due Date until You have paid the entire principal and accrued Finance Charges and any other charges as described in this Agreement. If on the final scheduled Payment Due Date ("Maturity Date"), You still owe amounts under this Agreement, You will pay those amounts in full on that date.

If You submit a payment in excess of those payments required under the Payment Schedule, all such payments will be applied to principal first. In such situations, any earned daily interest that has accrued since the last scheduled payment will remain due and owing to Us and is payable on the next scheduled payment date. If any such payment in excess of those payments required under the Payment Schedule does not satisfy the amount of principal owed, Daily Interest will thereafter be applied to the reduced principal amount as indicated in the "Your Finance Charges" section.

**ELECTRONIC PAYMENT:** If you elect to pay your payments electronically, then your payment and any Late Charge or Refused Instrument Charge due to Us, if applicable, will be debited electronically from Your Bank Account on each Payment Due Date, as set forth in your payment schedule above (see "**DISBURSEMENT AND PAYMENT CHOICE AUTHORIZATION**" below). You may revoke your payments by contacting customer service at 1-866-258-0165 or emailing Us at support@betterdayloans.com. Please note, if your scheduled payment has already been submitted to your financial institution at the time you intend to revoke such a payment, it may be necessary for Us to wait until that payment posts before We can refund you that payment amount. However, when possible, at the time of revocation, We will void any pending payments.

**PAYMENT BY CHECK:** If You elect to pay by check, then you agree to repay all amounts due pursuant to this Agreement via check. All mailed payments must reach Us by 12:00 noon Pacific Standard Time on or before the Payment Due Date. If You provide a check as a payment, You authorize Us either to use information from Your check to make a one-time electronic fund transfer from Your account or to process the payment as a check transaction. When We use information from Your check to make an electronic funds transfer, funds may be withdrawn from your account as soon as the same day that We receive Your payment, and You may not receive Your check back from Your financial institution.

**AUTHORIZATION FOR REMOTELY CREATED CHECKS:** If: (1) you elected to make payments by electronic debit authorization or credit card authorization ("Electronic Debit Authorization or Card Authorization") and you subsequently revoke the authorization, (2) We are unable to process Your payments by electronic debit or credit card for any reason, or (3) You have defaulted on a payment, then by electronically signing this Agreement, You authorize Us to create checks bearing Your typed name and other information as may be required under applicable law instead of Your handwritten signature, drawn on your Bank Account ("Remotely Created Check"), and to submit each such remotely created check ("Remotely Created Check") for payment to the Bank or other financial institution in the amount of each payment owing to Us under this Agreement on or after each Payment Due Date. If a Remotely Created Check is returned unpaid by the Bank or other financial institution, then You authorize Us to create and submit a Remotely Created Check for any returned payment fee, or other amounts accrued pursuant to this Agreement. You agree that Your typed name or other designation mandated by applicable law will constitute your authorized signature, fully reflecting your intent to authenticate any such Remotely Created Check. If You believe We charged your Bank Account in a manner not agreed to by this authorization, please contact Us. You authorize Us to vary the amount of any preauthorized payment by Remotely Created Check as needed to repay amounts due and owing pursuant to this agreement, as modified by any partial prepayments. This Remotely Created Check authorization is effective only if You (1) originally selected electronic debit or credit card as your payment method and then you revoke the authorization, (2) We are unable to process your payments by either method for any reason, or (3) You defaulted on a payment. If You would like to dispute a payment related to a Remotely Created Check,

determine whether a payment was genuine, withhold payment of a Remotely Created Check, or obtain re-crediting of amounts We obtained via a Remotely Created Check, contact Us by calling 1-866-258-0165.

**PREPAYMENT:** You may prepay all or part of the amount that You owe under this Agreement at any time without penalty. Partial prepayments will not change the amount or due date of your remaining payments (with the possible exception of you last payment) until this Agreement is paid in full, however, partial prepayments will reduce the number of payments remaining. If You wish to prepay Your loan, then You must contact a customer service representative at 1-866-258-0165 to obtain an accurate payoff amount and either provide Us with authorization to effect a debit entry to Your bank account for the prepayment, or otherwise advise Us of Your intended method of prepayment.

**REFUSED INSTRUMENT CHARGE:** If your payment is denied or otherwise dishonored, then you agree to pay Us a fee of \$30. If you authorized debits from either Your bank account in Your Disbursement and Payment Choice Authorization, You agree that We may debit Your Bank Account, for any refused instrument charges. Your refused instrument may also cause Your payment to be late which could result in Your having to also pay a late charge.

**VERIFICATION:** You authorize Us to verify the information You provided to Us in connection with Your loan application. You give Us consent to obtain information about You from consumer reporting agencies or other sources at any time. We reserve the right to withhold funding of this Loan, at any time prior to disbursement, to allow Us to verify the information You have provided to Us.

**CREDIT REPORTING:** We may report information about Your loan to consumer reporting agencies. Late payments, missed payments, or other reportable events may be reflected on Your credit report.

**CANCELLATION:** You may cancel Your payment obligations under this Loan Agreement, without cost or finance charges, no later than 12:00 noon Pacific Standard Time of the next business day immediately following the Disbursement Date ("Cancellation Deadline"). Your right to cancel Your loan only applies if Your loan either hasn't funded or, if it has, the funds are returned to Us as explained below. To cancel Your payment obligations on this loan, You must inform Us **in writing**, by or before the Cancellation Deadline, either by email to support@betterdayloans.com or by fax at 707-239-8000, that You want to cancel the future payment obligations on this loan. If We timely receive Your written notice of cancellation on or before the Cancellation Deadline but **before** the loan proceeds have been deposited into Your Bank Account, then We will not debit Your Bank Account and both Your and our obligations under this Loan Agreement will be rescinded. However, if We timely receive Your written notice of cancellation on or before the Cancellation Deadline but **after** the loan proceeds have been deposited into Your Bank Account, then You authorize Us to effect a debit to Your Bank Account as elected by You in Your Disbursement and Payment Choice Authorization for the principal amount of Your Loan. If We receive payment of the principal amount by debit of Your Bank Account within twenty-four hours of the Cancellation Deadline, then both Your and our obligations under this Loan Agreement will be rescinded. If We do not receive payment of the principal amount by debit to Your Bank Account within twenty-four hours of the Cancellation Deadline, then this Loan Agreement will remain in full force and effect.

**DEFAULT:** You will be in default under this Agreement if You do not pay Us a scheduled payment or any other amounts You owe Us when due or Your chosen payment method is stopped, denied, or otherwise dishonored. If You default on Your loan, We can choose to declare all principal, finance charges, and other amounts that You owe Us to be immediately due and payable in full. If You are in default and You authorized debits from Your Bank Account, You agree that We can debit Your Bank Account for the full amount that You owe Us. We may submit Your Loan to a collection agency and We may also report the incident to a consumer reporting agency database. This may negatively impact Your ability to write checks or to receive loans or advances from other companies.

**CONSEQUENCES OF DEFAULT:** Upon a default by You under this Agreement, We may take any one or more of the following actions:

- a) Agree to permit you to cure a payment default before the loan goes into collection by modifying your Loan Schedule and/or payment amounts (a "Cure arrangement"). This option is not available for all customers and/or all loan products. If We agree to a Cure arrangement and you fail to honor such terms, then We will have the right, at our sole discretion, to terminate the Cure arrangement and immediately and without notice declare the entire unpaid principal balance and all accrued unpaid finance charge(s) and fees immediately due under your Loan ("Accelerate Your Loan");

- b) without further action or notice Accelerate Your Loan and require you to immediately pay Us all amounts due and owing pursuant to such acceleration; and
- c) Pursue all legally available means to collect what You owe Us.

By electing any one of these options, We do not waive or release our right to subsequently elect and apply any other options to collect the amounts due and owing to Us.

**GOVERNING LAW:** The laws of the Tribe will govern this Loan Agreement, without regard to the laws of any state or other jurisdiction, including the conflict of laws rules of any state. You agree to be bound by Tribal law, and in the event of a bona fide dispute between You and Us, Tribal law shall exclusively apply to such dispute.

**SITUS OF THE LOAN AGREEMENT:** The parties agree that this Loan Agreement is made and accepted on the tribal lands of the Kashia Band of Pomo Indians of the Stewarts Point Rancheria Tribe regardless of Your home state or relationship to the tribal lands.

**SOVEREIGN IMMUNITY:** This Loan Agreement and all related documents are being submitted by You to Us in our capacity as a division of an economic arm, instrumentality, and wholly-owned business entity of the Tribe. The Tribe is a federally-recognized Indian tribe and enjoys governmental sovereign immunity. Because We and the Tribe are entitled to sovereign immunity, You will be limited as to what claims, if any, You may be able to assert against the Tribe and Us. To encourage resolution of consumer complaints, any complaint may be submitted by You or on Your behalf to the Tribe for review as described below.

**PRESERVATION OF SOVEREIGN IMMUNITY:** Better Day Loans is a business entity wholly-owned by Kashia Band of Pomo Indians of the Stewarts Point Rancheria, a federally-recognized Indian tribe that, along with its governmental departments and agencies and economic enterprises, possesses sovereign immunity from unconsented suit. This means that no legal action may be brought against the Tribe in general, Kashia Band of Pomo Indians of the Stewarts Point Rancheria, or Better Day Loans, without the express written consent of such a party.

#### **TRIBAL DISPUTE RESOLUTION PROCEDURE PROVISION**

If You have a question or grievance concerning Your Loan or any aspect of this Agreement, You must first contact Us by telephone at 1-866-258-0165 or in writing via fax at 707-239-8000 or e-mail to support@betterdayloans.com. We will make our best effort to answer Your question(s) or resolve Your grievance(s) within seven (7) days of receipt of Your inquiry. If You are dissatisfied with Our response, You may submit a written request for review to the Board of Directors of Kashia Band of Pomo Indians of the Stewarts Point Rancheria (the "Board"), Better Day Loans, Po Box 6882, Santa Rosa, CA 95406. The Board must receive Your written request for review within fifteen (15) business days after You receive a response to Your initial inquiry from Customer Service, and will make its best effort to respond to Your Claim within ten (10) business days thereafter. If You are dissatisfied with the Board's response, You may initiate a formal dispute resolution process by filing a written Claim with the Tribal Consumer Financial Services Regulatory Authority following the procedures provided to You by the Board along with its response. Any Claim that You file must be submitted within fifteen (15) business days after receipt of the Board's response, must describe the dispute along with the relief that You are seeking, and must otherwise comply with the procedural and substantive requirements of Tribal Law in order to be considered. Copies of applicable Tribal Laws may be obtained by contacting Us at the telephone number or email address provided above. Claims will be processed by the Board in accordance with Tribal Law.

**THIS TRIBAL DISPUTE RESOLUTION PROCEDURE IS INTENDED AS THE SOLE DISPUTE RESOLUTION MECHANISM FOR DISPUTES AND CLAIMS ARISING UNDER THIS LOAN AGREEMENT. THIS MEANS THAT YOU ARE EFFECTIVELY WAIVING YOUR RIGHT TO A JURY TRIAL.**

The words "dispute" and "disputes" are given the broadest possible meaning and include, without limitation (a) all claims, disputes, or controversies arising from or relating directly or indirectly to this Tribal Dispute Resolution Provision, ("this Provision"), the validity and scope of this Provision and any claim or attempt to set aside this Provision; (b) all U.S. federal or state law claims, disputes or controversies, arising from or relating directly or indirectly to this Loan Agreement, the information You gave Us before entering into this Loan Agreement, including the customer information application, and/or any past Loan Agreement or Agreements between You and Us; (c) all counterclaims, cross-claims and third-party claims; (d) all common law claims, based upon contract, tort, fraud, or other intentional torts; (e) all claims based upon a violation of any state or

federal constitution, statute or regulation; (f) all claims asserted by Us against You, including claims for money damages to collect any sum We claim You owe Us; (g) all claims asserted by You individually against the Tribe, Us and/or any of our employees, agents, directors, officers, governors, managers, members, parent company, service providers, or affiliated entities (collectively, "related third parties"), including claims for money damages and/or equitable or injunctive relief; (h) all claims asserted on Your behalf by another person; (i) all claims asserted by You as a private attorney general, as a representative and member of a class of persons, or in any other representative capacity, against Us and/or related third parties ("Representative Claims"); and/or (j) all claims arising from or relating directly or indirectly to the disclosure by Us or related third parties of any non-public personal information about You.

All disputes including any Representative Claims against Us and/or related third parties shall be resolved by the Tribal Dispute Resolution Procedure in this Provision only on an individual basis with You. Any party to a dispute, including related third parties, may send the other party written notice by certified mail return receipt requested of their dispute and setting forth the subject of the dispute along with the relief requested.

This Provision is binding upon and benefits You, Your respective heirs, successors and assigns. This Provision is binding upon and benefits the Tribe, Us, our successors and assigns, and related third parties. This Provision continues in full force and effect, even if Your obligations have been paid or discharged, such as through bankruptcy. This Provision survives any cancellation, termination, amendment, expiration or performance of any transaction between You and Us and continues in full force and effect unless You and We otherwise agree in writing.

**THIS TRIBAL DISPUTE RESOLUTION PROCEDURE PROVISION MEANS THAT:**

**\* YOUR RIGHT TO FILE SUIT AGAINST US FOR ANY CLAIM OR DISPUTE REGARDING THIS AGREEMENT IS LIMITED BY THIS PROVISION AND SOVEREIGN IMMUNITY.**

**\* YOU ARE GIVING UP YOUR RIGHT TO HAVE A TRIAL BY JURY TO RESOLVE ANY DISPUTE ALLEGED AGAINST US OR RELATED THIRD PARTIES.**

**\* YOU ARE GIVING UP YOUR RIGHT TO HAVE A COURT RESOLVE ANY DISPUTE ALLEGED AGAINST US OR RELATED THIRD PARTIES; AND**

**\* YOU ARE GIVING UP YOUR RIGHT TO SERVE AS A REPRESENTATIVE, AS A PRIVATE ATTORNEY GENERAL, OR IN ANY OTHER REPRESENTATIVE CAPACITY, AND/OR TO PARTICIPATE AS A MEMBER OF A CLASS OF CLAIMANTS, IN ANY LAWSUIT OR ARBITRATION FILED AGAINST US AND/OR RELATED THIRD PARTIES.**

**COVERED BORROWER IDENTIFICATION STATEMENT**

You represent and warrant that you are not a regular or reserve member of the Army, Navy, Marine Corps, Air Force or Coast Guard serving on active duty under a call or order that does not specify a period of thirty (30) days or fewer, or a dependent of such member. You understand that We may verify this statement and are making this loan in reliance on the truth of this statement.

**CONSENT TO ELECTRONIC COMMUNICATIONS**

The following terms and conditions govern electronic communications in connection with this Loan Agreement and the transaction evidenced by this Loan Agreement (this Consent). By electronically signing this Loan Agreement by clicking the "I AGREE" button and entering Your name below, You are confirming that You have agreed to the terms and conditions of this Consent and that You have the ability to download or print a copy of this Consent for Your records. You agree that:

Any disclosure, notice, record, or other type of information that is provided to You in connection with Your transaction with Us, including but not limited to, this Loan Agreement, this Consent, disclosures, change-in-term notices, fee and transaction information, statements, delayed disbursement letters, notices of adverse action, and transaction information (collectively, Communications), may be sent to You electronically by sending it to You by e-mail or by posting the information at our web site, [www.betterdayloans.com](http://www.betterdayloans.com) with notice to You of the posting.

We will not be obligated to provide any Communication to You in paper form unless You specifically request Us to do so.

You may obtain a copy of any Communication by contacting Us at [www.betterdayloans.com](http://www.betterdayloans.com), writing to Us at [support@betterdayloans.com](mailto:support@betterdayloans.com), or by calling Us at 1-866-258-0165. You also can withdraw Your consent to

ongoing electronic communications in the same manner, and ask that they be sent to You in paper or non-electronic form.

You agree to provide Us with Your current e-mail address for notices at the address or phone number indicated above. If Your e-mail address changes, You must send Us a notice of the new address by writing to Us or sending Us an e-mail, using secure messaging, at least 5 business days before the change.

In order to receive electronic communications in connection with this transaction, You will need a working connection to the Internet. Your browser must support the Secure Sockets Layer (SSL) protocol. SSL provides a secure channel to send and receive data over the Internet. Microsoft Internet Explorer 6 or equivalent browser and above supports this feature. You will also need either a printer connected to Your computer to print disclosures/notices or sufficient hard drive space available to save the information (e.g., 1 megabyte or more). You must have Your own internet service provider. We may amend (add to, delete, or change) the terms of this Consent to electronic communication by providing You with advance notice.

#### **CONSENT TO RECEIVE OPERATIONAL TEXT MESSAGES**

As used in this text consent, "Text Message" means any text messaging communication from Us to You pertaining to Your loan, including but not limited to payment information, account information, due dates, delinquent accounts, and program updates relating to Your loan, but excluding advertising or telemarketing Text Messages. All Text Messages from Us in electronic format to You will be considered "in writing."

How To Unsubscribe: You may withdraw Your consent to receive Operational Text Messages by calling Us at 1-866-258-0165 or emailing Us at support@betterdayloans.com. At our option, We may treat Your provision of an invalid mobile phone number, or the subsequent malfunction of a previously valid mobile phone number, as a withdrawal of Your consent to receive Text Messages. We will not impose any fee upon You to process the withdrawal of Your consent to receive Operational Text Messages. Any withdrawal of Your consent to use Text Messages will be effective only after We have a reasonable period of time to process Your withdrawal.

In order to access, view, and retain Text Messages that We make available to You, You must have: (1) a Text Message-capable mobile phone, (2) an active mobile phone account with a communication service provider; and (3) sufficient storage capacity on Your mobile phone.

To request additional information, contact Us by telephone at 1-866-258-0165.

The services are available from most of the carriers that offer Text Messaging. Consult Your mobile service carrier to confirm that they offer Text Messaging.

There is no service fee for Text Messages but You are responsible for all charges imposed by Your communications service provider, such as fees associated with Text Messaging. Consult Your mobile service carrier's pricing plan to determine the charges for sending and receiving Text Messages. These charges will appear on Your phone bill. Message frequency depends on account settings.

You agree that We may send any Operational Text Messages related to Your loan through Your communication service provider in order to deliver them to You and that Your communication service provider is acting as Your agent in this capacity. You agree to indemnify, defend and hold Us harmless from and against all claims, losses, liability, cost, and expenses (including reasonable attorneys' fees) arising from Your provision of a mobile phone number that is not Your own or Your violation of applicable federal, state or local law, regulation or ordinance relating to Text Messages. Your obligation under this paragraph shall survive termination of this Loan Agreement. You agree that Text Messages are provided for Your convenience only.

Receipt of each Text Message may be delayed or impacted by factors pertaining to Your communications service provider. We will not be liable for losses or damages arising from any disclosure of account information to third parties, non-delivery, delayed delivery, misdirected delivery, or mishandling of, or inaccurate content in, the Text Messages sent by Us.

