



April 29, 2019

MARYLAND EXEMPTS CERTAIN CREDIT SERVICES BUSINESSES FROM REQUIREMENTS UNDER THE CREDIT SERVICES BUSINESSES ACT

On April 18th, Maryland Governor Larry Hogan signed into law Senate Bill No. 68, which exempts credit services businesses that provide services to consumers to obtain credit from certain requirements under the Maryland Credit Services Businesses Act ("MCSBA").

S.B. No. 68 revises the definition of "credit services businesses" to categorize credit services businesses into two types: (1) credit services businesses that sell, provide, perform services to improve a consumer's credit record, history, or rating or establishing a new credit file or record or providing advice or assistance to a consumer with regard to the same in return for monetary payment or other valuable consideration ("Type 1"); and (2) credit services businesses that sell, provide, perform services to obtain credit from others for a consumer or provide advice or assistance to a consumer with regard to the same in return for monetary payment or other valuable consideration ("Type 2"). The bill does not substantively revise the prior definition of "credit services business," rather the bill re-organizes the definition.

Under the new law, Type 2 credit services businesses need not provide and maintain an information statements to consumers. Type 2 credit services businesses also no longer have to provide certain disclosures in their credit services contracts with consumers, including a statement that gives consumers a 3-day right to cancel the contract. However, Type 2 credit services businesses must provide other contract disclosures. Type 1 credit services businesses remain subject to the same requirements under the MCSBA as before. These changes to the MCSBA become effective on October 1, 2019.

The Maryland legislature failed to provide much-needed clarity on which persons are "credit services businesses" under the MCSBA. In June 2016, the Maryland Court of Appeals held that persons whose sole purpose is to arrange loans for Maryland consumers, do not have to receive direct payments from consumers to be deemed a "credit services business" under the MCSBA. *CashCall, Inc. v. Md. Cm'r of Fin. Regulation*, 448 Md. 412 (2016). We understand that financial services providers and regulators have

struggled to interpret and apply the *CashCall* decision. We have advised financial service providers on the MCSBA and other state statutes that can apply to non-creditors performing marketing and pre-origination services. ☐

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