September 12, 2017

Mr. Joe Face
Commissioner
State Corporation Commission
Bureau of Financial Institutions
1300 Main East Main Street
Richmond, VA 23219

Dear Commissioner Face:

Thank you for the opportunity to participate in the Legislative Working Group on modernizing the Virginia code for consumer finance. We believe that the industry has a duty to work together with government on important issues like ensuring consumers have access to credit and protection from bad actors in the consumer lending market. I write on behalf of the Online Lenders Alliance (OLA) to clarify our position on some of the issues being raised in the discussion of the Working Group, and to offer a specific suggestion at the conclusion of this letter that may lead to common ground on a regulatory approach that offers both protection to consumers and access to credit.

Like many Americans, millions of Virginians need access to credit to help them meet unexpected expenses – the car that breaks down, the water heater that needs repair, and the many other urgent situations that require short-term loans. The average FICO score in the US is now 700 (43.2% of all Americans having a score of 699 or less.[1] As Virginia's last-reported average was slightly lower at 679, this means that millions of Virginians have a credit score that makes short-term lending options scarce.[2]

Banks,[3] credit unions,[4] and traditional consumer finance companies often are unable to adequately service the credit needs of these consumers.

---

[1] http://www.fico.com/en/blogs/risk-compliance/us-average-fico-score-hits-700-a-milestone-for-consumers/
[2] https://www.valuepenguin.com/average-credit-score
[3] https://www.fdic.gov/householdsurvey/2015/2015report.pdf
[4] https://www.consumerfinance.gov/about-us/events/archive-past-events/field-hearing-small-dollar-lending-kansas-city-mo/

Online Lenders Alliance | P.O. Box 320130 | Alexandria, VA 22320
(703) 567-0327 | www.oladc.org

Virginians should have access to credit even when they may not have an asset to borrow against, or when they can't reach, or don't want to go to a store. People value choice and convenience, and most Americans today expect to be able to use their mobile phone or computer to go online for their banking or borrowing needs.

OLA urges the Task Force to reject policy outcomes that would reduce Virginians access to credit. Restricting a consumer's access to credit to a storefront, a dollar amount, or a loan term won't change demand – it simply shifts consumption to less attractive options like bouncing checks or borrowing from unsupervised lenders.[5]

OLA supports good regulations based on facts. Our member companies both comply with federal and other applicable laws and regulations, and adhere to a strict code of customer-first practices.[6] OLA members also participate in audits and secret-shopper programs, including an industry-leading compliance review process that verifies our members are offering transparent and compliant credit options.

Our members who currently market, lend, and service Virginia borrowers believe modernization of the laws would help consumers. Eliminating the requirement that installment lenders who are directly supervised by the Bureau of Financial Institutions lend from a physical location in the state, would be more in keeping with an economy where consumers prefer online retailers over stores. Changes in data availability and development of advanced analytics for underwriting now allow lenders to look deeper than traditional credit scores to offer credit that helps people meet their obligations and contribute to building better credit histories – access to credit at different prices shouldn't be restricted based on decisions made in state capitals a decade ago.

In addition, instant and low-cost access to government records and company data have made it easier for states to share registration, supervision, and examination data. Any rule update should recognize these changes, as well as the ability to support efforts by the states to harmonize their laws and regulations as well as to enter interstate compacts that would result in more choice for consumers.

Statements by brick-and-mortar Chapter 15 licensees themselves, suggest existing Virginia storefront lenders are not able to meet consumer demand. At the August 24 Task Force meeting, one representative of the traditional installment lending industry stated that "zero loans" are being made by his company under $2,500. Eliminating the existing online option for

---

[5] http://www.human.cornell.edu/pam/people/upload/Bhutta_Goldin_Homonoff7-13-2016.pdf and http://www.urban.org/sites/default/files/alfresco/publication-pdfs/412889-Prohibitions-Price-Caps-and-Disclosures-A-Look-at-State-Policies-and-Alternative-Financial-Product-Use.PDF
[6] http://onlinelendersalliance.org/wp-content/uploads/2015/01/Best-Practices-2017.pdf

consumers to obtain unsecured loans under $2,500 at rates appropriate for subprime credit rated consumers would likely leave more than a million Virginians without any access to credit.

Virginia has a history of supporting the right of individuals and companies to execute contracts of their choice. Prominent Virginia based-companies like Capital One[7] and OnDeck Lending[8] chose Virginia as their home base for lending and contract with individuals in other states based on Virginia law. Further, the House of Delegates has affirmed Virginia's leading role as a champion of competitive markets when it made it possible for residents of other nearby states to access title loans, when their own jurisdictions made such legal options unavailable.[9] In short, Virginia benefits from companies using choice of law and a long judicial history supporting it.[10]

The Task Force should avoid policy prescriptions that limit the ability of Virginia borrowers to access credit when they need it. Virginia should continue to protect the right of its citizens to choose lenders lawfully operating under laws that provide access to quality credit.

OLA's specific policy suggestion is to offer a licensing provision for online consumer finance lenders that preserves credit access that consumers currently have, coupled with audit and compliance provisions.

We look forward to continuing the discussion, and hope that we can reach consensus on a targeted, reasonable regulatory approach that allows for license and auditing, but also provides an environment where a competitive marketplace can provide access to credit that Virginians desperately need.

Sincerely,

Lisa

Lisa S. McGreevy
President & CEO

---

[7] Yoder v Capital One, 2012 964 N.E.2d 316
[8] Klein v. On Deck Capital, Inc., 2015 N.Y. Misc. LEXIS 2231 (June 24, 2015)
[9] SB 1367, *Motor Vehicle Title Loans; loans to nonresidents*, Virginia, 2011 (amending VA code 6.2-2201, 2215, and 2225 to allow title loans to nonresidents)

[10] *Settlement Funding v Neumann-Fillie*, 274 VA. 27, 80, 645 S.E.2d 436, 438 (2007); see also *Paul Business Systems, Inc. v Canon U.S.A., Inc.*, 240 VA 337, 342, 397 S.E.2d 804, 807 (1990)

Online Lenders Alliance | P.O. Box 320130 | Alexandria, VA 22320
(703) 567-0327 | www.oladc.org