We may modify or terminate our Operational Text Messaging services from time to time, for any reason, with or without notice, and without liability to You, any other user or third party.

#### **CONSENT TO RECEIVE ADVERTISING OR TELEMARKETING TEXT MESSAGES AND TELEPHONE CALLS**

You consent to our sending You advertising and telemarketing Text Messages to the mobile phone number You have provided below. You also consent to our making advertising, telemarketing and operational calls to You at Your mobile phone number using automatic telephone dialing system or an artificial or prerecorded voice.

You acknowledging Your consent to receive advertising and telemarketing Text Messages and telephone calls as described above to Your mobile phone at .

You are not required to consent to advertising or telemarketing Text Messages or calls to obtain credit or other services from Us. At any time, You may withdraw Your consent to receive advertising or marketing Text Messages or marketing calls to the mobile number provided by calling Us at 1-866-258-0165 or emailing Us at support@betterdayloans.com.

You understand that: any Text Messages We send You may be accessed by anyone with access to Your Text Messages; and Your mobile phone service provider may charge You fees for Text Messages that We send You, and You agree that We shall have no liability for the cost of any Text Messages.

**SIGNATURE AND ACCEPTANCE OF ALL TERMS AND CONDITIONS**

BY ENTERING YOUR NAME AND CLICKING THE "I AGREE" BUTTON BELOW, YOU ARE ELECTRONICALLY SIGNING THIS LOAN AGREEMENT AND AGREEING TO ALL THE TERMS OF THIS LOAN AGREEMENT INCLUDING:

- \* THE TRIBAL DISPUTE RESOLUTION PROCEDURES PROVISION
- \* COVERED BORROWER IDENTIFICATION STATEMENT
- \* THE CONSENT TO ELECTRONIC COMMUNICATIONS
- \* THE CONSENT TO RECEIVE OPERATIONAL TEXT MESSAGES

YOU ALSO ACKNOWLEDGE YOUR ABILITY TO DOWNLOAD OR PRINT A FULLY COMPLETED COPY OF THIS LOAN AGREEMENT FOR YOUR RECORDS.



DATE: 2019-12-06 16:31:51 EST



DISBURSEMENT AND PAYMENT CHOICE AUTHORIZATION for Better Day Loans		Loan # 
REVIEW VERY CAREFULLY BEFORE EXECUTING THE LOAN AGREEMENT		
<b><u>DISBURSEMENT AND PAYMENT CHOICE AUTHORIZATION</u></b>		
By electronically signing this Disbursement and PAYMENT CHOICE Authorization below, You voluntarily authorize Us to initiate the disbursement credits and payment debits You have authorized. This Disbursement and PAYMENT CHOICE Authorization is a part of and relates to the Loan Agreement dated 2019-12-06 (the "Loan Agreement"). The words "You" and "Your" mean the borrower who has electronically signed this Disbursement and PAYMENT CHOICE Authorization. The words "We", "Us" and "our" mean Better Day Loans and our successors and assigns.		
Disbursements to Your Bank Account. Unless otherwise agreed, disbursement credits of Your loan proceeds will be made to the following bank account ("Your Bank Account")		
Bank Name:		
Transit ABA Number:		
Deposit Account Number:		

We will make these disbursement credits by using any commercially available method We choose, such as (but not limited to) Automated Clearing House (ACH) entries, wire transfers, or transactions through Your debit card accessing Your Bank Account. As a data security measure, You will separately provide Us with Your debit card information.

**Your PAYMENT CHOICE AUTHORIZATION**

**Payment from Your Bank Account.** You authorize Us, and our successors and assigns to process payment debit entries out of Your Bank Account by using any commercially available methods We choose, such as (but not limited to) ACH entries, "remotely created checks" or transactions through Your debit card accessing Your Bank Account. You specifically authorize Us to use any of these methods to process debit entries from Your Bank Account for all payments due under this Loan Agreement in a sum equal to Your payment amount due under the Loan Agreement; provided, however, that You preauthorize Us to vary the amount of any debit entry on each Payment Due Date as needed to adjust a payment due on the Loan to reflect: (1) any payment You make; and (2) any amounts You still owe under this Agreement on the final scheduled Payment Due Date.

Payment Date	Payment Amount
2019-12-18	\$110.67
2019-12-24	\$84.99
2019-12-31	\$84.99
2020-01-08	\$84.99
2020-01-15	\$84.99
2020-01-22	\$84.99
2020-01-29	\$84.99
2020-02-05	\$84.99
2020-02-12	\$84.99
2020-02-19	\$84.99
2020-02-26	\$84.99
2020-03-04	\$84.99
2020-03-11	\$84.99
2020-03-18	\$84.99
2020-03-25	\$84.99
2020-04-01	\$84.99
2020-04-08	\$84.99
2020-04-15	\$84.99
2020-04-22	\$84.99
2020-04-29	\$84.99
2020-05-06	\$84.99
2020-05-13	\$84.99
2020-05-20	\$84.99
2020-05-27	\$84.99

2020-06-03	\$84.99
2020-06-10	\$84.99
2020-06-17	\$84.99
2020-06-24	\$84.99
2020-07-01	\$84.99
2020-07-08	\$84.99
2020-07-15	\$84.99
2020-07-22	\$84.99
2020-07-29	\$84.99
2020-08-05	\$84.99
2020-08-12	\$84.99
2020-08-19	\$84.99
2020-08-26	\$84.99
2020-09-02	\$84.99
2020-09-09	\$84.99
2020-09-16	\$84.99
2020-09-23	\$84.99
2020-09-30	\$84.99
2020-10-07	\$84.99
2020-10-14	\$84.99
2020-10-21	\$84.99
2020-10-28	\$84.99
2020-11-04	\$84.99
2020-11-10	\$84.99
2020-11-18	\$84.99
2020-11-25	\$84.99
2020-12-02	\$84.99
2020-12-09	\$84.13

If You are in default, You authorize Us to process one or more debit entries to pay all principal, finance charges and other amounts due to Us as provided in the Loan Agreement. You authorize Us to re-process debit entries for the same amounts if any attempted payment transaction is dishonored.

We will provide you with 10 days' notice prior to processing a preauthorized debit entry that varies from the scheduled amounts detailed above, unless the variance results from your request and your new authorization for Us to change the amount of your payments going forward.

**AUTHORIZATION FOR REMOTELY CREATED CHECKS:** If: (1) you elected to make payments by Electronic Debit Authorization or Credit Card Authorization and you subsequently revoke the authorization, (2) We are unable to process Your payments by electronic debit or credit card for any reason, or (3) You have defaulted on a payment, then by electronically signing this Agreement, You authorize Us to create checks bearing Your

typed name and other information as may be required under applicable law instead of Your handwritten signature, drawn on your Bank Account ("Remotely Created Check"), and to submit each such remotely created check ("Remotely Created Check") for payment to the Bank or other financial institution in the amount of each payment owing to Us under this Agreement on or after each Due Date. If a Remotely Created Check is returned unpaid by the Bank or other financial institution, then You authorize Us to create and submit a Remotely Created Check for any returned payment fee, or other amounts accrued pursuant to this Agreement. You agree that Your typed name or other designation mandated by applicable law will constitute your authorized signature, fully reflecting your intent to authenticate any such Remotely Created Check. If You believe We charged your Bank Account in a manner not agreed to by this authorization, please contact Us. You authorize Us to vary the amount of any preauthorized payment by Remotely Created Check as needed to repay amounts due and owing, as modified by any partial prepayments. This Remotely Created Check authorization is effective only if You (1) originally selected electronic debit or credit card as your payment method and then you revoke the authorization, (2) We are unable to process your payments by either method for any reason, or (3) You defaulted on a payment. If You would like to dispute a payment related to a Remotely Created Check, determine whether a payment was genuine, withhold payment of a Remotely Created Check, or obtain re-crediting of amounts We obtained via a Remotely Created Check, contact Us by calling 1-866-258-0165.

**YOU MAY REVOKE YOUR AUTHORIZATION TO AUTOMATIC PAYMENTS AT ANY TIME BY CONTACTING US DIRECTLY AT 1-866-258-0165 OR support@betterdayloans.com.** Please note, if your scheduled payment has already been submitted to your financial institution at the time of revocation, it may be necessary for Us to wait until that payment posts before We can refund you that payment amount. However, when possible, at the time of revocation, We will void any pending payment(s). **YOU UNDERSTAND THAT REVOKING YOUR AUTHORIZATION DOES NOT RELIEVE YOU OF THE RESPONSIBILITY OF PAYING ALL AMOUNTS DUE IN FULL THAT ARE OWED BY YOU UNDER THE LOAN AGREEMENT.**

**PLEASE NOTE, YOU ARE NOT REQUIRED TO AUTHORIZE THIS PAYMENT CHOICE AUTHORIZATION OPTION IN ORDER TO BE FUNDED YOUR LOAN. IF YOU PREFER TO PAY VIA MANUAL PAYMENTS, PLEASE CONTACT CUSTOMER SERVICE AT 1-866-258-0165 TO SET UP THIS ALTERNATE PAYMENT OPTION. IF YOU CHOOSE TO PAY VIA MANUAL PAYMENTS, YOUR LOAN WILL NOT BE FUNDED UNTIL AFTER YOU HAVE SUCCESSFULLY CONTACTED CUSTOMER SERVICE AND HAVE COMPLETED A LOAN AGREEMENT WITH MANUAL PAYMENTS AS YOUR PAYMENT CHOICE. MANUAL PAYMENTS INCLUDE PAYMENT BY CASHIERS CHECK OR MONEY ORDER.**

**BY TYPING YOUR NAME AND CLICKING THE "I AGREE" BUTTON BELOW, YOU ARE ELECTRONICALLY SIGNING THIS DISBURSEMENT AND PAYMENT CHOICE AUTHORIZATION AND AGREEING TO ALL THE TERMS OF THIS AUTHORIZATION.**

**YOU ALSO ACKNOWLEDGE YOUR ABILITY TO DOWNLOAD OR PRINT A FULLY COMPLETED COPY OF THIS DISBURSEMENT AND PAYMENT CHOICE AUTHORIZATION FOR YOUR RECORDS.**

  
DATE: 2019-12-06 16:31:58 EST



#### **VOLUNTARY WAGE ASSIGNMENT**

If Your selected method of payment(s) (i.e. ACH Authorization, Remotely Created Payment Order, etc.) under Your Loan Agreement (CZD-4DV-AB) with Better Day Loans dated 2019-12-06 is dishonored or returned unpaid and You have not otherwise made payment in full, then You authorize and instruct Your current employer or any subsequent employer to deduct amounts owing to Better Day Loans from your wage and pay the amounts directly to Better Day Loans on Your behalf until such amounts are paid in full unless otherwise limited by applicable law. You will be notified prior to this Wage Assignment being sent to your employer.

**NOTE: THIS WAGE ASSIGNMENT IS REVOCABLE AT WILL.** You may revoke this Wage Assignment by sending a written revocation to Better Day Loans, Po Box 6882, Santa Rosa, CA 95406. The written revocation must

state your name, date of Your Loan Agreement, and a statement that You wish to revoke the Wage Assignment.

BY TYPING YOUR NAME BELOW YOU ARE ELECTRONICALLY ACKNOWLEDGING AND UNDERSTAND THAT YOU ARE PROVIDING Better Day Loans WITH THIS WAGE ASSIGNMENT. PLEASE PRINT A COPY OF THIS WAGE ASSIGNMENT FOR YOUR RECORDS.

[Redacted Signature]

[Handwritten Signature]

DATE: 2019-12-06 16:32:03 EST

**PRIVACY POLICY**

Rev. November 2017

**FACTS** WHAT DOES Better Day Loans DO WITH YOUR PERSONAL INFORMATION?

<b>Why?</b>	Financial companies choose how they share Your personal information. Consumers have the right to limit some but not all sharing. This notice tells You how We collect, share, and protect Your personal information. Please read this notice carefully to understand what We do.
<b>What?</b>	The types of personal information We collect and share depend on the product or service You have with Us. This information can include: * Social Security number and checking account information * Payment history and income * Employment information and wire transfer instructions
<b>How?</b>	All financial companies need to share customers' personal information to run their everyday business. In the section below, We list the reasons financial companies can share their customers personal information; the reason Better Day Loans chooses to share; and whether You can limit this sharing.

Reasons we can share your personal information	Does Better Day Loans share?	Can you limit this sharing?
For our everyday business purposes - such as to process your transactions, maintain your account(s), respond to court orders and legal investigations, or report to credit bureaus.	YES	NO
For our marketing purposes to offer our products and services to You	YES	NO
For joint marketing with other financial companies	YES	NO
For our affiliates' everyday business purposes-information about your transactions and experiences	YES	NO
For our affiliates' everyday business purposes-information about your creditworthiness	YES	YES
For our affiliates to market to you	YES	YES
For non-affiliates to market to you	YES	YES

\* Call 1-866-258-0165 and our menu will prompt You through Your choices or  
 \* Visit Us on the web at [www.betterdayloans.com](http://www.betterdayloans.com)

<b>To limit our sharing</b>	<p>* Contact Us via email at <a href="mailto:support@betterdayloans.com">support@betterdayloans.com</a></p> <p>Please note:          If You are a new customer, We can begin sharing Your information 30 days from the date We sent this notice. When You are no longer our customer, We can share Your information as described in this notice. However, You can contact Us at any time to limit our sharing.</p>
<b>Questions?</b>	Call 1-866-258-0165 or go to <a href="http://www.betterdayloans.com">www.betterdayloans.com</a>

<b>Who we are:</b>	
<b>Who is providing this notice?</b>	Better Day Loans, a business entity of the Kashia Band of Pomo Indians of the Stewarts Point Rancheria

<b>What we do:</b>	
<b>How does Better Day Loans protect my personal information?</b>	To protect Your personal information from unauthorized access and use, We use security measures. These measures include computer safeguards and secured files and buildings.
<b>How does Better Day Loans collect my personal information?</b>	<p>We collect Your personal information, for example, when You</p> <ul style="list-style-type: none"> <li>* Apply for a loan</li> <li>* Give Us Your income information</li> <li>* Tell Us where to send the money</li> <li>* Provide account information</li> <li>* Provide employment information</li> </ul> <p>We also collect Your personal information from others, such as credit bureaus, affiliates or other companies.</p>
<b>Why can't I limit all sharing?</b>	<p>You have the right to limit only</p> <ul style="list-style-type: none"> <li>* sharing for affiliates' everyday business purposes - information about Your creditworthiness</li> <li>* affiliates from using Your information to market to You</li> <li>* sharing for non-affiliates to market to You</li> </ul>
<b>What happens when I limit sharing for an account I hold jointly with someone else?</b>	Your choices will apply to everyone on your account.

<b>Definitions:</b>	
<b>Affiliates</b>	<p>Companies related by common ownership or control. They can be financial and nonfinancial companies.</p> <p><i>* Our affiliates include other business entities of the Tribe.</i></p>
<b>Non-affiliates</b>	Companies not related by common ownership or control. They can be financial and nonfinancial companies.
<b>Joint marketing</b>	A formal agreement between non-affiliated financial companies that together market financial products or services to You.

#25623

Complaint #25623

[Redacted]

Warren , ME 04864

United States

Day telephone: Extension:

Evening Telephone:

Fax:

Email: [Redacted]

Company complained about:

Better Day Loans

PO Box 6882

Santa Rosa , CA 95406

Telephone number: 866-258-0165

Your account number: ~~07110229~~

→ 773.76%  
APR

Person you spoke with:

Details of your complaint: Interest rate charged at 773.76% and they are not licensed in the state of Maine.

May we send a copy of this complaint to the company? Yes

Reason for not sending complaint to company?

Do you authorize the Bureau of Consumer Credit Protection to act on your behalf to communicate with your creditors or other businesses, obtain documents from those businesses and take all appropriate steps to respond to your complaint? Yes

What would you like us to do to resolve your complaint? \$628.03 has been repaid. I just don't want to have to pay any more. I realize that this is a bad financial decision. I don't expect anything back but think they have made enough money. They also should be fined or something for this lending practice.

# 25623

Credit Report Complaints: If your complaint relates to a credit report, do you give the Office permission to receive a copy of your credit report?  
No

If yes, please list Date of Birth: , and Social Security number:

Bureau Response to Consumer Complaint: "Provided consumer with an outline of her rights."

Investigator: Douglas K. Stark.

Complaint Rendered Closed: 01-15-2020

# Appendix C



November 17, 2021

Edward Myslik  
Principal Consumer Credit Examiner  
Maine Bureau of Consumer Credit Protection  
Email Address: [Edward.myslik@maine.gov](mailto:Edward.myslik@maine.gov)

Dear Ed:

We are writing to provide input to the Bureau of Consumer Credit Protection on short-term, small dollar loans, specifically with the intent to inform the study your office was tasked to conduct pursuant to Public Law 2021, Chapter 297, "An Act To Protect Consumers against Predatory Lending Practices."

Our organizations are part of the Maine Consumer Rights Network, which coordinates efforts to advance and protect the interests of consumers in Maine through advocacy, information-sharing, and education.

We know from both data and experience with clients that Mainers are struggling to make ends meet. Met with an unexpected expense of \$400, one in four Mainers report they'd have to borrow money or sell something to cover the bill, while one in five say they would have no way to pay at all. That puts Maine behind the national average, where only one-eighth of Americans said they would be completely unable to cover the expense.<sup>1</sup> This reality makes us incredibly wary of high-cost financial loan products that are easily accessible regardless of borrowers' ability to repay and the potential for financially vulnerable consumers to fall into debt traps that lead to further financial ruin.

**Maine and Rhode Island are outliers in New England as they are the only states that do not have an "all-inclusive" rate cap**

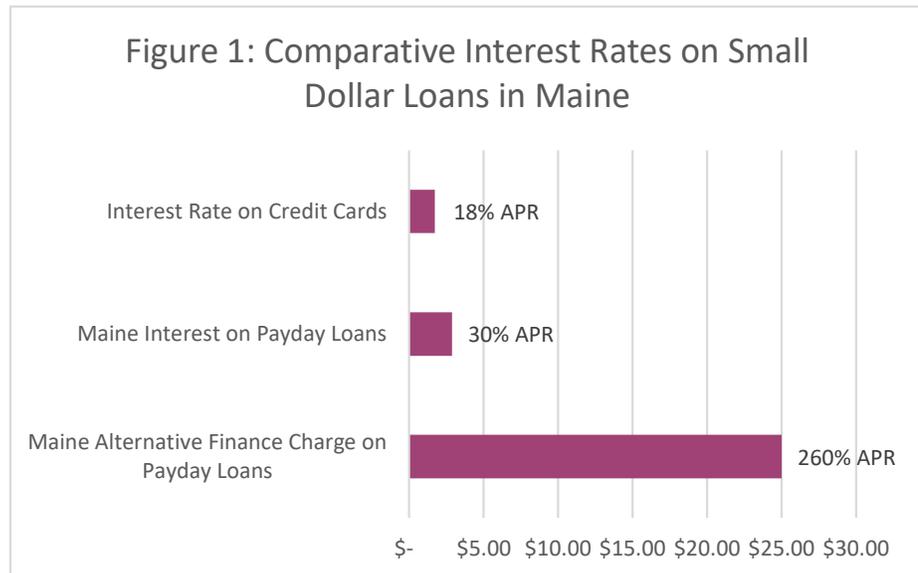
Connecticut, Massachusetts, and Vermont do not authorize payday loans and/or require lenders to comply with annual interest rate caps on consumer loans that that are inclusive of fees and therefore

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<sup>1</sup> Myall, James. MECEP Blog: *Could you cover an unexpected \$400 expense? Nearly half of Mainers could not*, June 26, 2018. Available at: <https://www.mecep.org/blog/could-you-cover-an-unexpected-400-expense-nearly-half-of-mainers-could-not/>.

effectively prohibit high-cost loan products, such as payday loans. New Hampshire technically authorizes payday loans, but specifically capped their rates at 36% annual interest in 2009.<sup>2</sup> The Consumer Federation of America counts these four New England states among states that “Prohibit Extremely High Cost Payday Lending.”<sup>3</sup>

Maine caps interest rates at 30% on unsecured loans of less than \$2,000. Yet, an alternative finance charge structure permitted under state law offers payday lenders a higher return option and saddles Maine borrowers with loans of 260 percent interest (see Figure 1).<sup>4</sup>



Source: MECEP calculation of interest assessed on a \$250 loan paid off at the end of two weeks at alternative rates and charges allowed under Maine law.

