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VIA ECF AND EMAIL

December 3, 2025

The Honorable John P. Cronan
United States District Court
Southern District of New York
500 Pearl Street, Room 1320
New York, NY 10007

CronanNYSDChambers@nysd.uscourts.gov

Re: *Consumer Financial Protection Bureau v. MoneyLion Technologies, Inc., et al.*, (Case No. 1:22-cv-08308): Notice regarding Stipulated Final Consent Judgment

Dear Judge Cronan,

The National Consumer Law Center (NCLC), Varnell and Warwick, Pearson Warshaw, LLP and the East End Trial Group, LLC, respectfully submit this letter pursuant to Your Honor's Individual Rules and Practices in Civil Cases 1.A. regarding the Stipulated Final Consent Judgment (Consent Judgment) submitted on Friday, November 21, 2025 by the parties in the case, *Consumer Financial Protection Bureau v. MoneyLion Technologies Inc., et al*., Case No. 1:22-cv-8308 (SDNY), and entered by the Court on November 24, 2025. [ECF No. 147]. We do not seek to change the substantive terms of the agreed upon judgment, but believe it is necessary and appropriate to add suitably tailored language to ensure that it is not improperly used beyond its intended scope in other similar lawsuits or industry practices.

We are co-counsel in a pending class action case against MoneyLion Technologies and related entities pending in the Southern District of New York before Judge Derek Ho. *Burkhardt v. MoneyLion Technologies Inc., et al*., Case No. 1:25-cv-06761. Like the CFPB enforcement action, our class action brings claims under the Military Lending Act (MLA) against MoneyLion in connection with its Credit Builder loan products. First Amended Class Action Complaint [ECF No. 53].[1] Currently, the *Burkhardt* Plaintiffs are briefing their opposition to MoneyLion's Motion to Dismiss their First Amended Complaint, which is due on December 5, 2025. Like in the CFPB enforcement action, the issue of whether certain fees MoneyLion charges in connection with its Credit Builder loans are costs that must be included in the interest-rate calculation for loans made

[1] The class action also brings a claim under the Truth in Lending Act and challenges MoneyLion's practices with respect to its Instacash product.

under the MLA (the "MAPR") is in dispute. *E.g.*, Memorandum in Support of MoneyLion's Motion to Dismiss, Case No. 1:25-cv-06761 [ECF No. 47].

Certain language in the Consent Judgment appears to be inconsistent with the MLA and the Court's Motion to Dismiss Opinion and Order. Specifically, at paragraph III(A)(22)(a)(i), the Consent Judgment provides, "[f]or purposes of interpreting and applying this Order, fees charged to Covered Borrowers for a Membership that provides specific services (the "Membership Benefits"), *in addition to access to the MoneyLion Loan*, will not be considered in connection with or incident to the MoneyLion Loan, and the Membership fees *will be excluded from the MAPR*" so long as certain disclosure and cancelation requirements are met (emphasis added). But as the Court noted in its Motion to Dismiss opinion, the MLA's implementing regulations do not say that such fees must be imposed "solely" or "exclusively" for the loan itself to be included in the MAPR. Motion to Dismiss Order at 45, *citing*, 32 C.F.R. § 232.4(c). The MLA prohibits creditors to "impose an annual percentage rate of interest greater than 36 percent," and defines "interest" broadly to include "all cost elements associated with the extension of credit." 10 U.S.C. § 987(b); 987(i)(3). Further, the MLA's implementing regulations are clear that the MAPR must include "[a]ny fee imposed for participation in any plan or arrangement for consumer credit." 232 C.F.R. § 232.4(c)(1)(iii)(C).

While the Consent Judgment is not precedential and only binds the parties to it, there is a risk that the Defendant could attempt to use the judgment as evidence of the interpretation of the law or as a safe harbor in other cases.[2] We therefore respectfully are notifying the Court that we believe a slight modification to the Consent Judgment is necessary and appropriate to ensure it cannot be used beyond its scope. The below language or something substantially similar would address this concern:

> This Consent Judgment does not seek to interpret or act as a statement of law on the Military Lending Act and its implementing regulations. Nothing in this Consent Judgment can be used as a defense; evidence of the meaning or interpretation of the law; evidence of good faith compliance or conformity with any rule, regulation or interpretation of the MLA; or any other kind of safe harbor.

On December 2, 2025, we contacted Attorneys James Kim, Miriam Lederer and David Dudley who represent the parties in this case to inform them of this notice and to request whether they would agree to include the above language in the Consent Judgment. Attorney Kim informed us that Defendants object to this notice, and Attorneys Lederer and Dudley informed us that the CFPB does not consent to it.

Thank you for your attention to this matter.

[2] *See* 15 U.S.C. § 1640(f).

Sincerely,

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The instant request is denied. Without having moved to intervene, non-parties seek to amend a final consent judgment that was carefully constructed by the parties, even though the non-parties admittedly "do not seek to change the substantive terms of the agreed upon judgment" and appropriately recognize that the judgment "is not precedential and only binds the parties to it," as the challenged language applies only "[f]or purposes of interpreting and applying th[e] Order" of final judgment, Dkt. 187 ¶ 22(a)(i). The parties oppose this request, and the Court thus declines to entertain it.

SO ORDERED.
Date: December 4, 2025
New York, New York

JOHN P. CRONAN
United States District Judge