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March 4, 2025

To: The Honorable C.T. Wilson
Chair, House Economic Matters Committee

From: Wilson M. Meeks – Consumer Protection Division

Re: House Bill 1471 – Innovative Financial Product or Service Certification Program
(OPPOSE)

The Consumer Protection Division of the Office of the Attorney General opposes House Bill 1471, sponsored by Delegate Marlon Amprey. House Bill 1471 seeks to create a regulatory “sandbox” whereby various lending products using financial technology would or can receive a “certification” from the Commissioner of Financial Regulation exempting the product from Maryland’s consumer lending protections, in the name of supposed “innovation.” This law would thereby legalize the provision of usurious loans and deceptive charges to low-income Marylanders who are largely targeted by the financial technology companies providing such loans. This should not be allowed. The kinds of supposedly “innovative” products at issue that may receive an exemption from Maryland lending laws are things like Earned Wage Access (“EWA”) loans, which are usurious payday loans that use technology to facilitate their lending. There is nothing “innovative” about a usurious payday loan by an EWA company, other than that these companies push their products to even more low-income Marylanders because of the use of technology. In addition to permitting payday lending through EWA loans, the legislation specifically would exempt companies that facilitate supposed “peer -to-peer” lending, where the technology company facilitates usurious lending among individuals, and would condone the solicitation of unlimited and deceptive “tips,” which would be considered an alternative to interest, in the lending process.

The General Assembly has long been committed to preventing this kind of financial exploitation. Almost a century ago, the General Assembly specifically addressed the use of wage advances that lenders were offering in an effort to circumvent Maryland’s usury laws which have for centuries protected working Marylanders from predatory lenders. The General Assembly should not change Maryland law to benefit companies that claim to be innovators at the expense

of Maryland consumers. While innovation is generally a positive concept, permitting lenders who provide payday lending or usurious peer-to-peer loans to avoid important consumer protection laws in its name is dangerous and reckless. The Program would potentially allow all kinds of lenders to offer unregulated predatory products to Maryland consumers without regard to well-established consumer protection laws. In addition, House Bill 1471 appears to be perfunctory as it does not include certification requirements and seems to mainly focus on how lenders will be exempt from current consumer protection laws as opposed to the creation and regulation of the Program. It is especially important to maintain and strengthen consumer protections given the Trump Administration's evisceration of federal consumer protections and the Consumer Financial Protection Bureau ("CFPB").

To provide some historical context to these kinds of "sandboxes," in 2019, during the first Trump Administration, the CFPB approved a Compliance Assistance Sandbox ("CAS"), the purpose of which was to supposedly promote "innovation, competition, ethics, and transparency."¹ The decision to implement the CAS was criticized by numerous consumer advocates² and turned out to be riddled with problems. After a review, in 2022, the CFPB determined that the CAS "failed to advance their stated objective of facilitating consumer-beneficial innovation" and stated the CFPB "experienced a number of potential abuses and challenges with the CAS."³ Notably, and relevant to House Bill 1294 (other legislation proposed this session), the CFPB granted a Sandbox Approval Order to Payactiv, Inc., an EWA provider. The CFPB later learned that Payactiv, Inc. was using its Sandbox Approval Order in marketing materials to misrepresent that the CFPB approved its products.⁴ Although the CFPB recently rebooted its CAS Approval policy statements addressing the earlier concerns, it is clear from the short history of the CAS that the program is problematic and provides opportunities for companies to abuse the exemptions from consumer protection laws. As noted in a 2018 article in The Hill:

A sandbox is a safe place to play, outside of the real world, and outside of real-world rules. Sandboxes are great for little children. But letting companies "play" in the real world, taking real money from real people and exposing consumers to real risks without following the rules, is not child's play.⁵

Accordingly, for the reasons set forth, the Consumer Protection Division requests that the House Economic Matters Committee give House Bill 1471 an unfavorable report.

cc. The Honorable Marlon Amprey
Members, House Economic Matters Committee

¹ Policy Statement on Compliance Assistance Sandbox Approvals, 90 FR 1974.

² *CFPB to Approve Potentially Risky Fintech Products*, found at <https://www.nclc.org/cfpb-to-approve-potentially-risky-fintech-products/>.

³ Policy Statement on Compliance Assistance Sandbox Approvals, 90 FR 1974.

⁴ *Id.*

⁵ *Are fintech sandboxes a consumer protection desert?* THE HILL (November 29, 2018), found at <https://thehill.com/blogs/congress-blog/economy-budget/418770-Are-fintech-sandboxes-a-consumer-protection-desert%3F/>.