**Recommended policies that help consumers avoid the debt trap, including prohibitions on postdated checks or loan limits accompanied by cooling-off periods**

High interest rates and fees, short repayment terms, and a single, balloon-payment structure make payday loans unaffordable. According to the National Consumer Law Foundation, most payday borrowers cannot afford to pay off a \$300 loan in two weeks even if the loan were free.<sup>5</sup>

<sup>2</sup> Morton, Heather. National Conference of State Legislatures. *Payday Lending State Statutes*. Updated November 11, 2020. Available at: <https://www.ncsl.org/research/financial-services-and-commerce/payday-lending-state-statutes.aspx>

<sup>3</sup> Consumer Federation of America. *Legal Status of Payday Loans by State*. Available at: <https://paydayloaninfo.org/state-information/>

<sup>4</sup> Maine law provides that small-dollar lenders, instead of being capped at a 30% APR, can assess a so-called “minimum finance charge” of \$5 for a loan less than \$75, \$15 for a loan from \$75 to \$250, or \$25 for a loan in excess of \$250, regardless of the length of time for repayment. See: 9-A MRS sec. 2-401(7)). The APR for a \$250, two-week loan with a \$25 fee equals 260%. See [Calculation Methodology](#).

<sup>5</sup> National Consumer Law Foundation. *Why Cap Small Loans at 36%?* April 2013. Available at: <https://www.nclc.org/images/pdf/pr-reports/ib-why36pct.pdf>

True interest rate caps on consumer loans that are inclusive of all loan-related costs and fees are one of the best protections Maine can offer its consumers. They help curb usurious rates that send borrowers into a cycle of debt. And despite payday lenders' claim to the contrary, rate caps do not lead to higher rates of online lending.<sup>6</sup>

In addition to strengthening the state's current cap on interest and fees for small-dollar loans, Maine can adopt other regulations to prevent unaffordable loans that trap people in debt. **These protections are not a substitute for a hard, all-inclusive cap, but can provide additional safeguards to Mainers struggling under predatory loan terms.**

1. Institute waiting periods: New research shows that waiting periods are effective and provide protection without cutting off access to credit.<sup>7</sup> Maine should prohibit lenders from making any new loans to a borrower for 60-90 days after they've taken out three consecutive payday loans.
2. Limit the number of loans that a payday lender can issue; no more than one loan at a time. We understand that this regulation would require a way to track loans being made in Maine and other states have experience with this that can inform Maine's implementation.<sup>8</sup>
3. Provide off-ramps to offer a way out of debt: These protections could be structured in different ways, the most common is to require the loan's principal be decreased with each loan, so that it is repaid after so many (often three) loans. Maine could also require lenders to allow consumers to pay off debts without added fees.
4. Require an "ability-to-repay" test: This would require lenders to assess the borrower's ability to repay the loan amount before issuing a loan. The ability-to-repay principle is a long-standing tenet of responsible lending. A standard, which considers both income and expenses, will help ensure that loans are affordable. There are models within the credit union industry that could help Maine construct an ability-to-repay test for payday loans.<sup>9</sup>

### **Formal complaints are a poor metric for gauging the experience of Maine consumers with small dollar, short-term loans**

While we do not have current consumer complaints on short-term or payday loans to report, it appears complaints are not the best metric for measuring the burden these loan rates place on Mainers. Borrowers may not be aware of their right to file complaints or know where to turn for help. Over the

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<sup>6</sup> Pew Charitable Trusts. *How Borrowers Choose and Repay Payday Loans*, 2013, [http://www.pewtrusts.org/~media/assets/2013/02/20/pew\\_choosing\\_borrowing\\_payday\\_feb2013-\(1\).pdf](http://www.pewtrusts.org/~media/assets/2013/02/20/pew_choosing_borrowing_payday_feb2013-(1).pdf)

<sup>7</sup> Hunt Allcott, Joshua J. Kim, Dmitry Taubinsky & Jonathan Zinman, Are High-Interest Loans Predatory? Theory and Evidence from Payday Lending. National Bureau of Economic Research, May 2021. Available at: <https://www.nber.org/papers/w28799>

<sup>8</sup> The Gold Standard. *State-wide database tracks payday loans*. Fort Knox, KY, May 12, 2010. Available at: <https://www.fkgoldstandard.com/content/state-wide-database-tracks-payday-loans>

<sup>9</sup> Self-Help Credit Union, a non-profit financial institution headquartered in Durham, NC, has a model.

past three years, the Consumer Financial Protection Bureau has received only 19 complaints from Maine residents regarding payday loans, title loans, or personal loans. Rhode Island, the only other New England state without a strong payday loan rate cap, has only generated 33 such complaints over the past three years.<sup>10</sup>

### **Insight from nonprofit organizations providing assistance to Maine consumers**

We reached out to a few other members of the Maine Consumer Rights Network who we know provide relevant assistance to Maine consumers.

CA\$H Maine is a statewide collaboration of ten coalitions that offers free tax preparation to qualified filers during tax season and provides education to Maine families about programs in the community that can increase their income, reduce debt, and build savings. Because of the COVID-19 pandemic, CA\$H Maine has not been meeting in-person with clients. When they meet in-person, they survey clients about financial topics, and this survey would pick up on things like payday loan activity.

Coastal Enterprises, Inc. (CEI) is a Community Development Financial Institution based in Brunswick. They provide a variety of financial wellness counseling services including credit report reviews and credit building, budget and debt reduction counseling, and student loan counseling. One CEI Financial Capability counselor provided these insights:

“I have seen a couple of Business Advising clients in the past that have gotten into huge amounts of debt from the Point of sale and merchant cash advance type loans. These typically don’t show up on a consumer credit report, so there may be many more that have had problems that I am not aware of.

This past year I have seen a couple of clients that had short-term predatory loans from Opp Loans -one of the two Rent-a-Bank schemes doing business in Maine. Both had difficulty with these loans. One of them was a refinance that resulted in a charge-off.

I am now seeing an uptick in clients with short-term Buy Now Pay Later loans. I watched some of the U.S. House Committee on Financial Services’ Task Force hearing on the risks and benefits of BNPL products last week. Although these products are new, they seem to be created to avoid consumer protection laws and may have the potential to be abusive. Most of the BNPL loans

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<sup>10</sup> Consumer Financial Protection Bureau, Consumer Complaint Database, [https://www.consumerfinance.gov/data-research/consumer-complaints/search/?dataNormalization=None&dateRange=3y&date\\_received\\_max=2021-11-10&date\\_received\\_min=2018-11-10&product=Payday%20loan%2C%20title%20loan%2C%20or%20personal%20loan&searchField=all&state=ME&tab=Map](https://www.consumerfinance.gov/data-research/consumer-complaints/search/?dataNormalization=None&dateRange=3y&date_received_max=2021-11-10&date_received_min=2018-11-10&product=Payday%20loan%2C%20title%20loan%2C%20or%20personal%20loan&searchField=all&state=ME&tab=Map); Center for Responsible Lending, Map of U.S. Payday Interest Rates, <https://www.responsiblelending.org/research-publication/map-us-payday-interest-rates>

state they don't report to the credit bureaus, so there may be more of these being used by clients that I am not aware of.

A lot of predatory loans don't show up on a credit report and clients are embarrassed to talk about them when they do. There is probably a lot more of this type of borrowing going on that I am not aware of."

We believe that these anecdotes from these service providers support our assertion that formal complaints are not the best metric for gauging consumers' experience with high-cost loan products. In addition, they shed light on how difficult it may be to grasp the extent to which consumers are dealing with potentially predatory financial products given the changing landscape of financial products and the decreased contact with consumers over the past 20 months under COVID.

### **What's on the horizon**

We hear from consumer advocates around the country about emerging and rapidly growing short-term, small dollar loan products, like the "Buy Now Pay Later" loans mentioned above by the counselor from CEI. Another emerging category of products are loans or advances on earned wages, which has grown into a multi-billion dollar sector over the past few years.<sup>11</sup> These "early wage access" schemes come in various forms, but ultimately constitute a form of credit and some bare very little distinction from storefront payday loans. We believe that products such as these are contributing to the landscape of short-term, small dollar loans that are being offered to Maine consumers and that their prevalence is poised to grow. With the lack of oversight of these products, we worry about their potentially high cost and predatory terms that may be extracting wealth from low- and moderate-income Maine consumers. We encourage you and your colleagues at the Bureau to exercise whatever authority you have to ensure that entities engaged in these industries are complying with Maine's consumer credit laws.

#### Jody Harris

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<sup>11</sup> Berman, Jillian. Marketwatch: *Are early wage access products a worker-friendly innovation — or loans that need regulation?* October 22, 2021. Available at: <https://www.marketwatch.com/story/are-early-wage-access-products-a-worker-friendly-innovation-or-are-they-loans-that-need-to-be-regulated-11634921191>

# Appendix D

## **FAQs on Bank-Fintech Partnerships: Responsible Third-Party Relationships**

### **1. WHO ARE AFC MEMBERS IN THE CONSUMER AND SMALL BUSINESS FINANCIAL SERVICES SPACE?**

The American Fintech Council (“AFC”) represents financial technology companies (“fintech”), such as technology platforms, buy-now-pay-later companies, and payment processors, as well as their many partner banks and neobanks, that embrace both consumer protection as a core component of our mission and regulation that advances responsible innovation. The technology platforms of AFC members provide access to credit, payment products and other digital financial services through partnerships with banks. Importantly, our models also rely on the financial support and confidence of investors and stakeholders in the secondary market. The products and services provided through these bank-fintech partnerships facilitate the *availability* of credit that strikes the right balance between *expanding access* to credit and services to a broad spectrum of credit risk profiles and providing that access *affordably*. AFC members advance the highest standards around transparency<sup>1</sup> as well as fairness and nondiscrimination<sup>2</sup> for the products and services we make available.

#### **a. Commitment to credit that is transparent, fair and affordable**

A core value of AFC members is to offer products that allow consumers access to affordable credit. To that end, we have supported state legislative efforts to cap the rate on most consumer loans at 36%, although states have defined the calculation differently. While we recognize that this presents the greatest challenge to increasing loan volumes of small dollar consumer loan products, we are committed to finding ways to expand the availability of these products to a broader segment of underserved borrowers and geographies affordably and responsibly. We have and continue to oppose efforts to insert provisions or definitions into state law that disrupt and discourage bank-fintech partnerships and third-party lending relationships.

There is an ongoing and vigorous debate within the financial services industry as well as with consumer advocates about whether fee and interest rate caps help or hurt *the availability* of credit in underserved communities and banking deserts around the country and whether financial institutions can offer a variety of loan sizes profitably, affordably and at-scale to consumers and small businesses with a range of credit risk profiles, including those that are subprime.<sup>3</sup> Notwithstanding the debate, state laws have sought to drive out higher-cost installment loans and unaffordable payday lending, but have also failed to encourage sufficient responsible credit, and particularly small dollar alternatives, in the private market – products that can and are financed *and facilitated* in a number of ways today, including through bank partnerships with fintech companies and with the support of private investors through the secondary market.

## 2. WHY DO BANK-FINTECH PARTNERSHIPS EXIST?

Market competition, federal law and regulations, differing state rules, customer acquisition and servicing costs, pressure on bank net interest margins, technological innovation, and customer preferences all put pressure on the economics of providing financial services. These pressures provide the impetus for banks to partner with fintech companies.<sup>4</sup> Through a bank-fintech partnership, the fintech can leverage its technology platform, customer-reach, application processing, servicing capabilities, and lower costs, to allow the bank to offer products that the bank would not otherwise be able to make as efficiently or at a scalable cost.<sup>5</sup>

The Federal Reserve recognizes that these partnerships can ensure that community banks remain competitive and vibrant.<sup>6</sup>

*“The use of third parties can offer banking organizations significant advantages, such as quicker and more efficient access to new technologies, human capital, delivery channels, products, services, and markets. To address these developments, many banking organizations, including smaller and less complex banking organizations, have adopted risk management practices commensurate with the level of risk and complexity of their third-party relationships.”<sup>7</sup>*

A 2017 survey of community bankers identified several strategic opportunities afforded by fintech partnerships:

- ✓ **“Increased Operational Efficiency and Scale:** *Given their nimble nature, community banks are well-positioned to take advantage of the opportunities in the fintech landscape—opportunities that present potential gains in fee income, reductions in risk and fraud, increased efficiency, and improvements to the customer experience.*
- ✓ **Increased Access to Customers with a Younger Age Demographic:** *The baby boomer generation is winding down their earning and spending activity. Over the next 25 years, nearly 81 million US millennials (all of whom came of age after the digital revolution) will dominate the economy. Millennials demand financial services that focus on origination and sales, which are personalized and emphasize seamless/on-demand access to the service from the underlying product. Fintech companies are eager to meet millennials’ preferences.*
- ✓ **Increased Access to Loan Customers in New Markets:** *Community banks can work with fintech lenders to provide critical banking services to underwrite consumer, mortgage and commercial loans. This can expand bank access into new markets where fintech companies have greater penetration. For example, marketplace lenders or “MPLs,” leverage data collection and technology to provide access to credit with little to no physical overhead or distribution network. Small and medium-size banks often partner with MPLs when they do not have the internal expertise or resources to execute an online lending business model.*

- ✓ **Enhanced Brand Reputation:** *Community banks partner with fintech companies to offer new, innovative services. To be successful, banks will need to work with fintech partners to develop marketing and financial branding strategies that carry forward the bank's brand. Customers may demand more universal banking automation and transformed branch experiences, all of which will need to be communicated through a community bank's brand messaging.*
- ✓ **Enhanced Customer Experience:** *Nearly 50 percent of responding community bankers noted the opportunity for enhanced customer experience as the greatest favorable benefit to capitalizing on new and emerging technologies. Community banks are looking to the fintech advancement as opportunity to strengthen customer and community relationships. Technology can act as the great equalizer to community banks successfully traversing the fintech scene given their ability to be nimbler in implementing change.”<sup>8</sup>*

For fintechs, having a bank partner allows the company to scale their online platform and technologies in multiple markets or nationwide. Banks can hold federally insured deposits, process payments and have more experience and a longer track record of existing and prospering under various federal and state regulatory regimes.<sup>9</sup> While the bank partnership can manage some state compliance costs, fintech partners are state licensed and regulated depending on the functions they undertake (e.g., brokering, soliciting, purchasing receivables, servicing, collections).

Notwithstanding the benefits of these partnerships, particularly for community banks, the supervisory expectations of regulators regarding bank due diligence of third-party providers can be significant.<sup>10</sup> The FDIC and other regulators review the bank's performance under their standard examination methods and metrics.<sup>11</sup> Community banks have noted the significant compliance obligations that exist when entering third-party relationships.<sup>12</sup>

### **3. DO THEY EXPAND ACCESS, FACILITATE FINANCIAL INCLUSION AND FINANCIAL SERVICES IN BANKING DESERTS?**

With banking deserts and underserved census tracts proliferating around the country and bank consolidations accelerating,<sup>13</sup> many lawmakers have asked whether bank partnerships with fintechs are helping to fill the geographic gaps as well as reaching underserved consumers and small businesses.

Federal researchers and others have found that bank-fintech partnerships have lowered the cost of financial services in underserved communities.<sup>14</sup> Researchers have documented fintech enabled bank lending in banking deserts, low-income communities and to the “invisible prime” consumers whom other lenders might overlook or overprice.<sup>15</sup> Research from the emergency Paycheck Protection Program (PPP) found that fintech companies accounted for 13 percent of all PPP small business loans, and more than half of those were made as a result of a partner bank relationship.<sup>16</sup> Lending partnerships made more PPP loans in zip codes with fewer bank branches, lower incomes, and larger minority populations.<sup>17</sup>

Bank-fintech lending partnerships as well as the secondary market facilitate the credit needs of millions of consumers and small businesses across the country who have a paucity of affordable options. Loans originated by banks through partnerships with fintechs serve the entire credit spectrum, though most of the consumers served today by AFC members have a near/nonprime or prime credit risk profile.<sup>18</sup> See more selected research in [Appendix C2](#) as well as select survey data in [Appendix C1](#).

#### **4. IS THE CONFIDENCE OF THE SECONDARY MARKET ALSO KEY TO UNSECURED CONSUMER AND SMALL BUSINESS CREDIT?**

In addition to the bank and fintech partners, investors drive a great deal of liquidity in the consumer and small business credit markets, including for small dollar loans. The loans that are made in local communities to consumers and small businesses rely on the participation of multiple parties that form a connected, inter-dependent network: banks and finance companies, self-directed and institutional investors, including pension funds, asset managers and insurance companies, managed accounts that purchase loans facilitated through lending platforms, with still some loans or portions of loans held on balance sheet. Two actual transaction structures from 2021 loan securitizations in [Appendix A](#) illustrate the network of participants in the secondary market helping to finance and administer a pool of loans to consumers or small businesses of varying credit risk profiles, as well as the diversity of purchasers of loans facilitated by bank-fintech partnerships.

