NCLC’s Saunders Testifies on Buy Now, Pay Later and Other Fintech Cashflow Products

November 1, 2021

WASHINGTON– On Tuesday, Nov. 2 at 10 am ET, **Lauren Saunders, associate director of the National Consumer Law Center** will testify before the U.S. House Committee on Financial Services’ Task Force on Financial Technology during a hearing titled, “Buy Now, Pay More Later? Investigating Risks and Benefits of BNPL and Other Emerging Fintech Cash Flow Products.”

Saunders’ **testimony** focuses on concerns about buy-now-pay-later (BNPL), earned wage access, overdraft and cash advance apps, and peer-to-peer loans that fall outside of or evade consumer protection laws for credit and have potentially deceptive and abusive pricing models. She explains in her written testimony that while some new types of financing products may have a place in meeting consumers’ needs, other fintech liquidity products appear primarily to be designed to evade consumer protection laws:

“Shiny fintech garb does not remove the need for basic consumer protections to ensure that credit is affordable, responsible, transparent, and fair. We must keep a close eye on how products evolve, as products may not stay free or low-cost and the ultimate business model may not always be what it appears.”

“**Buy-now-pay-later products**, if affordable and truly free to the consumer, may help consumers manage larger purchases without the long-term debt and high costs of credit cards. But some BNPL products may have deceptive and abusive profit models built on the expectation of late fees from struggling consumers.”

“**Earned wage access products** are a form of payday loan – wage advances repaid on payday – and should be regulated as credit.” Saunders explained in her written testimony that free early wage access, if used sparingly, may help workers, but more study is needed.

“Regulators should not carve loopholes in lending laws for fee-based products, which can be more expensive than they appear and frequently lead to a cycle of reborrowing that does not ultimately provide useful liquidity. Instead of encouraging employees to spend next week’s pay today, employers should focus on savings programs; affordable small dollar installment loans; regular, predictable schedules; and paying a living wage.”

“**Fake earned wage advance products** that are offered directly to consumers have no direct connection to earned wages. These payday cash advances have most of the negative features and impacts of standard payday loans.”

“**Overdraft and cash advance apps and loans that collect “tips” have an evasive and deceptive business model** that attempts to disguise finance charges and to evade interest rate limits, including the Military Lending Act’s 36% cap, and other lending laws. The “tips” model is found in fake earned wage access products; in “fee-free” overdraft and cash advance loans on non-bank banking apps; and on “peer-to-peer” loan platforms. Tips added by default can result in annual percentage rates (APRs) that can reach 520% APR and create cycles of debt.

“Though purportedly voluntary, companies have continuously evolving ways of pressuring people into ‘tipping’ or making it difficult not to tip. Regulators will be playing whack-a-mole if they let this dangerous model continue.”

Saunders’ full testimony and recommendations are available **here.**