

March XX, 2023

[ADDRESS BLOCK]

Dear Director Chopra:

We write regarding recent reporting from *ProPublica* and *The Current* exposing the use of sales techniques by TitleMax to mask the true cost of obtaining a title loan.¹ As you know, in 2016, the Consumer Financial Protection Bureau (CFPB) fined TMX Finance (the parent company of TitleMax) and placed the company under a consent decree due to the company's violations of the Consumer Financial Protection Act across three states.² Nevertheless, the recent reporting found that, even while under this consent order, TitleMax stores continued to use dubious sales techniques to hide the true cost of borrowing from customers.³

In February 2023, the CFPB again fined TMX Finance, this time for violations of the Military Lending Act and charging unlawful fees for services that provided no coverage or benefit.⁴ The agency's own press release called the company a "repeat offender".⁵ We are deeply concerned that TMX Finance's predatory behavior concerning title loans continued while under an active consent decree, and seek further information on whether this new order will prevent similar predatory behavior going forward. We also seek information about the CFPB's broader oversight strategy for the title lending industry, given concerns about title lenders' tactics, including among communities of color and older adults, that have been the subject of legal action and investigation across the country.

According to *ProPublica* and *The Current*'s reporting, employees "faced repercussions for telling customers how to pay off their debt quickly or in full".⁶ One employee told reporters that even after the CFPB entered into the consent decree with TitleMax, representatives continued similar sales techniques that "distorted and hid the true cost of borrowing".⁷ One former store manager confirmed this stating, "[w]e were trained to keep customers paying [their monthly interest], not how to tell the customer how to pay off the loan".⁸ According to at least three former store managers, TitleMax's standard procedure is to only show the customer digital copies of their contract, with the annual interest rate appearing only on the final contract.⁹ If store employees attempted to provide more transparency to customers, they were met with

¹ Margaret Coker, "Inside the Controversial Sales Practices of the Nation's Biggest Title Lender", *ProPublica*, January 19th, 2023 (hereinafter "ProPublica Title Lender Article"), <https://www.propublica.org/article/inside-sales-practices-of-biggest-title-lender-in-us>

² Consent Order, File No. 2016-CFPB-0022, September 26th, 2016, https://files.consumerfinance.gov/f/documents/092016_cfpb_TitleMaxConsentOrder.pdf

³ *Supra*, note 1, ProPublica Title Lender Article.

⁴ "CFPB Orders TitleMax to Pay a \$10 Million Penalty for Unlawful Title Loans and Overcharging Military Families", *the CFPB Newsroom*, February 23rd, 2023, <https://www.consumerfinance.gov/about-us/newsroom/cfpb-orders-titledmax-to-pay-a-10-million-penalty-for-unlawful-title-loans-and-overcharging-military-families/>

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

repercussions from their superiors. In one instance, a TitleMax district director reprimanded an employee after four customers paid off their TitleMax loans in full.¹⁰ Another employee reported being reprimanded for printing out sales contracts for customers.¹¹ If true, these practices were designed to actively deceive lenders about the terms of their loan.

Title lending allows individuals to use their vehicle's title as collateral in order to obtain a loan.¹² However, such loans can be predatory and often come with high fees and interest rates as high as 300 percent per year.¹³ If the borrower fails to repay the loan, including interest and fees, the vehicle becomes the property of the lender.¹⁴ Title loans are disproportionately utilized by low-income individuals and people of color. A survey conducted by CFPB from June 2019 to June 2020 found that those who use title loans they are more likely to be Black and Hispanic, low-income, women, or have no more education than a high school diploma.¹⁵ For example, in New Mexico, nearly 60 percent of small lenders are located within 10 miles of a tribal community.¹⁶ In Pennsylvania, advocates have similarly expressed concern about the negative effect that out-of-state title lenders have on older adults and communities of color.¹⁷ In Massachusetts, one such out-of-state title lender was found to have "targeted financially strapped consumers" with loans that violated the state's cap on exorbitant small dollar loan interest rates.¹⁸

Although *ProPublica* and *The Current's* reporting focuses on Georgia, it is unlikely the abusive and illegal sales tactics used by TMX Finance are limited to that state. For example, Pennsylvania's Department of Banking is investigating TitleMax's loans to Pennsylvania residents and has issued subpoenas to the company.¹⁹ Moreover, TMX Finance is not the only bad actor in the industry. In 2009, the D.C. Attorney General sued LoanMax alleging that the company lured residents of D.C. to Virginia, which at the time, did not cap title loan interest

¹⁰ *Id.*

¹¹ *Id.*

¹² Margaret Coker, Mollie Simon and Joel Jacobs, "How Title Lending Works", *ProPublica*, December 6th, 2022, <https://www.propublica.org/article/how-title-loans-work>

¹³ <https://consumer.ftc.gov/articles/what-know-about-payday-and-car-title-loans#:~:text=Title%20loans%20usually%20have%20an,document%2C%20and%20loan%20origination%20fees.>