“True lender” and *Madden*-like (see explanation below) lawsuits and state legislation create uncertainty regarding the enforceability of loans in the hands of non-bank assignees.<sup>19</sup> The nature of these legal and legislative risks have to be disclosed in public filings with the U.S. Securities and Exchange Commission and affect investors’ demand for such loans (and securitizations, debt facilities, and other investments based on such loans) in the secondary market as well as the returns they expect. These risks and uncertainties can reduce loan volumes/the supply of credit, loan sizes, access to unsecured capital for consumers and small businesses, as well as the credit risk profiles and geographies that can be served.<sup>20</sup>

#### **5. WHY IS THERE A DISPUTE ABOUT FEDERAL PREEMPTION OF STATE USURY LAWS AND LICENSING REQUIREMENTS IN LENDING PARTNERSHIPS?**

Judges in two seminal, though jurisdictionally limited, cases involving consumer loans ruled that federal banking law did not shield non-bank purchasers of loans originated by a bank from individual state usury requirements.<sup>21</sup> Both decisions – one rejecting the interest rate agreed to in the loan agreement after the loan was assigned and the other rejecting the bank partner named in the agreement as the true lender - have created uncertainty around the enforceability of bank-originated loans in the hands of non-bank assignees. The uncertainty around whether state law claims will succeed in court, as well as the related legislation, rules, and litigation these cases have inspired, has disrupted liquidity in credit markets – chilling investor demand for some loan securitizations, limiting

loan origination volumes and loan sizes – and has impacted the availability of consumer and small business credit in some markets.<sup>22</sup>

#### Valid-When-Made – *Madden v. Midland Funding, LLC*

The *Madden* decision in the Second Circuit directly affected three states - New York, Connecticut and Vermont - but upended a long-established principle that “a loan that was valid when made will not be rendered usurious by the transfer.”<sup>23</sup> The National Bank Act (NBA) preempts state usury or interest rate caps by providing in 12 U.S.C. § 85 that a national bank may “charge on any loan...interest at the rate allowed by the laws of the State...where the bank is located.” State-chartered banks have the same authority pursuant to 12 U.S.C. 1831d. The *Madden* court held that Sec. 85 of the NBA did not preempt a debtor's state-law usury claim against a non-bank entity because that entity was acting as a third-party debt collector rather than on behalf of the originating bank. The court concluded that application of the state’s interest rate cap “would not significantly interfere with any national bank’s ability to exercise its power under the National Bank Act.”

#### True Lender – *CashCall* cases

The *CashCall* cases raised several legal issues and involved very troubling facts around consumer complaints and debt collection practices regarding payday loans. A consumer loan in the hands of the non-bank assignee was rendered uncollectable at the contractually agreed-upon interest rate because the court concluded that the bank that originated the loan was not the “true lender.” In finding that Western Sky (the bank) was not the “true lender,” the judge in the case relied almost exclusively on a “**predominant economic interest**” test, stating that the “most determinative factor is whether Western Sky [the bank] placed its own money at risk at any time during the transactions, or rather the entire monetary burden and risk of the loan program was borne by *CashCall*”.<sup>24</sup> The court neither indicated the amount of economic risk that each party would have to bear under such a test, nor indicated the weight it gave to any other feature of the partnership.

Judges largely have not followed the *Madden* decision, both the Obama and Trump Administration criticized the decision and federal regulations have clarified that interest permissible on a loan is not affected by the subsequent sale, assignment, or other transfer of the loan.<sup>25</sup> However, courts have applied different standards to resolve true lender claims.<sup>26</sup> In some cases, the court has concluded that the form of the transaction alone resolves the issue - the lender is the entity named in the loan agreement. In other cases, the courts have applied fact-intensive balancing tests in which they have considered a multitude of factors, with no factor dispositive nor any of the factors assessed based on any predictable, bright-line standard.

Both *Madden* and *CashCall* have motivated similar lawsuits in other jurisdictions, state legislation, and related federal and state scrutiny and enforcement action challenging lending partnerships.<sup>27</sup> Critics of bank lending partnerships have amplified these actions, arguing that bank partnerships are tantamount to “rent-a-charter” and “rent-a-bank” arrangements. This criticism discounts the

substantial benefits of these partnerships, their role in facilitating credit for consumers and small businesses and expanding access that is also affordable. It also downplays federal bank examination standards and the significant compliance, due diligence, and risk management requirements around all bank third-party relationships.<sup>28</sup>

## **6. WHY DOESN'T "PREDOMINANT ECONOMIC INTEREST" WORK AS A TRUE LENDER STANDARD IN STATE LAW?**

In short, a predominant economic interest test in state law creates risks and uncertainties for lenders that will reduce loan volumes/the supply of credit, loan sizes, access to unsecured capital for consumers and small businesses, as well as the credit risk profiles and geographies that can be served. While AFC has supported state efforts to make consumer and small business credit affordable, transparent and responsible, we fundamentally oppose efforts to promulgate lender definitions in state law that disrupt and discourage bank third-party lending relationships. These pernicious legislative provisions can undermine secondary market support and confidence in loans made through lending partnerships, make local credit markets less competitive, and reduce the supply of credit that can and has served underserved consumers, small businesses, geographies and a variety of credit risk profiles affordably.

Some states have sought to subject the non-bank fintechs in a lending partnership to state usury and lender licensing laws by expanding the definition of the "lender" beyond the bank that originates and funds the consumer or small business loan. States have proposed legislative language that defines a lender as, among other things, a party that holds, acquires, or maintains, directly or indirectly, the "predominant economic interest" (the "PEI") in a loan originated by and purchased from a bank. The legislative text picks up language from the *Cash Call* case (see discussion above). The PEI test creates uncertainty in law for lenders and investors that clouds the enforceability of bank-originated loans that are affordably priced and legally made. This uncertainty chills the desire of fintechs and banks to provide these loans, thereby constricting credit to consumers in these states.

The problem with this test is that it is one-dimensional, overinclusive, and outcome determinative. In determining which entity has the "predominant economic interest" in the transaction, courts, for example, have not necessarily considered all the same factors or given each factor the same weight. Application of the PEI test could cause a court to hold that a purchaser of bank-originated loans in the secondary market is the "true lender," notwithstanding that the bank approved the origination and loan criteria, funded the loans with its own capital, and complied with all regulatory requirements including consumer compliance and safety and soundness laws and regulations. The bank may have held the loans on its balance sheet for just under half the loan term, receiving just less than 50% of the principal and interest to be paid on such loans. The same outcome could apply if the bank retained a participation interest in such loans but received just less than 50% of the economics associated with such loans.

The risk of such arbitrary outcomes through application of the PEI test (by state statutes that treat the fintech as the “lender” or courts deciding “true lender” challenges) can and has encouraged industry players to limit participation in or exit the credit markets where the PEI test may frustrate their reasonable expectations that bank-originated loans (and investments based thereon) will remain equally enforceable when sold or assigned to non-banks.

Banks and their partners will potentially not make loans or face gray areas that invite litigation by individual states. States will approach the issue differently and arrive at different definitions. Banks and fintech platforms will have to decide where they can do business based on whether a state may define and regulate the fintech as the “lender” regardless of the bank’s status as the “true lender” based on the **totality of the circumstances** regarding the lending partnership.

***a. Are there models for evaluating responsible bank lending partnerships? FDIC’s Proposed FIL-50-2016 and considering the totality of the circumstances***

In 2016, the FDIC proposed guidance for bank partnerships that rely on a third party to perform a significant aspect of the lending process, such as some of the following: marketing; borrower solicitation; credit underwriting; loan pricing; loan origination; retail installment sales contract issuance; customer service; consumer disclosures; regulatory compliance; loan servicing; debt collection; and data collection, aggregation, or reporting.<sup>29</sup> Proposed FIL-50-2016 (see [Appendix B](#)) sets forth the type of lending arrangements, risk management considerations, minimum standards for the bank’s lending program and supervisory expectations.<sup>30</sup>

Proposed FIL-50-2016 illustrates the kind of factors or **totality of the circumstances** encompassing “true lender”:

- Is the bank identified as the lender on the loan agreement and does it fund the loan with its own capital/is the loan reflected as an asset on the bank’s balance sheet at the time of origination?
- Does the bank conduct thorough due diligence in the vetting and selection of fintech partners?
- Does the bank conduct rigorous risk assessments of the fintech and the programs they support, upfront and on an ongoing basis?
- Has the bank carefully structured its agreements with the fintech to ensure the bank has appropriately limited its exposure, consistent with safety and soundness, and that it has the authority and rights it needs over the fintech’s programs (e.g., does the bank maintain ultimate approval authority with respect to credit policies, underwriting decisions, marketing, critical vendors, and consumer-facing materials)? and
- Does the bank provide ongoing supervision and oversight across all aspects of fintech’s programs (e.g., does the bank require the fintech to have comprehensive and effective Vendor Management Programs, Bank Secrecy Act/Anti-Money Laundering Programs, and Compliance Management Systems (including consumer complaint management), to undergo periodic audits of those programs and systems, and to take corrective action when necessary)?

The above are the indicia of a comprehensive third-party lending program that clearly manifest the bank as the “true lender”.

## **7. DOES THIS CLASS OF CONSUMERS AND SMALL BUSINESSES HAVE BETTER ALTERNATIVES FOR CREDIT?**

As policy makers enact laws designed to restrict access to unsecured credit products or to limit loans made through bank partnerships (e.g. by capping interest rates or defining the non-bank fintech partner as the lender), it is important to understand whether consumers and small businesses will have better alternatives available to a range of credit risk profiles and whether those alternatives are more affordable, transparent, and responsible *or not*.<sup>31</sup> In addition to the affordable credit options made available by AFC members, prime, nonprime, subprime and below borrowers may have other *unsecured* lending options: a bank credit card or a personal loan from a bank that does not partner with a fintech; overdraft protection; a payday loan; or, *secured* lending like a pawnshop loan, auto title loan, or rent-to-own.<sup>32</sup> In addition to business credit cards, traditional term loans or lines of credit, small businesses may also tap secured options such as a home equity line of credit, sales-based financing such as a merchant cash advance, factoring, supplier financing or equipment leasing.

## **AFC'S PRINCIPLES FOR RESPONSIBLE LENDING PARTNERSHIPS**

Responsible bank-fintech partnerships are a prime example of how to leverage each party's expertise to promote healthy competition within the financial services marketplace, ensure that an ample supply of credit is *available* locally for consumers and small businesses, that a range of credit risk profiles have *access*, and that loan products are *affordable* and responsible.

### **The Bank-Fintech Partnership**

To determine if a bank-fintech lending partnership is responsible, one must consider the *totality of the circumstances*. No one factor alone is entirely determinative of the status of the partnership. Responsible lending partnerships adhere to the factors proposed in the FDIC's FIL-50-2016 (see [Appendix B](#)). Consistent with federal bank examination guidance on third-party-relationships, they outline the roles and responsibilities of each party, such as the requirements for the originating bank to control credit policies, maintain and exercise final approval authority of all marketing materials, apply rigorous oversight of the fintech partner (including periodic audits of the fintech by the bank after thorough vetting at onboarding) to ensure compliance with all applicable laws and regulations, as well as the economic structuring of loan sale arrangements after the bank has originated loans.

### **Affordable Credit with Clear Terms**

Responsible partnerships offer loan products that are affordable and transparent.

*Affordable access* to credit is a key pillar of a resilient and inclusive financial system. A core value of AFC members is to offer products that allow consumers access to affordable credit. To that end, we have supported state legislative efforts to cap the rate on most consumer loans at 36%, although states have defined the calculation differently. While we recognize that this presents the greatest challenge to increasing loan volumes of small dollar consumer loan products, we are committed to finding ways to expand the availability of these products to a broader segment of underserved borrowers and geographies affordably and responsibly.

*Transparency and clarity* are essential to promoting products that improve the financial health

of consumers and small businesses. Clear, unambiguous terms that help the customer understand the product and exactly what payment schedules will look like are critical in establishing an equitable and responsible lending program. Responsible partnerships ensure their products are provided with clear disclosures, without hidden fees that inflate the prices of the products and do not transparently disclose the cost to the customer.

### **Skin in the Game**

As the "true lender" in the bank-fintech relationship, the bank both originates and funds all loans made through the partnership. It is common practice in the banking industry for banks to sell or securitize loans they make on the secondary market to free up capital to originate additional loans. This process helps expand access to capital and banks' abilities to originate loans. In responsible partnerships, the originating bank evinces "skin in the game" in any number of ways: funding the loan with its own capital; reflecting the loan on the bank's balance sheet; retaining a percentage of the loans or a participation interest in the loans; through the advance rate paid by the bank to the fintech and the resultant equity capital used to fund the portfolio. Not only does this encourage lending practices that are consistent with the principles of safety and soundness, but also shows it is truly the bank who is the "true lender" of the loan.

### **Promotes Responsible Innovation**

Responsible lending partnerships are committed to working with the federal and state regulators to create a practical and robust regulatory environment that promote innovation consistent with safe and sound lending and consumer protection.

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<sup>1</sup> Members of the American Fintech Council, for example, have pledged not to characterize a product or service as something otherwise to avoid regulation and to observe the Responsible Business Lending Coalition's [Small Business Borrower's Bill of Rights](#).

<sup>2</sup> See e.g. [AFC Letter Support for Reinstatement of HUD's Discriminatory Effects Standard](#) (August 24, 2021); [NCRC, Fintechs call on CFPB to clarify applying fair lending rules to artificial intelligence](#) (June 29, 2021).

<sup>3</sup> See e.g. [Financial trade associations' views of fee and interest rate cap legislation](#) (July 23, 2021). The [National Consumer Law Center](#) represents a consumer advocate view on interest rate caps.

<sup>4</sup> [Why Bank-Fintech Partnerships Are Here to Stay](#), BankDirector.com (August 18, 2017); [81% of banks would collaborate with fintech partners to execute digital transformation](#), Finextra (October 2019); [Should You Buy, Sell Or Do Neither?](#) BankDirector.com (October 23, 2018); [Banks Fintechs Evolving Foe Friend](#), BankDirector.com (February 22, 2017)(Since smaller banks focus more on interest-sensitive products such as mortgages, prolonged low rates by the Federal Reserve hurt them disproportionately. Working cooperatively with fintech startups...enables smaller banks to tap into revenue that previously would have been inaccessible due to distribution, geographic or technical limitations. Advances like cloud technology, APIs, blockchain, InsurTech, RegTech and partnerships with online lending companies are in focus right now as they offer the most return on investment for all banks, large and small...).

<sup>5</sup> [Sector Spotlight: The Rise of Fintech Partner Banks](#), Fintechtris (June 25, 2020). [Community Banks Clamor For Fintech Partners](#), BankDirector.com (March 9, 2016)(observed by one industry analyst "It's difficult for banks of any size to generate loans that are profitable below a certain threshold"), [Five Reasons Why You Should Reconsider Short Term Loans](#), BankDirector.com (June 16, 2018)(For most financial institutions, introducing a traditional small-dollar loan program is cost-prohibitive—operationally, and from a staffing standpoint. From the cost of loan officers and underwriters to the overhead, the reality is it would take time and resources many banks do not have... Another challenge is the loan approval process and how to underwrite these unique loans. A determination of creditworthiness by a traditional credit check does not adequately predict the consumer's current ability to repay using recent behavior instead of a period of many years).

<sup>6</sup> [Community Bank Access to Innovation through Partnerships](#), Board of Governors of the Federal Reserve (September 2021).

<sup>7</sup> [Proposed Interagency Guidance on Third-Party Relationships: Risk Management](#), Federal Reserve System, Federal Deposit Insurance Corporation, Comptroller of the Currency (July 19, 2021).

<sup>8</sup> [Fintech Strategy Roadmap for Community Banks](#), ICBA (March 2018).

<sup>9</sup> [Fintech Opportunities for Your Bank: A Voyage Into New, But Not Uncharted Waters](#), BankDirector.com (June 14, 2017). [Should You Buy, Sell Or Do Neither?](#) Bankdirector.com (October 23, 2018).

<sup>10</sup> [How Fintech Companies Should Handle Compliance](#), BankDirectors.com (June 14, 2017). See also at note 9 [Fintech Opportunities for Your Bank](#) (Increasingly, fintech entities such as online lenders and payment systems are turning towards partnering and joint venturing with banks for a simple reason they need banks. They need banks because banks can hold federally insured deposits and have the experience and track record of existing and prospering under various federal and state regulatory regime).

<sup>11</sup> See e.g. [FDIC Banker Resource Center, Third-Party Relationships](#) ("As noted, the FDIC evaluates activities conducted through third-party relationships as though the activities were performed by the institution itself. In that regard, it must be noted that while an institution may properly seek to mitigate the risks of third-party relationships through the use of indemnity agreements with third parties, such agreements do not insulate the institution from its ultimate responsibility to conduct banking and related activities in a safe and sound manner and in compliance with law.").

<sup>12</sup> [ICBA comment letter](#) to the Proposed Interagency Guidance on Third-Party Relationships: Risk Management (October 18, 2021) ("Simply said, it is costly for community banks to ensure and demonstrate compliance with relevant regulatory requirements when selecting and monitoring third-party relationships.")

<sup>13</sup> See e.g. committee memorandum on [The Future of Banking: How Consolidation, Nonbank Competition, and Technology are Reshaping the Banking System](#), U.S. House Subcommittee on Consumer Protection and Financial Institutions (The total number of federally-insured banks in the U.S. has fallen from 17,811 in 1984 to 4,951 as of June 30, 2021). The OCC, for example, publishes a list of [distressed and underserved middle income census tracts](#) including banking deserts.

<sup>14</sup> Elder Beiseitov, [Unsecured Personal Loans Get a Boost from Fintech Lenders](#), Federal Reserve Bank of St. Louis (July 16, 2019) (“On average and for every risk level, fintech lenders offer lower annual percentage rates (APRs) when compared to those of credit card firms”); Expert Report of Dr. Michael A. ` in *Avant vs. Colorado LLC d/b/a Avant, et. Al.* (February 14, 2020)([see Attachment A here](#))(study found that those who received a WebBank loan through Avant’s technology platform were distinct and high credit risk borrowers who would not have qualified for more competitive credit terms and would otherwise have to resort to higher cost credit options offered by fringe financial institutions).

<sup>15</sup> Julapa Jagtiani & Catherine Lemieux, [Do Fintech Lenders Penetrate Areas That Are Underserved by Traditional Banks?](#) Federal Reserve Bank of Philadelphia, Working Papers Research Dept. (March 2018) (found that 25% of a member company’s loans were concentrated in the 10% of communities with the fewest bank branches per capita, which are disproportionately low-income). [The Roles of Alternative Data and Machine Learning in Fintech Lending: Evidence from the LendingClub Consumer Platform](#), Federal Reserve Bank of Philadelphia, Working Papers Research Dept. (January 2019) (found low default rates achieved while serving people deeper in the risk spectrum than customers of over 85% of the top traditional banks).

<sup>16</sup> [Federal Reserve Governor Michelle W. Bowman](#) at the Community Banking in the 21<sup>st</sup> Century and Policy Conference, St. Louis, Missouri (September 28, 2021).

<sup>17</sup> Isil Erel and Jack Liebersohn, [Does FinTech Substitute for Banks? Evidence from the Paycheck Protection Program](#),” NBER Working Paper 27659 (Cambridge: National Bureau of Economic Research, December 2020). In this study, lending by Minority Depository Institutions and Community Development Financial Institutions is included in the lending data for small (community) banks. See also, [Paycheck Protection Program: Program Changes Increased Lending to the Smallest Businesses and in Underserved Locations](#), GAO (September 21, 2021).

<sup>18</sup> Credit bureau Experian breaks credit scores into the following credit score ranges: Deep SubPrime (300-499); SubPrime (500-600); NonPrime (601-660); Prime (661-780); SuperPrime (781+).

