

United States Senate

WASHINGTON, DC 20510

November 30, 2022

The Honorable Rohit Chopra, Director
Consumer Financial Protection Bureau
1700 G St. NW
Washington, DC 20552

Dear Director Chopra:

We write regarding the implications for our armed forces raised by the United States Court of Appeals for the Fifth Circuit's decision in *Community Financial Services Association, Ltd. v. Consumer Financial Protection Bureau*. As you know, the Fifth Circuit's opinion found the Consumer Financial Protection Bureau's (CFPB's) self-funding mechanism unconstitutional and struck down its Payday Lending Rule. In our view, this flawed decision will ultimately deprive military families of consumer protections that Congress enacted on a bipartisan basis.

In 2006, Republicans and Democrats worked across the aisle to enact the Military Lending Act (MLA). This landmark legislation contains strong protections against predatory lending for active duty servicemembers and their families that complement other longstanding and bipartisan protections like the Servicemembers Civil Relief Act (SCRA). These laws are essential to military readiness. The Department of Defense (DOD) has stated that "high-cost debt can detract from mission focus, reduce productivity, and require the attention of supervisors and commanders." Predatory lending harms our nation's military readiness. Morale suffers when servicemembers and their families are trapped in cycles of debt. And taxpayers are on the hook when our servicemembers leave the military due to avoidable personal issues like financial insecurity. According to DOD, each separated servicemember costs the Pentagon more than \$58,000.

The CFPB routinely examines the lenders under its supervision for compliance with the MLA and the SCRA. This process is essential to uncover violations. Once the CFPB spots a violation, it takes the company to court or reaches a settlement to make servicemembers whole. Over the past ten years, the CFPB has recovered millions of dollars from banks, pawn lenders and payday lenders for violating legal and financial protections for servicemembers. Recovered funds should go directly to compensate servicemembers for being gouged by illegal high-cost loans.

The Fifth Circuit's decision threatens the CFPB's ability to ensure that military families receive the consumer protections that they have earned by serving our Nation. For now, the Fifth Circuit's opinion affects only the Payday Lending Rule and is controlling only in one circuit's jurisdiction. But the decision's precedential effects pose a grave threat to *all* of the CFPB's actions across the country, including its supervision or enforcement of the MLA. That's because the CFPB would use the very same funding mechanism to supervise or enforce the MLA as used to promulgate the Payday Lending Rule. The Fifth Circuit's reasoning naturally extends to the


CFPB's supervision and enforcement of the MLA. The practical effect would be to imperil military readiness, cost taxpayers money, and tarnish servicemembers' records.

Unscrupulous lenders are already erroneously invoking the decision in other circuits to argue that the CFPB is prohibited from using Congressionally authorized funds to enforce the law and stand up for consumers. One of those litigants is the nation's largest pawn lender, which is a repeat offender of the MLA and has been accused of making predatory loans to thousands of servicemembers.


We believe that the Fifth Circuit has given predatory lenders a wrecking ball to use against consumer protections for servicemembers and their families. Accordingly, we request your views on how the Fifth Circuit's decision could threaten the CFPB's authority to supervise lenders for compliance with the MLA, and to enforce this law against lenders that prey on servicemembers and their families.

Thank you for your attention this critical matter and your prompt reply.


Sincerely,



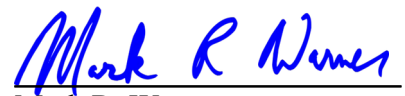
Jack Reed
United States Senator



Sherrod Brown
United States Senator



Jon Tester
United States Senator



Mark R. Warner
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