¹⁴ *Id.*

¹⁵ Scott Fulford and Cortnie Shupe, "Making Ends Meet series: Consumer use of payday, auto title, and pawn loans", *Consumer Financial Protection Bureau*, May 5th, 2021. <https://www.consumerfinance.gov/about-us/blog/making-ends-meet-series-consumer-use-payday-auto-title-pawn-loans/>

¹⁶ Dan Boyd, "Bill to reduce NM small-loan interest rate cap advances" *Albuquerque Journal*, February 9, 2021, <https://www.abqjournal.com/2357925/bill-reducing-nm-small-loan-interest-rate-cap-advances.html>

¹⁷ Community Legal Services, of Philadelphia, reported representing Pennsylvanians, including older adults, who traveled out of state and received high interest title loans. A recent court case dealt with out-of-state loans to Pennsylvania residents and noted that "TitleMax... does not run television ads within Pennsylvania, but its advertisements may reach Pennsylvania residents." See <https://www2.ca3.uscourts.gov/opinarch/211020p.pdf> at 4.

¹⁸ Office of the Attorney General of Massachusetts, "AG Healy Secures Over \$900,000 Including Debt Relief and Restitution for Consumers From Auto Loan Title Lending Company," press release, June 29, 2022, <https://www.mass.gov/news/ag-healey-secures-over-900000-including-debt-relief-and-restitution-for-consumers-from-auto-title-lending-company>.

¹⁹ See <https://www2.ca3.uscourts.gov/opinarch/211020p.pdf>

rates.²⁰ In 2011, the West Virginia Attorney General investigated Fast Auto Loans for its debt collection tactics, including harassment of customers.²¹ Similarly, in 2019 the California Department of Business Oversight finalized a settlement with TitleMax to resolve allegations that it routinely charged excessive and illegal interest rates and fees. This settlement resulted in nearly \$700,000 in refunds to more than 21,000 consumers across California.²² Pennsylvania has also reached settlements with out-of-state title lenders over predatory loans and deceptive business practices.²³ Given the history of abuse and evidence of ongoing misconduct we request answers to the following questions:

1. TMX Finance’s violations of the Military Lending Act occurred while under a consent decree. In the newest consent order, the CFPB ordered TMX Finance to enact new oversight protocols, including the hiring of an outside consultant and the creation of a new internal compliance committee that includes the company president and chief executive officer.²⁴ How will the CFPB ensure that TMX Finance is complying with the February 2023 consent order?
2. After the 2016 consent order, what active measures did the CFPB undertake to ensure that TMX Finance complied?
3. Is the CFPB aware of any TMX Finance violations of the Consumer Financial Protection Act that took place outside of the three states covered by the 2016 consent order (Georgia, Alabama, and Tennessee)? If yes, please provide a list of such states.
4. How many complaints has the CFPB received regarding TMX Finance and other title lending companies on a yearly basis since 2016?
 - a. Please provide a breakdown of these complaints on a state by state basis.
5. At least 19 states and the District of Columbia cap interest rates for title loans at 36 percent or less.²⁵ In jurisdictions with such caps, how is the CFPB ensuring that title loan companies do not employ other unscrupulous tactics such as high finance charges, fines, open-end lines of credit, and sales of add-on products?
6. What actions is the CFPB undertaking in the way of consumer education to alert potential title loan customers to the pitfalls of title loans?

²⁰ Fred Schulte, “Lawmakers protect title loan firms while borrowers pay sky-high interest rates”, *The Center for Public Integrity*, December 9th, 2015, <https://publicintegrity.org/inequality-poverty-opportunity/lawmakers-protect-title-loan-firms-while-borrowers-pay-sky-high-interest-rates/>

²¹ *Id.*

²² <https://dfpi.ca.gov/2019/12/16/dbo-continues-crackdown-on-illegal-loans-in-settlement-with-auto-title-lender-titlemax-of-california-inc/>

²³ <https://www.attorneygeneral.gov/taking-action/ag-shapiro-gets-1-6-million-back-for-consumers-issued-illegal-car-title-loans/>

²⁴ https://files.consumerfinance.gov/f/documents/cfpb_tm-x-finance-llc-consent-order_2023-02.pdf

²⁵ <https://www.nclc.org/resources/predatory-installment-lending-in-the-states-2022/>

- a. As part of those efforts, is CFPB taking any specific steps to ensure that older adults, people with disabilities, and other vulnerable consumers are aware of the risks of title loans?
7. What actions is the CFPB taking to promote the expansion of loan products via traditional banks and credit unions to rural and low-income communities?
8. Please provide the names of other title lending companies that have been subject to CFPB investigation or consent decrees. Does CFPB have the resources and personnel necessary to adequately police the predatory practices common in this industry?

Thank you for your attention to this important issue.