<sup>19</sup> The public filings with the U.S. Securities and Exchange Commission (SEC) and ratings agency’s reports on the fintech loan securitizations provide detailed descriptions of the risks related to, for example, “challenges to exportation of state usury laws and true lender issues,” litigation, regulatory scrutiny and regulatory environment. See e.g., KBRA Structured Finance: ABS, New Issue Report, Consumer Loan Underlying Bond (CLUB) Credit Trust 2020-P1, Morningstar/DBRS Rating Report, Affirm Asset Securitization 2021-A.

<sup>20</sup> Colleen Honigsberg, Robert J. Jackson, Jr., Richard Squire, [How Does Legal Enforceability Affect Consumer Lending? Evidence from a Natural Experiment](#), *The Journal of Law and Economics*, Volume 60, Number 4, November 2017 (using proprietary data from three of the largest marketplace lending platforms, the study found that the *Madden v. Midland* decision reduced the price of notes backed by loans above the rate caps in Connecticut and New York in the secondary market and that lenders responded by extending relatively less credit – smaller loans and fewer loans to the higher-risk borrowers, such as those below a 640 FICO score). See also the public filings of marketplace platform companies with the U.S. Securities and Exchange Commission that discuss in detail the litigation, regulatory and compliance risks associated with the “true lender” issue and the “valid when made” doctrine.

<sup>21</sup> *Madden v. Midland Funding, LLC*, 786 F.3d 246 and *CFPB v. Cash Call*, No. CV 15-7522-JFW (RAOx), 2016 WL 4820635 (C.D. Cal. Aug. 31, 2016) *Cash Call, Inc. v. Morrissey*, No. 12-1274, 2014 WL 2404300, at \*7 (W. Va. May 30, 2014).

<sup>22</sup> *Id.* note 21. [Evidence from a Natural Experiment](#) study.

<sup>23</sup> The Solicitor General and Office of the Comptroller of the Currency under the Obama Administration filed a brief with the U.S. Supreme Court arguing that the Second Circuit decision was “incorrect”. [See the brief here](#) (p. 6). See also *Nichols v. Fearson*, 32 U.S. 103, 106 (1833)(“[T]he rule of law is everywhere acknowledged, that a contract, free from usury in its inception, shall not be invalidated by any subsequent usurious transactions upon it.”)

<sup>24</sup> [Who’s the Lender? Two “True Lender” Cases with Implications for Marketplace Platforms](#), Arnold & Porter (November 10, 2016).

<sup>25</sup> *Id.* at note 24. See e.g. Andrew Robertson, [Five Years Later: Madden V. Midland Funding, LLC’s Limited Impact On The Valid-When-Made Doctrine](#) (“... in jurisdictions outside of the Second Circuit (Connecticut, New York, and Vermont), *Madden* has largely been either cited with disfavor or disregarded altogether”). See also 12 CFR 7.4001 and 12 CFR 160.110.

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<sup>26</sup> Id. at note 25. The same circuit, the US District Court for the Central District of California, rendered two "true lender" decisions in 2016 representing divergent standards. *CFPB v. CashCall, Inc* (examining "which party or entity has the predominant economic interest in the transaction," including by evaluating which party placed its money at risk), followed by *Beechum v. Navient Solutions, Inc.*, No. EDCV 15–8239–JGB–KKx, 2016 WL 5340454, at \*8 (C.D. Cal. Sept. 20, 2016) (holding that the court will look "only to the face of the transactions at issue").

<sup>27</sup> Ashley Simonsen, Andrew Soukup, David A. Stein, Matthew Q. Verdin, and Stefan Caris Love, [Recent Developments in Valid-When-Made and True Lender Litigation](#), *The Business Lawyer*; Vol. 76, Spring 2021.

<sup>28</sup> Id. at note 12, [FDIC Banker Resource Center, Third-Party Relationships](#).

<sup>29</sup> FDIC FIL-50-2016, "[Examination Guidance for Third-Party Lending](#)" (proposed July 29, 2016). For example, the guidance proposed to cover lending arrangement where the bank originated loans for, through or jointly with third party lenders and where the bank used a platform developed by third parties.

<sup>30</sup> *Ibid.*

<sup>31</sup> Evidence suggests that subprime and deep subprime borrowers, when denied a preferred credit product such as payday loans, shift to other high cost alternative financial services and products like pawnshop loans, instead of relatively lower interest credit cards. See Neil Bhutta, Jacob Goldin, & Tatiana Homonoff, [Consumer Borrowing After Payday Loan Bans](#), 59 U. Chi. J. of Law and Econ. 225 (2016).

<sup>32</sup> See, for example, pages 12-25 in the expert report of Dr. Michael A. Turner in *Avant vs. Colorado LLC d/b/a Avant, et. Al.* (February 14, 2020) ([see the study in Attachment A here](#)). The study compared loans made through the bank-fintech partnership to other credit alternatives available to consumers in Colorado and found that: borrowers who received the partnership loans were a distinct and higher credit risk population with fewer credit options than the traditional prime credit population; that these consumer were accurately assessed for credit risk and received competitive terms commensurate with their risk level; that these consumers would not have qualified for more competitive terms and conditions for credit of the same duration; and, likely would otherwise have had to resort to higher cost credit options offered by fringe financial institutions to meet their real credit needs if the partnership were to stop offering loans in Colorado.

# Appendix E

# Consumer use of payday, auto title, and pawn loans

## Insights from the Making Ends Meet Survey

CFPB Office of Research

Research Brief No. 2021-1

*Scott Fulford and Cortnie Shupe prepared this report*



# Introduction

Payday loans, auto title loans, and pawn loans are often called alternative financial services (AFS) because the typical lender is not a bank. These loans are typically for relatively low amounts—typically less than \$1,000—high interest rates, and short durations—typically a month or less. While the exact terms and structure of these loans can differ from lender to lender, payday loans are typically given in advance of a consumer’s payday for a fee; auto title loans use the title to the consumer’s auto or other vehicle as collateral; and pawn loans typically use some valuable item, like a computer or jewelry, as collateral.

The “mosaic” of existing research on these products is still incomplete, leaving many unanswered questions.<sup>1</sup> In this research brief, we examine the prevalence, persistence of use, and alternate credit sources available for consumers who use payday, auto title, and pawn loans. We use the first two waves of the Bureau’s Making Ends Meet survey, conducted in June 2019 and June 2020, to examine how consumers use these services over time. The survey is associated with traditional credit bureau data, allowing us to examine other credit characteristics such as whether these consumers appear to have readily available credit on credit cards. The Making Ends Meet survey thus gives us a rare opportunity to combine a survey of the same consumers over two years with credit record data to understand consumers’ decisions about debt.

In June 2019, 4.4 percent of consumers had taken out a payday loan in the previous six months, 2.0 percent had taken out an auto title loan, and 2.5 percent had taken out a pawn loan. Because the number of consumers using these loans in the survey is small, there is some survey uncertainty in these estimates, but the estimates are similar to other sources.<sup>2</sup> The share of consumers who had used these services in the 12 months before June 2020 was similar, but the increased length of time considered and the start of the pandemic means the results are not completely comparable across waves.

The survey results show that consumers frequently roll over these loans or take out a new loan soon after re-paying the previous loan. In June 2019, of the consumers who had taken out a loan in the previous six months, 63 percent still owed money on a payday loan; 83 percent still owed money on an auto title loan; and 73 percent still owed money on pawn loans. Repeatedly rolling over or revolving loans is not unique for these kinds of loans. For the 79 percent of consumers

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<sup>1</sup> J. Brandon Bolen, Gregory Elliehausen, and Thomas W. Miller Jr. “Do Consumers Need More Protection from Small-Dollar Lenders? Historical Evidence and a Roadmap for Future Research,” 2020, *Economic Inquiry* 58: 1577-1613. Available: <https://doi.org/10.1111/ecin.12894>.

<sup>2</sup> We compare these results to the FDIC Survey of Household Use of Banking and Financial Services below.

with a credit card in the survey, for example, 51 percent did not pay the full bill in the previous month in June 2019.

Use of alternative financial services appears to have fallen early in the pandemic. In June 2020, the share of consumers who still owed money on a payday loan fell to 48 percent (from 63 percent), the share for auto title loans was mostly unchanged, and the share for pawn loans fell to 34 percent (from 73 percent). The longer time period covered in June 2020 may also have allowed consumers who took loans out more than six months ago longer to repay. These changes during the pandemic are consistent with other reporting suggesting that many consumers paid credit card debt, pawns loans, payday loans, and other debts during the pandemic as consumer spending fell while average incomes rose because of government transfers.<sup>3</sup>

For each of these loan types, use tends to be persistent from year to year. Comparing across the two waves, 52 percent of consumers who had taken out a payday loan in the six months before June 2019 had also taken out a payday loan in the 12 months before June 2020. The corresponding numbers are 32 percent for auto title loans and 56 percent for pawn loans. For comparison, 81 percent of consumers who were revolving credit card debt in June 2019 were also revolving in June 2020.

Consumers using alternative financial services frequently have difficulty paying a bill or expense and are more likely to have experienced a negative financial shock. In the survey, 77 percent of consumers using alternative financial services experienced a shock and had difficulty paying a bill or expense during the same timeframe in which they also reported borrowing a payday, auto title, or pawn loan. For consumers who had difficulty paying a bill or expense, the average cost of that difficulty tended to exceed the amount of liquidity available immediately to them from savings and credit cards.

Many consumers who experienced difficulty paying a bill or expense use AFS as part of their overall strategy for dealing with the difficulty. Among consumers who experienced difficulty paying a bill or expense, 50 percent borrowed money either using formal or informal credit and,

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<sup>3</sup> Consumers largely used their economic impact payments for saving or paying down debt. See: Olivier Coibion, Yuriy Gorodnichenko, and Michael Weber, “How Did U.S. Consumers Use Their Stimulus Payments?” August 2020, NBER Working Paper No. 27693. Available: <https://www.nber.org/papers/w27693>. On trends in saving and spending and government transfers, see: Josh Mitchell, “U.S. Household Income, Savings Rose at End of Last Year,” January 29, 2021, *The Wall Street Journal*. Available: <https://www.wsj.com/articles/consumer-spending-personal-income-coronavirus-december-2020-11611873351>. On credit card debt, see: Ryan Sandler and Judith Ricks, “The Early Effects of the COVID-19 Pandemic on Consumer Credit,” August 2020. Available: [https://files.consumerfinance.gov/f/documents/cfpb\\_early-effects-covid-19-consumer-credit\\_issue-brief.pdf](https://files.consumerfinance.gov/f/documents/cfpb_early-effects-covid-19-consumer-credit_issue-brief.pdf). On pawn loans, see: Emily Stuart, “It’s easy to assume pawnshops are doing great in the pandemic. It’s also wrong. It’s not just about the guns and gold: Loans are at the core of the pawn business,” *Vox*, November 30, 2020. Available: <https://www.vox.com/the-goods/21611583/pawn-shop-covid-19-economy>. On payday loans, see: Veritec Solution “Update: COVID-19 Impact Study on Small-Dollar Lending,” October 22, 2020. Available: <https://www.veritecs.com/update-covid-19-impact-study-on-small-dollar-lending/>

of those who borrowed, 21 percent turned to an AFS in order to pay for the expense. Using the Making Ends Meet survey, we find that for AFS users, speed, discretion, and the lack of a credit check were important for deciding on their credit source.

Many AFS users appear to have few other credit options while others have significant alternative sources of credit. A majority of AFS users have poor or very poor credit scores and are often turned down for mainstream credit or not granted the full requested amount. Yet a significant portion of consumers using these services had \$300 or more in available credit card credit at about the same time they owed money on one of these loans. Using the association with the credit bureau data, we find 28 percent of consumers who owed money on a payday loan when they took the survey had at least \$300 in available credit card credit at the end of June 2019. For auto title borrowers, 33 percent had \$300 in available credit, while 16 percent of pawn borrowers had \$300 in available credit. Other research has reached similar conclusions.<sup>4</sup>

This finding presents a significant puzzle. The interest rate for credit cards is typically much lower than for AFS.<sup>5</sup> Why do so many consumers not use their credit card for liquidity instead of these high-cost loans?

We explore two possibilities. First, we show that AFS users describe themselves as less likely to shop for the best terms. Perhaps consumers who shop less for the best terms find the convenience of an AFS more compelling or are less likely to be aware of the cost differential. Yet in the very small sample, the AFS users who have available credit card credit are more likely to say they search for the best terms, compared to AFS users without available credit card credit, offering suggestive evidence that shopping among these borrowers is not the explanation.

Second, we examine income and expenditure shocks that trigger difficulties for consumers to pay bills and expenses. These shocks tend to be larger than other available credit or savings sources. AFS users who experience difficulty paying a bill or expense tend to also use other available credit, suggesting that for some consumers AFS might be part of a broader and more

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<sup>4</sup> Sumit Agarwal, Paige Marta Skiba and Jeremy Tobacman, "Payday Loans and Credit Cards: New Liquidity and Credit Scoring Puzzles?" 2009, *American Economic Review*, 99(2):412-17.

<sup>5</sup> The average APR on revolving credit cards assessed interest was 16.04 percent in 2019 according to the G.19 Federal Reserve Statistical Release (February 2021). Available: <https://www.federalreserve.gov/releases/g19/current/>. Meanwhile, the average payday rate is much higher. AFS users typically have lower credit scores (see Figure 10), so would typically be charged a higher rate. The average "effective interest rate" for subprime and deep subprime borrowers was approximately 21 percent in 2018. See: Consumer Financial Protection Bureau, "The Consumer Credit Card Market," August 2019, p. 55. Available: [https://files.consumerfinance.gov/f/documents/cfpb\\_consumer-credit-card-market-report\\_2019.pdf](https://files.consumerfinance.gov/f/documents/cfpb_consumer-credit-card-market-report_2019.pdf). Meanwhile, a fee of \$15 for every \$100 dollars borrowed for a two-week loan carries an APR equivalent of nearly 400 percent. See: <https://www.consumerfinance.gov/ask-cfpb/what-are-the-costs-and-fees-for-a-payday-loan-en-1589/>.

complicated debt portfolio to deal with difficulties. Understanding the tradeoffs among different ways of dealing with financial difficulties is an important direction for future research.

## The Making Ends Meet Survey

We use the first two waves of the Making Ends Meet survey. The survey results provide a deeper understanding of how often U.S. consumers have difficulty making ends meet, how they cope with these shortfalls, and the consequences of the shortfalls. The Bureau conducted Wave 1 of the survey starting in May 2019 and Wave 2 starting in May 2020. Most respondents took several weeks to respond, so typical responses occurred in June in each year. We refer to June as the month the surveys occurred in this brief.

The Wave 2 sample consisted of all respondents, including partial respondents to Wave 1. Repeated surveying of the same consumers allows us to examine how the same individuals' economic circumstances changed and how they react to those changes. Ultimately, 2,990 consumers responded to Wave 1 either on paper or online. Of those, 1,834—or about 61 percent—responded to at least the first questions in Wave 2.

The survey sample is drawn from the Bureau's Consumer Credit Panel (CCP), a comprehensive, national, 1-in-48 sample of credit records maintained by one of the three nationwide consumer reporting agencies.<sup>6</sup> The Wave 1 survey oversampled consumers with lower credit scores, with recent credit delinquencies, and those living in rural areas to help give enough representation to allow analyses among these smaller groups. Using the CCP strengthens the survey by allowing this kind of oversampling.

The Making Ends Meet sample frame will generally not capture AFS users who do not appear in traditional credit bureau data. Therefore, one limitation of the study is that while it is generally representative of individuals with a record at a nationwide consumer reporting agency these consumers may differ from individuals without such a credit record in important ways. In the FDIC survey, for example, pawn use was more common among unbanked households.<sup>7</sup> On the other hand, because the Making Ends Meet survey oversamples among consumers with

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<sup>6</sup> The CCP excludes any information that might reveal consumers' identities, such as names, addresses, and Social Security numbers. For more information on the privacy protections associated with this survey, see the Consumer Experience Research Privacy Impact Assessment. Available: [http://files.consumerfinance.gov/f/201406\\_cfpb\\_consumer-experience-research\\_pia.pdf](http://files.consumerfinance.gov/f/201406_cfpb_consumer-experience-research_pia.pdf) and System of Records Notice CFPB.022, Market and Consumer Research Records. Available: <http://www.consumerfinance.gov/privacy/system-records-notices/market-and-consumer-research-records-2/>.

<sup>7</sup> Federal Deposit Insurance Corporation, "How America Banks: Household Use of Banking and Financial Services: 2019 FDIC Survey," October 2020, at 48. Available: [https://economicinclusion.gov/downloads/2019\\_FDIC\\_Unbanked\\_HH\\_Survey\\_Report.pdf](https://economicinclusion.gov/downloads/2019_FDIC_Unbanked_HH_Survey_Report.pdf).

delinquencies and low credit scores, it may have more precise estimates for these consumers than surveys without the ability to oversample effectively. For simplicity, we refer to consumers in this study with this caveat in mind.

All the results in this report use survey weights to align with the CCP. We use two different sets of weights, depending on the analysis. For analysis only from Wave 1, we use Wave 1 weights. These weights adjust for non-response to the survey using characteristics observable in the CCP for both responders and non-responders.<sup>8</sup>

When we examine both Wave 1 and Wave 2 and transitions between them, we use Wave 2 weights. These weights adjust for the additional attrition between waves. Because the survey sample is drawn from the CCP, we can observe changes in the financial status of both respondents and non-respondents and use those changes in developing weights that adjust for attrition between Wave 1 and Wave 2. The ability to adjust for attrition between Wave 1 and Wave 2, using not just Wave 1 variables, but also observable changes in the CCP between Wave 1 and Wave 2, is another key advantage of the survey and makes the survey results generally reflect the range of consumers' experiences since Wave 1.<sup>9</sup>

## Share using Alternative Financial Services

In Figure 1, 4.4 percent of consumers had taken out a payday loan in the six months prior to June 2019, 2.0 percent had taken out an auto title loan, and 2.5 percent had taken out a pawn loan. To help respondents determine whether they had used the service, the survey included a short definition with the question. The survey defined a payday loan as “a loan that you must repay, make a payment on, or rollover on your next payday.” This definition might include single-payment payday loans and newer payday installment loans that are payable over time, although depending on the marketing a respondent might not consider these loans to be “payday loans.” These installment loans have become more common.<sup>10</sup>

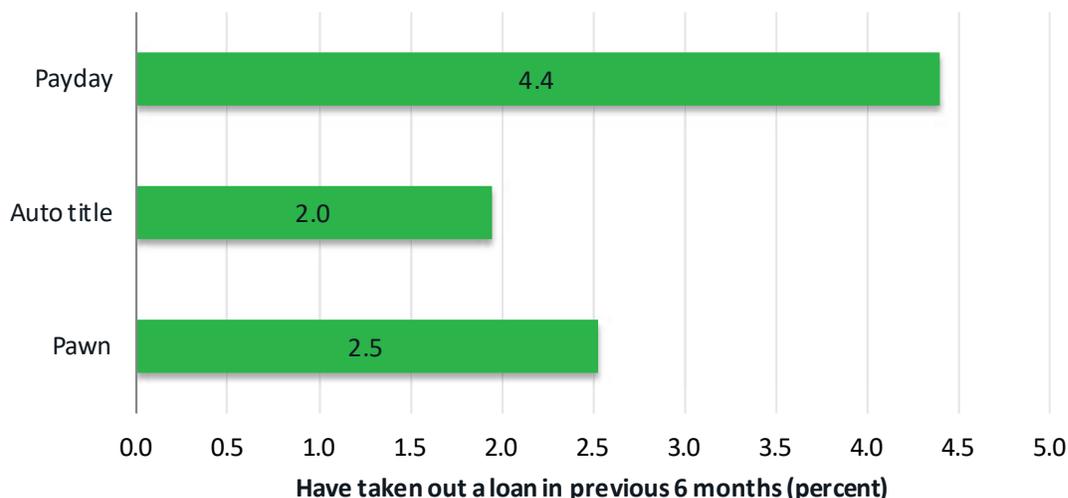
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<sup>8</sup> See the initial Making Ends Meet report for a more detailed discussion of Wave 1 weights: Scott Fulford and Marie Rush, “Insights from the Making Ends Meet Survey,” July 13, 2020, CFPB Office of Research, Research Brief No 2020-1. Available: [https://www.consumerfinance.gov/documents/8990/cfpb\\_making-ends-meet\\_survey-results\\_2020-07.pdf](https://www.consumerfinance.gov/documents/8990/cfpb_making-ends-meet_survey-results_2020-07.pdf).

<sup>9</sup> See the report on Wave 2 for a more detailed discussion of Wave 2 weights: Scott Fulford, Marie Rush, and Eric Wilson, “Changes in consumer financial status during the early months of the pandemic,” April 30, 2021, CFPB Office of Research, Data Point No 2021-2. Available: [https://files.consumerfinance.gov/f/documents/cfpb\\_making-ends-meet\\_survey-results\\_2020-07.pdf](https://files.consumerfinance.gov/f/documents/cfpb_making-ends-meet_survey-results_2020-07.pdf)

<sup>10</sup> Caroline Malone and Paige Marta Skiba, “Installment Loans,” December 2, 2019, Vanderbilt Law Research Paper No. 20-04, Available: <https://ssrn.com/abstract=3497095> or <http://dx.doi.org/10.2139/ssrn.3497095>.

**FIGURE 1: PERCENT OF CONSUMERS THAT HAD TAKEN OUT THIS TYPE OF LOAN IN SIX MONTHS PRIOR TO JUNE 2019**



These shares are broadly similar in magnitude to the shares found in other studies. Respondents to the 2019 FDIC Survey of Household Use of Banking and Financial Services were asked whether they had used payday, auto title or pawn loans in the previous 12 months.<sup>11</sup> For all households in the FDIC survey, 1.3 percent used payday, 0.9 percent used auto title, and 1.3 percent pawn loans. Because relatively few people use payday, auto title, or pawn loans, the estimates in both Making Ends Meet and the FDIC survey are subject to some survey uncertainty. The 95 percent confidence intervals for estimates of these services in Making Ends Meet include approximately two percentage points on either side, so the FDIC estimates, though consistently lower, are typically within the 95 percent confidence interval. One reason for the difference in estimates for payday loans specifically may also be that the Making Ends Meet survey defines these loans, while the FDIC survey does not, so more Making Ends Meet respondents may consider their loan as a payday loan.<sup>12</sup>

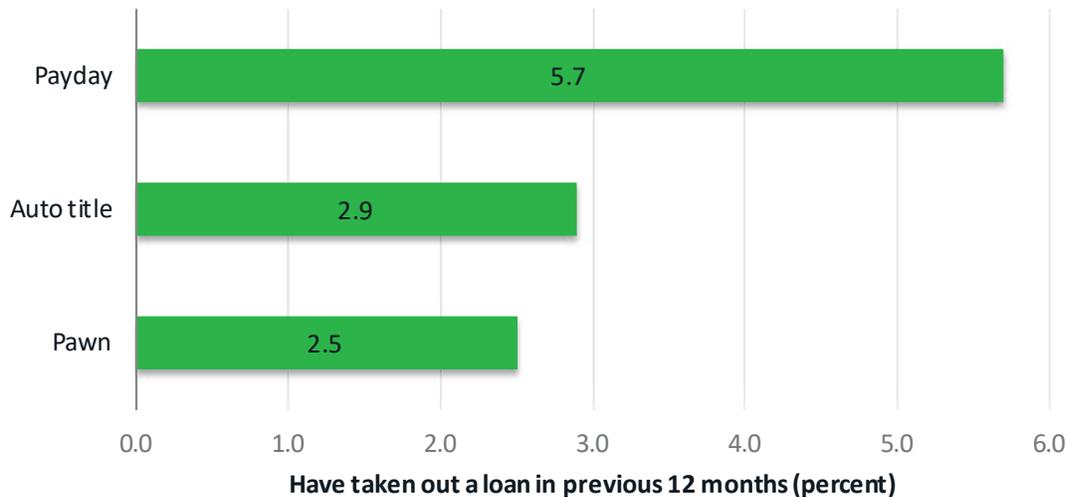
Figure 2 shows the percent of the population who had taken out a payday, auto title, or pawn loan in the 12 months prior to June 2020. Because the second wave came approximately 12 months after the first wave, we asked about using these services during the prior year, not the previous six months as in Wave 1. The questions are thus not fully comparable between waves.

<sup>11</sup> Federal Deposit Insurance Corporation, “How America Banks: Household Use of Banking and Financial Services: 2019 FDIC Survey,” October 2020. Available: [https://economicinclusion.gov/downloads/2019\\_FDIC\\_Unbanked\\_HH\\_Survey\\_Report.pdf](https://economicinclusion.gov/downloads/2019_FDIC_Unbanked_HH_Survey_Report.pdf).

<sup>12</sup> See the FDIC survey instrument. Available: [https://www.economicinclusion.gov/downloads/instrument\\_2019.pdf](https://www.economicinclusion.gov/downloads/instrument_2019.pdf).

Figure 2 shows that, while the recall period doubled, the share using these products increased somewhat less.

**FIGURE 2:** PERCENT OF POPULATION THAT HAS TAKEN OUT THIS TYPE OF LOAN IN 12 MONTHS PRIOR TO JUNE 2020



## Who uses Alternative Financial Services?

Using the first wave of the survey, Table 1 depicts the characteristics of consumers who have used at least one form of AFS in the six months preceding June 2019. Approximately eight percent of consumers used one of these products. Comparing characteristics of consumers who used AFS and those who did not reveals some key differences. AFS users are more concentrated among the age group between 40-61, consumers with at most a high school degree, Black and Hispanic consumers, low-income consumers, and women. However, as depicted in Table 1 below, AFS users can be found across a diverse spectrum of characteristics in the population and are not limited to these consumer groups. We do not observe substantial changes in characteristics during the second wave of the survey in June 2020, despite this period covering several months of the coronavirus pandemic.

**TABLE 1:** DEMOGRAPHIC CHARACTERISTICS OF AFS AND NON-AFS USERS IN JUNE 2019, PERCENT OF POPULATION IN EACH GROUP.

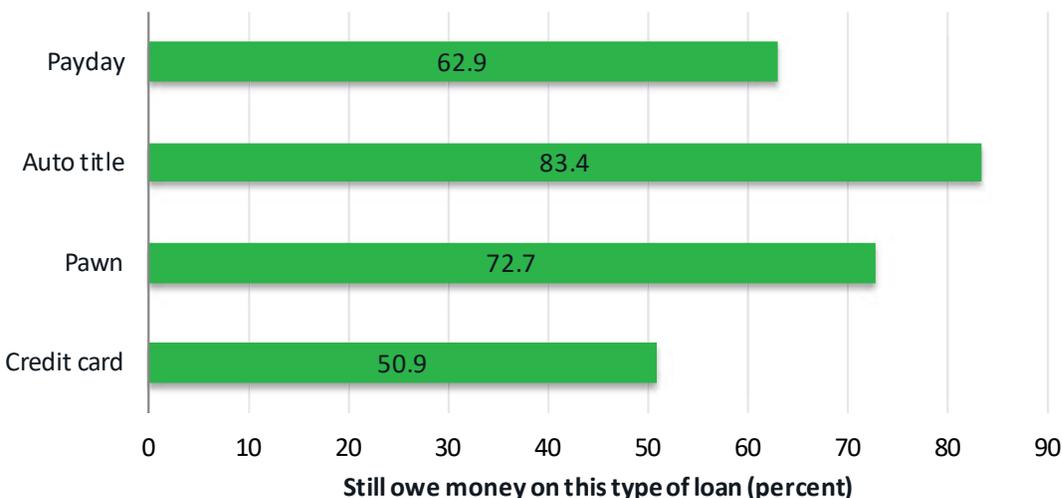
<b>Group</b>	<b>Non-AFS users</b>	<b>AFS users</b>
<b>Age group</b>		
Age < 40	32	29
Age 40-61	38	52
Age >=62	31	19
<b>Children in household</b>		
Yes, children in household	39	47
<b>Education group</b>		
At most HS degree	44	68
Technical or 2-year degree	16	18
At least 4-year degree	41	14
<b>Race and ethnicity</b>		
White	69	48
Black	12	32
Hispanic	11	15
<b>Gender</b>		
Male	50	40
<b>Household income</b>		
\$15,000 or less	9	21
\$15,001 to \$20,000	7	13
\$20,001 to \$40,000	18	27
\$40,001 to \$70,000	25	23
\$70,001 to \$100,000	19	8
More than \$100,000	23	8
<b>Rural</b>		
Yes, in a rural area	4	3
<b>Overall weighted share of sample</b>		
	90	10
<b>Observations</b>	<b>2,628</b>	<b>258</b>

## Rollover and repeat borrowing

For the consumers who use these services, borrowing repeatedly or rolling over is very common. While the terms vary, payday, auto title, and pawn loans are typically for 30 days or fewer. Given the short-term nature of these loans, if a consumer took out a loan in the previous six months and still owes money on that type of loan, the consumer is likely to have rolled over the loan or taken out a new loan. Figure 3 shows that, among consumers who had taken out a payday loan in the previous six months to June 2019, 63 percent still owed money on a payday loan at the time of the survey; for auto title loans, 83 percent still owed money; and pawnshop loans 73 percent still owed money. Some forms of auto title and pawn loans can be longer than 30 days

which may explain why many consumers still owe money on a loan taken out within the last six months.

**FIGURE 3: PERCENT OF POPULATION THAT STILL OWED MONEY ON THIS TYPE OF LOAN, IF HAD TAKEN ONE OUT IN SIX MONTHS PRIOR TO JUNE 2019**



For payday loans, respondents were asked directly about rolling over loans. In the survey, 48 percent of consumers who had taken out a payday loan in the previous six months had rolled over at least one payday loan in the previous six months.

For comparison, consumers roll over other types of loans frequently as well: 51 percent of consumers with a credit card did not pay the full bill in the previous month in June 2019. In the survey, 79 percent of consumers had a credit card.

Previous research has also found that rolling over payday loans or borrowing a new loan within a short period of time is very common. For example, a 2014 Bureau study of all payday loans extended by several lenders over a period of at least 12 months found that 80 percent of payday loans are rolled over or followed by another loan within 14 days.<sup>13</sup> Making Ends Meet is a survey of consumers not a data set of accounts, so it offers a slightly different perspective. This different perspective makes it difficult to compare whether rollover patterns have changed compared to account-level studies. For example, some consumers may not consider taking out a new loan soon after paying back an old loan a “rollover” and the survey did not define the term for

<sup>13</sup> Kathleen Burke, Jonathan Lanning, Jesse Leary, Jialan Wang, “Payday Lending,” March 2014, The CFPB Office of Research, Data Point. Available: [https://files.consumerfinance.gov/f/201403\\_cfpb\\_report\\_payday-lending.pdf](https://files.consumerfinance.gov/f/201403_cfpb_report_payday-lending.pdf).

respondents. Other recent work surveying consumers when they took out a payday loan finds that 74 percent borrowed again within eight weeks.<sup>14</sup>

Because of the disruptions of the pandemic, the use of these services may have changed. For example, while unemployment increased, the CARES Act provided substantial increases in unemployment benefits and one-time Economic Impact Payments. Together with reductions in spending, these transfers contributed to improvements in average consumer financial status during the first several months of the pandemic<sup>15</sup> and to a fall in credit card debt,<sup>16</sup> even for the most financially vulnerable consumers.<sup>17</sup> Reports from interviews with pawn shop owners and operators suggest that many patrons used their newfound liquidity to redeem longstanding loans.<sup>18</sup>

Figure 4 suggests that AFS use changed during the initial months of the pandemic. Figure 4 shows that consumers were much less likely to still owe money on payday and pawn loans, conditional on having taken one out in the previous 12 months. The fall in pawn loans was particularly dramatic, more than halving from 73 to 34 percent. However, the change in the recall period from six to twelve months may be responsible for some of this change. A consumer who took out a loan more than six months ago may be less likely to still owe money on that type of loan. Meanwhile, more than 80 percent of consumers who had taken out an auto title loan still owed money and 51 percent of consumers were revolving credit card debt, the same percentage as in June 2019.

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<sup>14</sup> Hunt Allcott, Joshua Kim, Dmitry Taubinsky, and Jonathan Zinman, “Are High-Interest Loans Predatory? Theory and Evidence from Payday Lending” February 2021, working paper. Available: <https://cpb-us-e1.wpmucdn.com/sites.dartmouth.edu/dist/6/1996/files/2021/02/Payday.pdf>

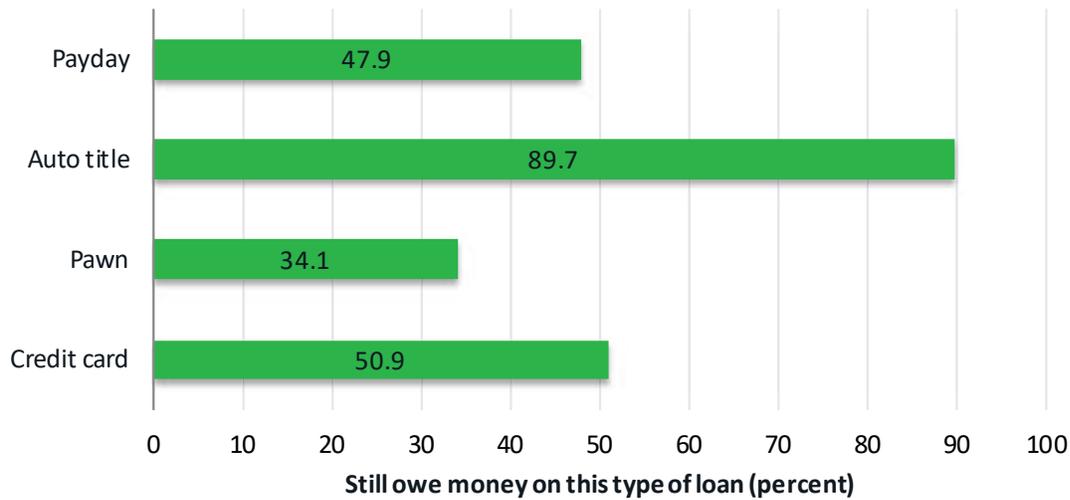
<sup>15</sup> Scott Fulford, Marie Rush and Eric Wilson, “Changes in consumer financial status during the early months of the pandemic,” April 2021.

<sup>16</sup> Sandler and Ricks, “The Early Effects of the COVID-19 Pandemic on Consumer Credit.”

<sup>17</sup> Scott Fulford and Marie Rush, “Credit card debt fell even for consumers who were having financial difficulties before the pandemic”, December 17, 2020. Available: <https://www.consumerfinance.gov/about-us/blog/credit-card-debt-fell-even-consumers-having-financial-difficulties-before-pandemic/>

<sup>18</sup> Emily Stuart, “It’s easy to assume pawnshops are doing great in the pandemic. It’s also wrong. It’s not just about the guns and gold: Loans are at the core of the pawn business,” *Vox*, November 30, 2020. Available: <https://www.vox.com/the-goods/21611583/pawn-shop-covid-19-economy>.

**FIGURE 4:** PERCENT OF POPULATION THAT STILL OWED MONEY ON THIS TYPE OF LOAN, IF HAVE TAKEN ONE OUT IN 12 MONTHS PRIOR TO JUNE 2020 (PERCENT)



## Persistence of use

The previous section showed a snapshot of use in the two waves. This section examines the transitions into and out of using these products for the same consumers across the two waves.

Figure 5 shows the transitions into and out of using payday from the two waves of the survey. The upper bar shows that 52 percent of consumers who took out a payday loan in the six months preceding June 2019 had borrowed at least one payday loan between June 2019 and June 2020. Payday use is thus quite persistent. The bottom bar is for consumers who did not take out a payday loan in the six months before June 2019. Of these consumers, only 3.5 percent newly took out a payday loan between June 2019 and June 2020.

**FIGURE 5: TRANSITION INTO AND OUT OF PAYDAY USE FROM JUNE 2019 TO JUNE 2020 (PERCENT)**

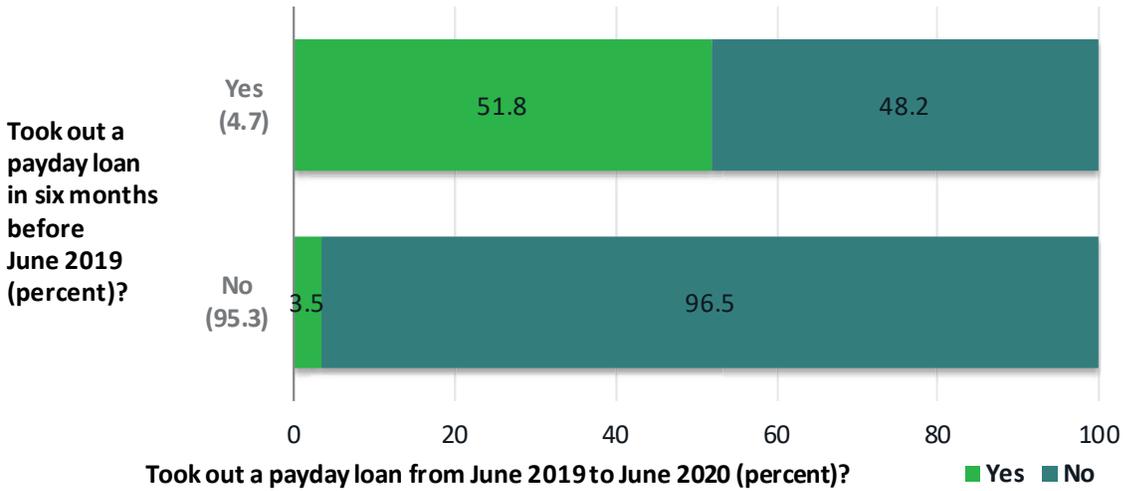


Figure 6 shows a similar transition for auto title use, which is also persistent. In June 2020, 32.1 percent of the consumers who had taken out an auto title loan in the six months before June 2019 had also taken out an auto title loan in the 12 months before June 2020. Only 2.2 percent of consumers who were not using auto title loans in the six months to June 2019 were newly using auto title loans between June 2019 and June 2020.

**FIGURE 6: TRANSITION INTO AND OUT OF AUTO TITLE LOAN USE FROM JUNE 2019 TO JUNE 2020 (PERCENT)**

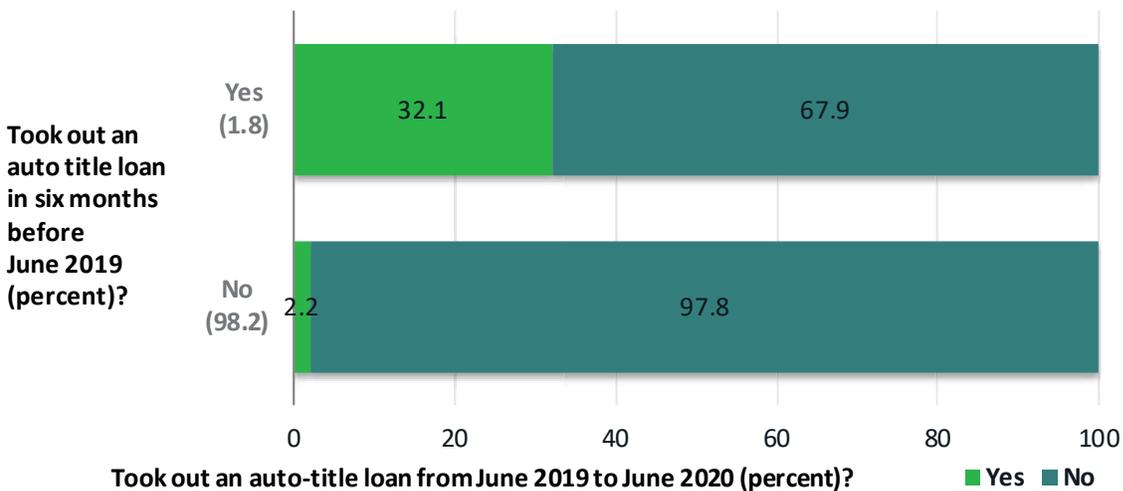
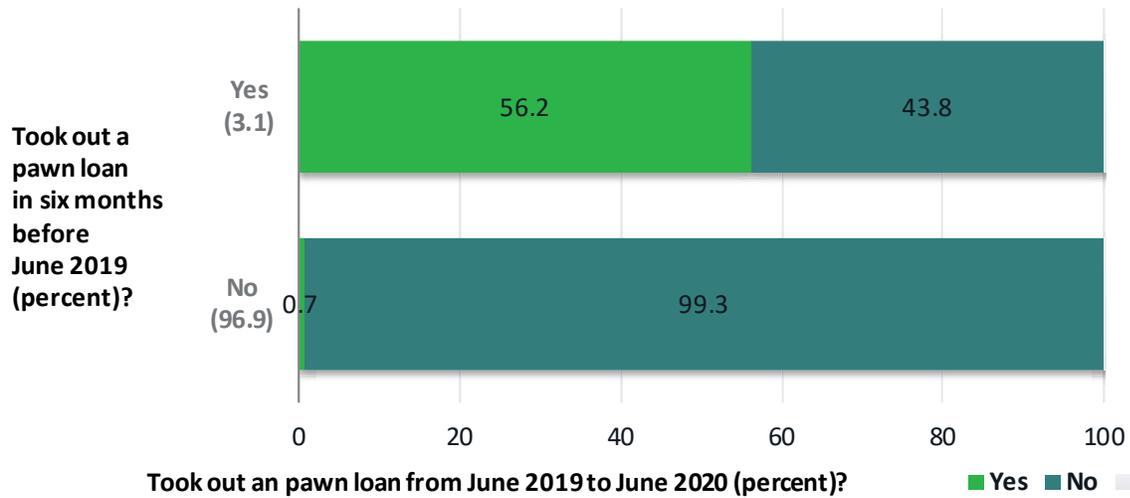


Figure 7 shows the transition for pawn loan use. In June 2020, 56 percent of the consumers who had taken out a pawn loan in the six months before June 2019 had also taken out a pawn loan in the 12 months before June 2020. Only 0.7 percent of consumers who were not using pawn loans

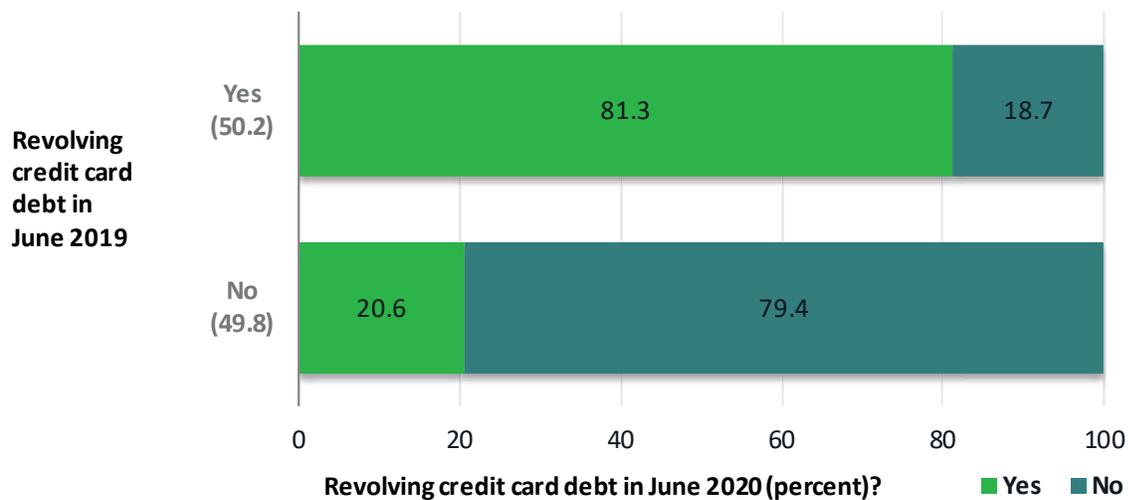
in the six months before June 2019 were newly using pawn loans between June 2019 and June 2020.

**FIGURE 7: TRANSITION INTO AND OUT OF PAWN LOAN USE FROM JUNE 2019 TO JUNE 2020 (PERCENT)**



For comparison, Figure 8 shows the transition into and out of revolving credit card debt. In June 2020, 81 percent of consumers who were revolving credit card debt in June 2019 were still revolving. Meanwhile, 21 percent of consumers who were not revolving in June 2019 had started by June 2020.

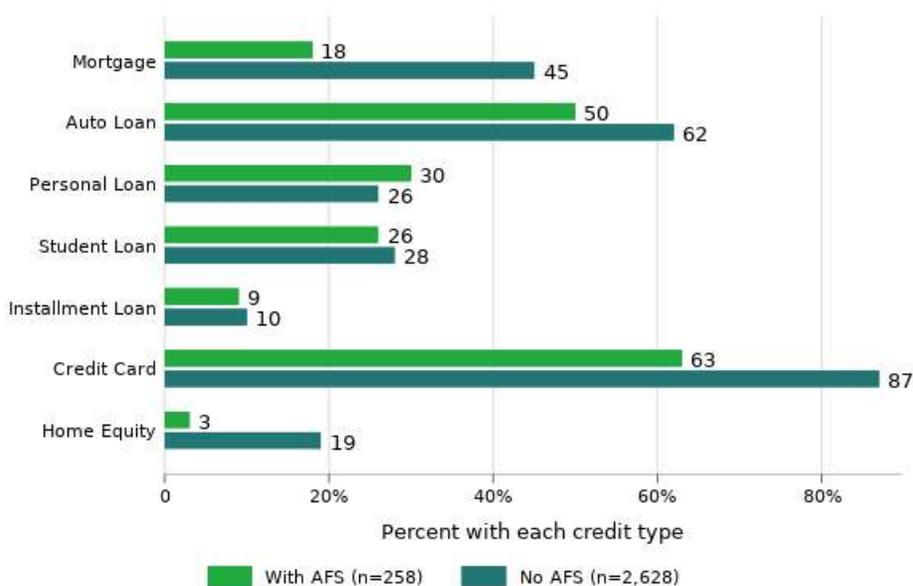
**FIGURE 8: TRANSITION INTO AND OUT OF REVOLVING CREDIT CARD USE FROM JUNE 2019 TO JUNE 2020 (PERCENT)**



# Is lower-cost credit available?

The connection to the CCP allows us to examine whether the users of these services also use more traditional forms of credit and whether they have other available credit. Figure 9 displays the percent of AFS users in June 2019 who also have other types of credit, compared to the percent among AFS non-users. Compared to consumers who do not use any type of AFS, AFS users are much less likely to have a mortgage or home equity product. While the share of AFS users with a credit card is lower than non-AFS users, 63 percent do have an active credit card.

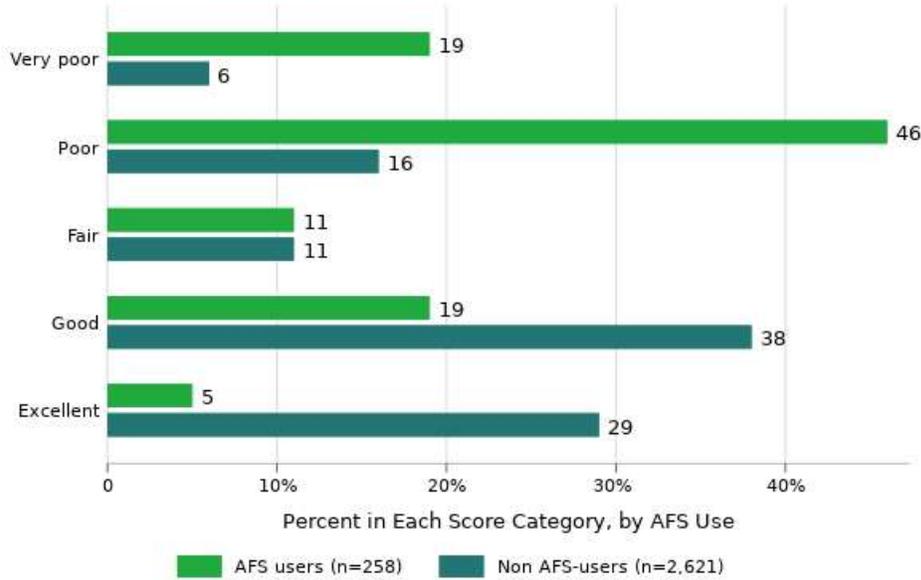
**FIGURE 9:** FORMAL CREDIT USE AMONG CONSUMERS WHO USE AND DO NOT USE AFS (JUNE 2019)



Poor credit may hinder some AFS users from accessing formal credit products with more favorable terms. The survey’s association with credit bureau data allows us to observe respondent’s credit score in addition to other traditional credit usage. Figure 10 shows the distribution of Vantage credit scores by broad credit score category for consumers with and without AFS use.<sup>19</sup> Over 60 percent of AFS users have credit scores that are either poor or very poor. Still, 24 percent have scores considered good or excellent which might allow them to access other sources of credit.

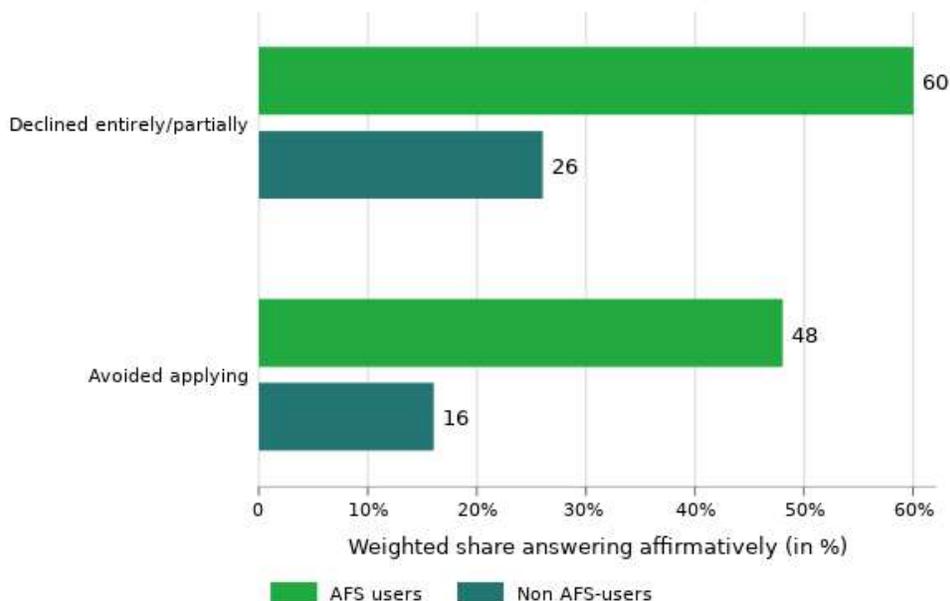
<sup>19</sup> We use standard scoring categories of: Excellent 781-850, Good 661-780, Fair 601-660, Poor 500-600, and Very Poor 300-499. See: Louis DeNicola, “What is a Good Credit Score,” February 11, 2021, Experian Blog. Available: <https://www.experian.com/blogs/ask-experian/credit-education/score-basics/what-is-a-good-credit-score/#s2>.

**FIGURE 10: VANTAGE CREDIT SCORES BY AFS USE**



Consumers using AFS not only have less favorable credit scores; they also are more likely to have applied for credit in the past year (59 percent compared to 40 percent among non-AFS users) and are more likely to have been turned down outright or have their credit application accepted for a lower amount than they requested. Figure 11 documents that, conditional on having applied for credit in the previous 12 months, 60 percent of AFS users were turned down or only granted a limited amount of credit compared to only 26 percent of consumers without AFS usage. Furthermore, 48 percent of AFS users who did not apply for credit in the past year reported that they did not do so because they anticipated having their application rejected. In all, this means about 55 percent of AFS borrowers were unable to access additional credit they wanted because they were denied or expected they would be.

**FIGURE 11: PERCENT OF CONSUMERS TURNED DOWN FOR CREDIT OR WHO DID NOT APPLY BECAUSE THEY THOUGHT THEY MIGHT BE TURNED DOWN**



Among the 63 percent of AFS users who also have a credit card, we use data from the CCP to take a deeper look at the amount of available credit they have on these cards. The issuers of credit cards typically report to the credit bureau the credit limit and the amount owed, which may include both revolving debt and new debt from purchases over the previous month. Summing across all credit cards, we determine whether a consumer in the survey had at least \$300 in available credit in June 2019 by subtracting the total credit card debt from the sum of the credit limit on all cards. Consumers with \$300 in available credit card credit might have been able to use a cash advance instead of an AFS or could have paid for some consumption with a credit card and left funds available to pay off a payday, auto title, or pawn shop loan. We use \$300 because it is approximately the size of a standard payday loan. We observe the credit limit and debt for a consumer typically as of their last billing cycle at the end of June 2019 but observe whether the respondent owed money at the time of the survey. While the timing closely aligns, it is possible that circumstances may have changed between answering the survey and the close of the credit card billing cycle.

Figure 12 shows the proportion of consumers who: (1) reported taking out a loan in the previous six months and still owe money on a loan of that type and (2) likely had \$300 in available credit card credit. Figure 12 also shows the share of consumers who still owe money and have a credit card in June 2019. In the survey, 28 percent of current payday borrowers had \$300 in available credit card credit reported in June 2019, as did 33 percent of auto title borrowers, and 16 percent of pawn borrowers. Pawn users are much less likely to have a credit card and to have a least \$300 in available credit.

**FIGURE 12:** PERCENT OF CONSUMERS WHO STILL OWE MONEY ON A PAYDAY, AUTO TITLE, AND PAWN LOAN WHO HAVE AT LEAST \$300 IN AVAILABLE CREDIT CARD CREDIT

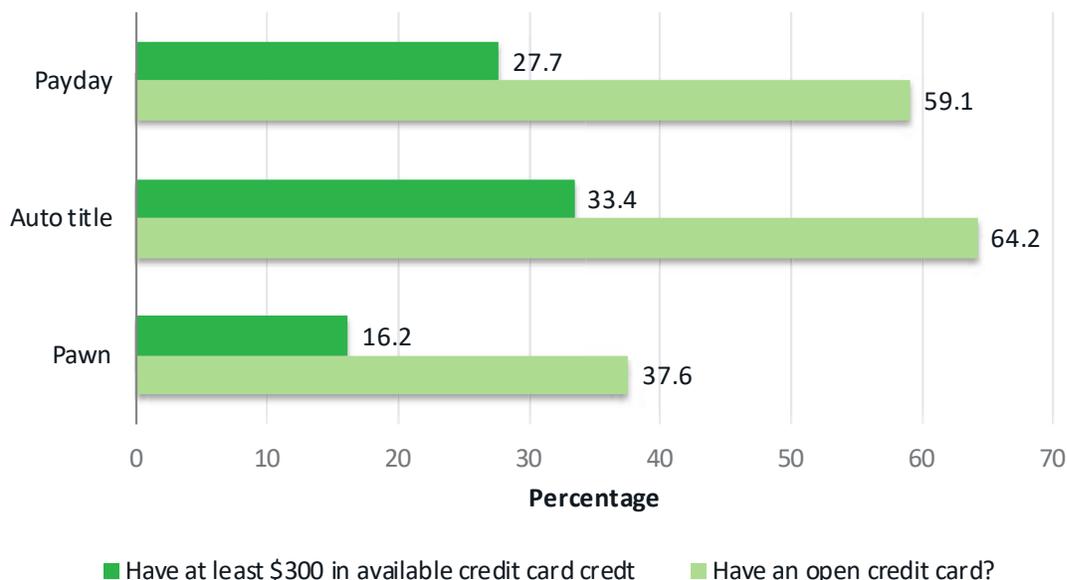


Figure 12 presents a credit card puzzle. Why do consumers choose very high-cost borrowing when a much lower cost product is available? We focus on consumers who report still owing money on a high-cost loan so that the timing aligns as closely as possible; consumers who still owe money on a loan and have available credit card credit may have the option to substitute between these products. There may be some difficulty in substituting between products, which may explain the behavior for some consumers. For example, switching between products might require a credit card cash advance to pay off the loan directly, which may not always be possible. Yet it is hard to imagine that the precautionary concerns for why some consumers may keep both cash and credit card credit available would be sufficient to overcome the interest differential between payday and credit cards.<sup>20</sup> Alternatively, consumers may not realize that credit cards are less expensive or have other reasons to prefer AFS.<sup>21</sup>

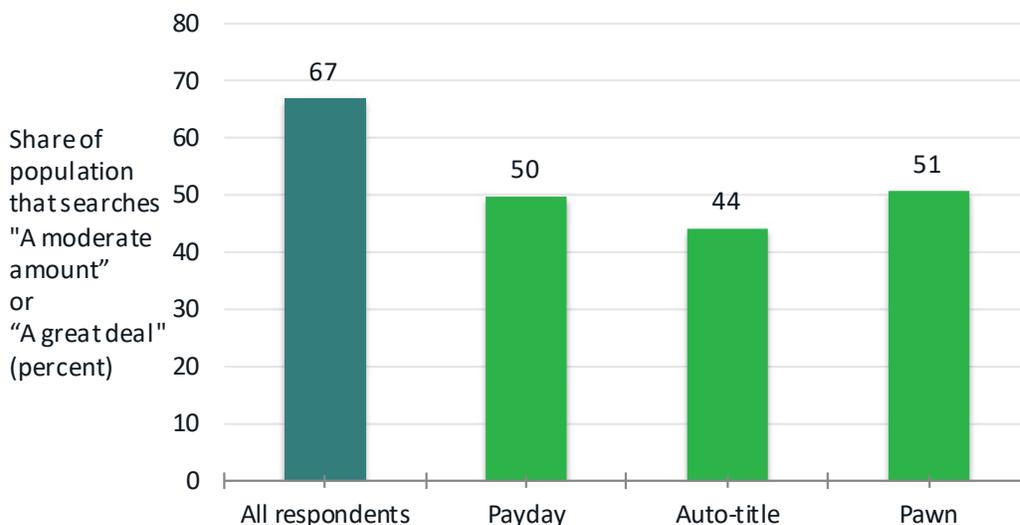
Users of AFS are less likely to search for the best terms, but this pattern does not seem to explain the puzzle. We asked survey respondents: “When making major decisions about borrowing money or getting credit, some people search for the best terms while others don’t. Which of the following comes closest to describing how much you search when borrowing or

<sup>20</sup> See: Scott L. Fulford, “How important is variability in consumer credit limits?” 2015, *Journal of Monetary Economics* 72: 42-63.

<sup>21</sup> Nathalie Martin, “1,000% Interest- Good While Supplies Last: A Study of Payday Loan Practices and Solutions,” 2010, *Arizona Law Review* 52(3). Available: [https://digitalrepository.unm.edu/law\\_facultyscholarship/28](https://digitalrepository.unm.edu/law_facultyscholarship/28).

getting credit?” giving them four options: “Not at all,” “A little,” “A moderate amount,” “A great deal.”

**FIGURE 13:** PERCENT OF CONSUMERS THAT SEARCH “A MODERATE AMOUNT” OR A “A GREAT DEAL”



Payday, auto title, and pawn users all report that they shop with less intensity than the average consumer. Figure 13 shows the share of high-cost borrowers and all survey respondents who answered: “A moderate amount” or “A great deal.” In Figure 13, someone is a user if they took out a loan in the six months before June 2019. When we restricted to users who also had at least \$300 in available credit card credit, however, this very small number of borrowers was more likely to report they shop intensively.

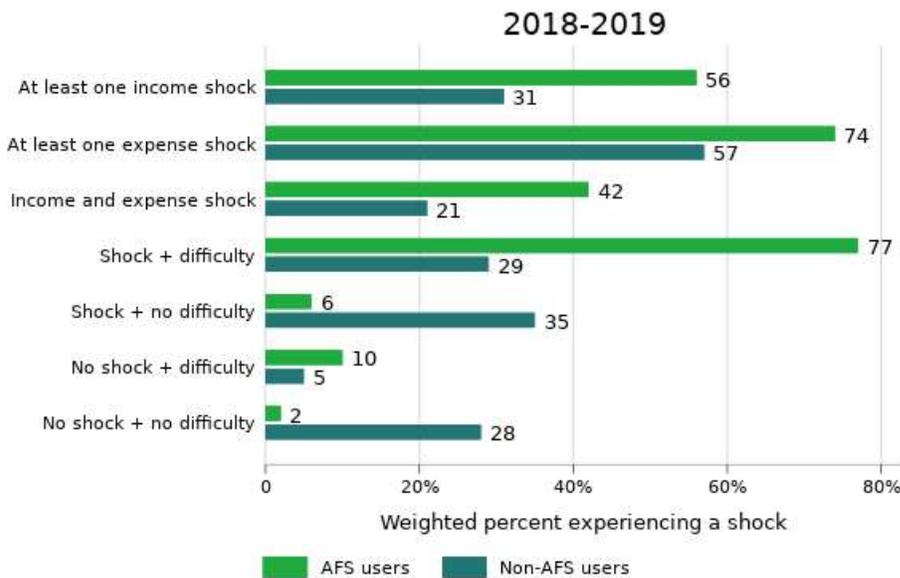
## Shocks and AFS use

Consumers who turn to alternative financial services for credit may do so because of various income or expense shocks. In the Making Ends Meet survey, respondents were asked whether they had “difficulty paying a bill or expense” in the previous 12 months. Figure 14 displays the shock experiences of each consumer group using responses to questions about a range of shocks from Wave 1 in June 2019. We focus on Wave 1 to better understand AFS use during the pre-pandemic period and because the sample is bigger. Income shocks include loss of income from illness, job loss or hours reductions, loss of government benefits, or other unspecified forms of income loss. Expense shocks include medical expenses, home or auto repairs, taxes or fees, legal bills, and death or funeral costs.

Consumers reporting using alternative financial services in the previous year are much more likely to also report having experienced an income or expense shock in that same year. While a

majority of consumers experienced at least one expense shock in the previous year, many more AFS users did so (74 percent compared to 57 percent of non-AFS users). In June 2019, 40 percent of all consumers reported having had difficulty paying a bill or expense in the previous 12 months.<sup>22</sup> Among AFS users, 77 percent had both a shock and difficulties paying a bill or expense. Another 10 percent of AFS users had difficulties paying a bill or an expense even in the absence of a reported adverse shock.

**FIGURE 14: CONSUMER EXPERIENCES WITH INCOME AND EXPENDITURE SHOCKS BY AFS USE**

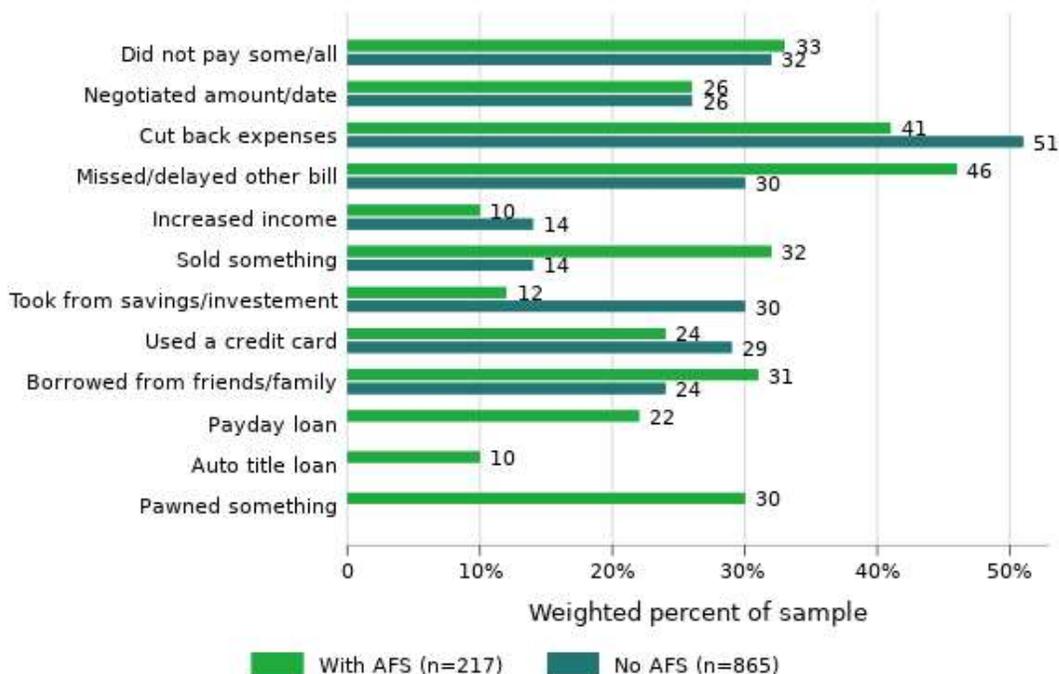


Next, we examine how consumers with and without AFS use reacted to such difficulties. Respondents were asked: “Which of the following did you do when you had difficulty paying that expense?” and given a list of options. Among consumers who experienced difficulty paying a bill or expense, 50 percent borrowed money either using formal or informal credit and, of those who borrowed, 21 percent turned to at least one form of alternative financial services in order to pay for the expense. Figure 15 shows the weighted share of consumers who dealt with having difficulty paying a bill or expense using each approach. The figure compares consumers who used AFS at any time during the previous six months, not necessarily in response to the

<sup>22</sup> Scott Fulford and Marie Rush, “Insights from the Making Ends Meet Survey,” July 2020.

difficulty, to non-AFS users. Multiple selections were possible, so the shares sum to more than 100 percent.<sup>23</sup>

**FIGURE 15:** FOR CONSUMERS WHO HAD DIFFICULTY PAYING A BILL OR EXPENSE: “WHICH OF THE FOLLOWING DID YOU DO WHEN YOU HAD DIFFICULTY PAYING THAT EXPENSE?” BY AFS USE



When faced with difficulty paying a bill or expense, consumers who do and do not use alternative credit were about equally as likely to not pay some or all of the bill (32-33 percent) or to negotiate the amount or timing of the payment (26 percent). Very few consumers borrowed from retirement, used a bank loan, or drew on a home equity line of credit when they had difficulty paying for a bill or expense. Consumers who relied exclusively on formal credit were more likely to cut back on other expenses (51 versus 41 percent) or take money from a savings or investment account (30 versus 12 percent) and less likely to pay a bill at the expense of missing or delaying payment on another bill or expense (30 versus 46 percent). These differences,

<sup>23</sup> In addition to the most common item responses shown in the figure, five percent of both AFS users and non-users borrowed using a bank loan and four percent borrowed from retirement account. Five percent of AFS users and one percent of non-users borrowed from an unlicensed lender. Two percent of AFS users and three percent of non-users borrowed from a HELOC. The percent of the sample using payday, auto title or pawn loans in this figure refers to using this form of credit specifically in response to the last time they had difficulty paying for a bill or expense. By contrast, the AFS-user and non-user groups throughout the paper refer to using one of these forms of credit in the preceding 12 months, irrespective of the reason.

however, could simply be due to higher income and savings amounts among consumers who do not use AFS.

Figure 15 furthermore documents that consumers using AFS employed several additional strategies to make ends meet. In addition to cutting back expenses, negotiating the amount or timing of payment, selling something or borrowing from friends and family, 24 percent of AFS users with difficulty paying bills also used a credit card to pay expenses. However, as Figure 16 shows, the average amount of the expense causing the difficulty among AFS users surpassed the average available liquidity on all credit cards.

Among consumers reporting difficulties paying for a bill or expense, respondents indicated whether an event caused this trouble, and if so, recorded the monetary value of the bill, expense or loss of income from the event. Consumers also reported the amount their household has in checking and savings accounts at the time of the survey.<sup>24</sup> Using additional information in the CCP, it is possible to compare the magnitude of the expense that caused financial difficulty to the consumer's available liquidity in savings, checking and credit cards. Note, however, that respondents were asked about the most recent difficulty, while we measure liquidity at the time of the survey, so the liquidity available at the time of the event may have been different. Figure 16 plots these distributions separately for AFS users and non-users, showing the dollar amount of available funds in credit cards from the CCP and in savings or checking accounts from the survey against the amount of the bill, expense or income loss causing financial difficulty. The left border of each box in the graph represents the value at the 25<sup>th</sup> percentile and the right border marks that at the 75<sup>th</sup> percentile. The median value, or that of the average AFS user (or non-AFS user), is demarcated with a diamond. AFS users have substantially less liquidity in checking or savings accounts compared to non-AFS users and also significantly less availability in their combined credit cards. Note that the scale for AFS and non-AFS users are different to accommodate the higher value for non-AFS users.

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<sup>24</sup> Consumers report one of the following ranges: \$0, less than \$100, \$100 to \$500, \$501 to \$1,000, \$1,001 to \$3,000, \$3,001 to \$5,000, \$5,001 to \$10,000 or more than \$10,000. We use the midpoint in each of these ranges to estimate the dollar amount in savings and checking. For amounts above \$10,000, we use \$10,000.

**FIGURE 16: CARD AVAILABILITY, EXPENSE SHOCKS AND SAVINGS FOR AFS AND NON-AFS BORROWERS**

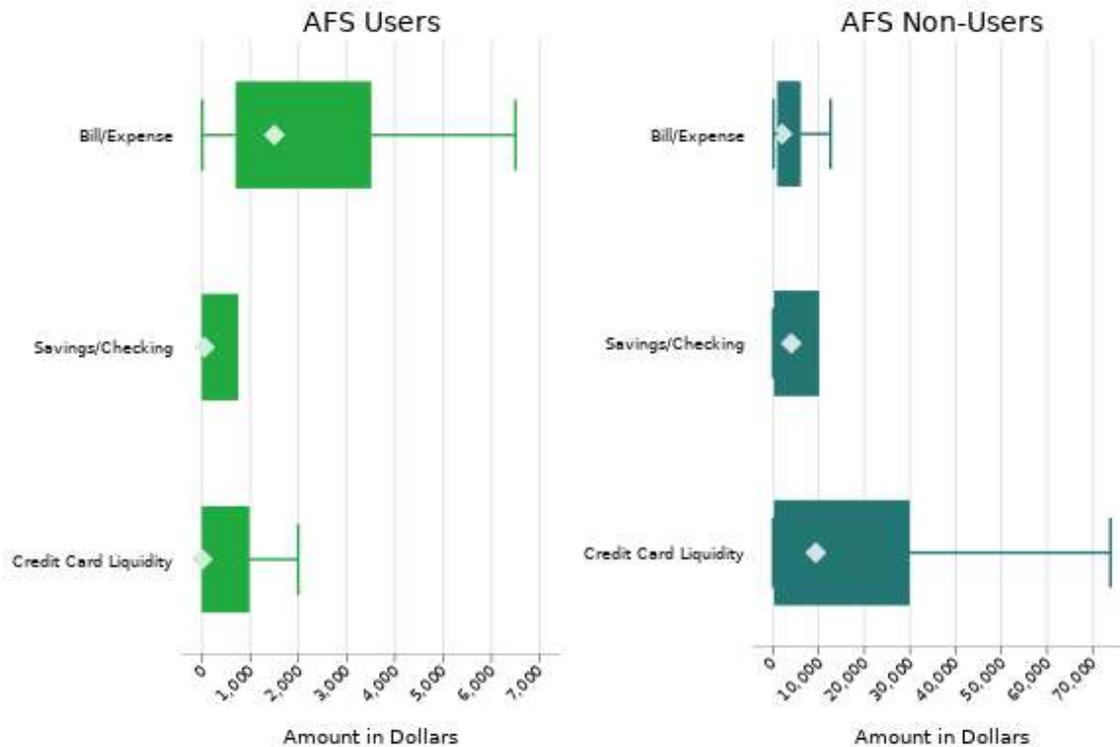


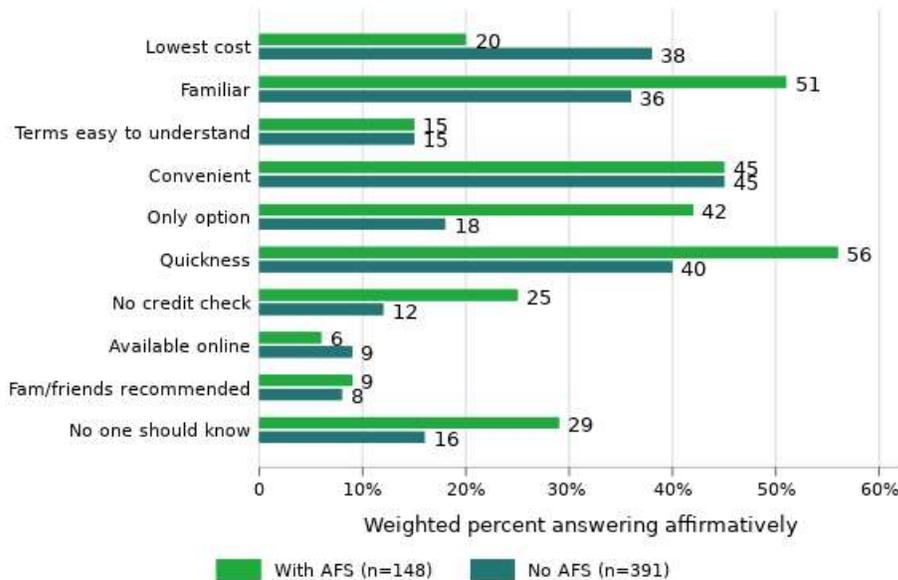
Figure 16 documents that the amount of the bill or expense reported as causing the trouble for the median AFS user is higher than the median combined amount in savings accounts and available on credit cards when the respondent answered the survey. An alternative way to consider the discrepancy between liquidity and expenses is to calculate this difference for each consumer, since the consumer with the median liquidity amount is not necessarily the same consumer with the median expense. At the individual level, we approximate the amount in checking and savings in order to estimate this difference at the consumer level, subtracting the stated expense amount from total credit card and savings liquidity.

Calculated this way, for non-AFS users who report difficulty paying for a bill due to an adverse event, the median amount of funds after paying for the expense would be \$435 (and a mean of \$7,964). By contrast, AFS users exhibit a median *deficit* of \$800 (and a mean deficit of \$2,568). Nevertheless, among AFS users, approximately 10 percent of those reporting trouble with expenses due to a negative event have enough liquidity in savings, checking and credit cards to pay for the stated expense without using these higher interest alternative financial products.

Among consumers who borrowed after having difficulty paying a bill or expense in the 12 months preceding the survey, Figure 17 highlights that the speed with which funds are made available and anonymity are key motivators for AFS users in their loan choice. Among AFS users, 56 percent said getting the money quickly was a reason to choose the option. AFS users

were also more likely to describe the borrowing method they selected as the only option for which they would qualify (42 percent) and 29 percent said that they did not want anyone to know they needed money.

**FIGURE 17: REASONS FOR SELECTING THE GIVEN METHOD OF BORROWING AMONG CONSUMERS WITH TROUBLE PAYING AN EXPENSE**



## Conclusion

Relatively few consumers use payday, auto title, and pawn loans. But the consumers who do use them tend to use them repeatedly. Around half of users in June 2019 were still using these services in June 2020. More than 60 percent of AFS users have a credit card and around a third of consumers who owed money on a payday and auto title loan in June 2019 had at least \$300 in available credit card credit. Yet many AFS users are credit constrained in other ways. AFS users typically have lower credit scores than other consumers and many have applied for credit and been turned down or decided not to apply because they thought they would be turned down. Many AFS users also experience sizable and costly shocks that exceed their available savings and credit card credit.